

James S. Angell
Edward B. Zukoski
Earthjustice
1400 Glenarm Place, Suite 300
Denver, CO 80202
Telephone: (303) 623-9466
Email: jangell@earthjustice.org
tzukoski@earthjustice.org

Michael R. Sherwood (CA Bar No. 63702)
Earthjustice
426 Seventeenth Street 5th floor
Oakland, CA 94612-2807
Telephone: (510) 550-6725
Email: msherwood@earthjustice.org

Attorneys for Defendant-Intervenors

Lisa T. Belenky (CA Bar No. 203225)
CENTER FOR BIOLOGICAL DIVERSITY
1095 Market St., Suite 511
San Francisco, CA 94103
Telephone: (415) 436-9682 x 307
Email: lbelenky@biologicaldiversity.org

Attorney for Defendant-Intervenor Center for Biological Diversity

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

County of Inyo,)	
)	
Plaintiff,)	Civ. No. 1:06cv1502 (AWI-DLB)
)	
v.)	
)	ANSWER OF
United States Dep't of the Interior <i>et al.</i> ,)	DEFENDANT-INTERVENORS
)	SIERRA CLUB <i>ET AL.</i>
Defendants, and)	TO PLAINTIFF'S COMPLAINT
)	
Sierra Club, <i>et al.</i> ,)	
)	
Defendant-Intervenors)	
)	

1 Defendant-Intervenors Sierra Club, California Wilderness Coalition, The Wilderness
2 Society, National Parks Conservation Association, Center for Biological Diversity, and Friends
3 of the Inyo (collectively "Sierra Club") hereby answer Plaintiff's Complaint dated October 24,
4 2006. All allegations not expressly admitted below are denied.
5

6 JURISDICTION AND VENUE

7 1. Paragraph 1 contain legal assertions that require no answer. To the extent that
8 paragraph 1 contains factual allegations that require a response, Sierra Club denies these
9 allegations.
10

11 2. Paragraph 2 contains legal assertions that require no answer. Sierra Club admits
12 that the lands in issue are located in Inyo County and that defendants own land and maintain a
13 presence in Inyo County.
14

15 INTRODUCTION

16 3. Paragraph 3 contains Plaintiff's characterization of their case to which no answer
17 is required.

18 4. Sierra Club admits that Defendants have barricaded and posted as closed Petro
19 Road and a portion of Lost Section Road. Sierra Club lacks knowledge or information sufficient
20 to form a belief as to the truth of the allegation that Defendants have asserted the intention to
21 close Padre Road and Last Chance Road, and so denies them. Sierra Club denies the remainder
22 of the allegations in paragraph 4.
23

24 5. Sierra Club denies paragraph 5.

25 6. Paragraph 6 contains Plaintiff's characterization of their case to which no answer
26 is required. To the extent and answer is required, Sierra Club denies paragraph 6.
27
28

PARTIES

7. Sierra Club admits the first sentence and fourth sentence of paragraph 7. The second and fifth sentences are legal citations to which no answer is required. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of paragraph 7, and therefore denies them.

8. Sierra Club admits the allegations in paragraph 8.

9. Sierra Club admits the allegations in paragraph 9.

10. Sierra Club admits the allegations in paragraph 10.

11. Sierra Club admits the allegations in paragraph 11.

12. Sierra Club admits the allegations in paragraph 12.

**BACKGROUND AND ALLEGATIONS
REGARDING R.S. 2477 HIGHWAYS WITHIN INYO COUNTY**

13. Paragraph 13 purports to quote a federal statute, which statute speaks for itself and provides the best evidence of its content.

14. Paragraph 14 contains legal assertions that require no answer.

15. Sierra Club admits paragraph 15.

16. Paragraph 16 contains legal assertions that require no answer. Paragraph 16 contains a citation to and characterization of a federal appellate case that was withdrawn and superseded on rehearing by *Shultz v. Department of Army*, 96 F.3d 1222 (9th Cir. 1996), which Sierra Club therefore denies.

17. Sierra Club denies the allegations in paragraph 17.

18. Sierra Club admits that the quoted text in paragraph 18 appears in the text of state law case cited.

1 19. Sierra Club admits that the quoted text appears in the text of state law case cited
2 in the first sentence of paragraph 19. Sierra Club denies the remainder of paragraph 19.

3 20. Paragraph 20 contains legal assertions that require no answer.
4

5 21. Paragraph 21 contains legal assertions that require no answer.

6 22. Sierra Club admits that the quoted text at the end of paragraph 22 appears in the
7 text of federal appellate case cited. The remainder of Paragraph 22 contains legal assertions that
8 require no answer.

9 23. Paragraph 23 contains legal assertions that require no answer. To the extent that
10 paragraph 23 contains factual allegations that require a response, SUWA denies these
11 allegations. Paragraph 23 also purports to quote an expired or withdrawn BLM Instruction
12 Memorandum and an exhibit to a Department of the Interior Report to Congress, which
13 memorandum and report speak for themselves and provide the best evidence of their respective
14 content.
15

16 24. Paragraph 24 contains legal assertions that require no answer. Paragraph 24 also
17 purports to quote a U.S. Court of Appeals decision, which decision speaks for itself and provides
18 the best evidence of its content. Sierra Club further denies that the quotation cited appears in the
19 Federal Reporter at the volume and page cited.
20

21 25. Paragraph 25 contains legal assertions that require no answer.
22

23 26. Sierra Club admits that the quoted text in paragraph 26 appears in the text of the
24 federal law cited.

25 27. Sierra Club admits that the quoted text in paragraph 27 appears in the text of the
26 federal law cited.
27
28

1 28. Sierra Club denies that the quoted text in paragraph 28 appears in the text of the
2 federal law cited.

3 29. Paragraph 29 purports to quote a since-repealed federal regulation, which
4 repealed federal regulation speaks for itself and provides the best evidence of its content.
5

6 30. Paragraph 30 purports to quote a since-repealed federal regulation, which
7 repealed federal regulation speaks for itself and provides the best evidence of its content.

8 31. Paragraph 31 purports to quote a since-repealed federal regulation, which
9 repealed federal regulation speaks for itself and provides the best evidence of its content
10

11 32. Sierra Club lacks knowledge or information sufficient to form a belief as to the
12 truth of the allegations contained in paragraph 32 and therefore denies them.

13 33. Sierra Club lacks knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 33 and therefore denies them.
15

16 34. Sierra Club lacks knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 34 and therefore denies them.

18 35. Sierra Club lacks knowledge or information sufficient to form a belief as to the
19 truth of the allegations contained in paragraph 35 and therefore denies them.
20

21 ***GENERAL ALLEGATIONS REGARDING THIS QUIET TITLE ACTION***

22 36. Paragraph 36 contains Plaintiff's characterization of their case to which no answer
23 is required.

24 37. Paragraph 37 contains legal assertions that require no answer. To the extent that
25 paragraph 37 contains factual allegations that require a response, Sierra Club denies these
26 allegations. In addition, the first and third sentences of paragraph 37 purports to characterize a
27 Tenth Circuit court decision, which decision speaks for itself and provides the best evidence of
28

1 its content. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth
2 of the allegations contained in the final sentence of paragraph 37, and therefore denies them.

3
4 38. Sierra Club admits that Defendants physically closed to motor vehicles two of the
5 alleged county highways identified in the complaint. Sierra Club lacks knowledge or
6 information sufficient to form a belief as to the truth of the allegations contained in the remainder
7 of paragraph 38, and therefore denies them.

8
9 39. Sierra Club lacks knowledge or information sufficient to form a belief as to the
10 truth of the allegations contained in the remainder of paragraph 39, and therefore denies them.

11
12 40. Sierra Club admits that the quoted text in paragraph 40 appears in the text of the
federal law cited.

13
14 41. Sierra Club lacks knowledge or information sufficient to form a belief as to the
15 truth of the allegations contained in paragraph 41, and therefore denies them.

16
17 42. Sierra Club admits that the quoted text in paragraph 42 appears in the text of the
federal law cited.

18
19 43. To the extent that the allegations in paragraph 43 pertain to an unidentified
20 “CDMA,” Sierra Club denies them. To the extent that the allegations in paragraph 43 are meant
21 to pertain to the “California Desert Protection Act” (CDPA), Sierra Club admits that the quoted
22 text in paragraph 43 appears in the text of the CDPA.

23
24 44. To the extent that the allegations in paragraph 44 pertain to an unidentified
25 “CDMA,” Sierra Club denies them. To the extent that the allegations in paragraph 44 are meant
26 to pertain to the “California Desert Protection Act” (CDPA), Sierra Club admits that the quoted
27 text in paragraph 44 appears in the text of the CDPA.
28

1 45. Sierra Club admits that the quoted text in paragraph 45 appears in the text of the
2 quoted federal statute.

3 46. Paragraph 46 purports to characterize a federal case, which case speaks for itself
4 and provides the best evidence of its content.

5 47. Sierra Club denies paragraph 47.

6 48. Sierra Club lacks knowledge or information sufficient to form a belief as to the
7 truth of the allegations contained in paragraph 48, and therefore denies them.

8 49. Sierra Club denies paragraph 49.

9 50. Sierra Club lacks knowledge or information sufficient to form a belief as to the
10 truth of the allegations contained in paragraph 50, and therefore denies them.

11 51. To the extent that the allegations in paragraph 51 pertain to an unidentified
12 “CDMA,” Sierra Club denies them. In addition, Sierra Club lacks knowledge or information
13 sufficient to form a belief as to the truth of the allegations contained in paragraph 52, and
14 therefore denies them.

15 52. Sierra Club lacks knowledge or information sufficient to form a belief as to the
16 truth of the allegations contained in paragraph 52, and therefore denies them.

17 53. Sierra Club lacks knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained in paragraph 53, and therefore denies them.

19 54. The first sentence of paragraph 54 contains legal assertions that require no
20 answer. Sierra Club denies the second sentence of paragraph 54.

21 55. Sierra Club lacks knowledge or information sufficient to form a belief as to the
22 truth of the allegations contained in paragraph 55, and therefore denies them.

FIRST CLAIM
(TO QUIET TITLE IN PETRO ROAD IN INYO COUNTY)

56. In answer to paragraph 56, Sierra Club incorporates by reference its responses to each of the foregoing paragraphs.

57. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57, and therefore denies them.

58. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58, and therefore denies them.

59. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59, and therefore denies them.

60. Sierra Club denies paragraph 60.

61. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first and third sentences of paragraph 61, and therefore denies them. Sierra Club denies the second and fourth sentences of paragraph 61.

62. Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62, and therefore denies them.

63. Paragraph 63 references an exhibit purporting to describe Petro Road, which exhibit speaks for itself and provides the best evidence of its content.

64. Sierra Club admits paragraph 64.

SECOND CLAIM
(TO QUIET TITLE IN LOST SECTON ROAD – SOUTH IN INYO COUNTY)

65. In answer to paragraph 65, Sierra Club incorporates by reference its responses to each of the foregoing paragraphs.

1 66. Sierra Club lacks knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in paragraph 66, and therefore denies them.

3 67. Sierra Club lacks knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 67, and therefore denies them.

5 68. Sierra Club denies paragraph 68.

6 69. Sierra Club lacks knowledge or information sufficient to form a belief as to the
7 truth of the allegations contained in the first and third sentences of paragraph 69, and therefore
8 denies them. Sierra Club denies the second and fourth sentences of paragraph 69.
9

10 70. Sierra Club lacks knowledge or information sufficient to form a belief as to the
11 truth of the allegations contained in paragraph 70, and therefore denies them.

12 71. Paragraph 71 references an exhibit purporting to describe Lost Section Road –
13 South, which exhibit speaks for itself and provides the best evidence of its content.
14

15 72. Sierra Club admits that Inyo County used heavy equipment on Lost Canyon
16 “Road” in 2004, but denies that this activity constituted “normal maintenance” as described in
17 the first sentence of paragraph 72. Sierra Club admits the second through fourth sentence of
18 paragraph 72.
19

20 **THIRD CLAIM**
21 **(TO QUIET TITLE IN LAST CHANCE ROAD IN INYO COUNTY)**

22 73. In answer to paragraph 73, Sierra Club incorporates by reference its responses to
23 each of the foregoing paragraphs.

24 74. Sierra Club lacks knowledge or information sufficient to form a belief as to the
25 truth of the allegations contained in paragraph 74, and therefore denies them.

26 75. Sierra Club lacks knowledge or information sufficient to form a belief as to the
27 truth of the allegations contained in paragraph 75, and therefore denies them.
28

1 76. Sierra Club denies paragraph 76.

2 77. Sierra Club lacks knowledge or information sufficient to form a belief as to the
3 truth of the allegations contained in the first and fourth sentences of paragraph 77, and therefore
4 denies them. Sierra Club denies the second and third sentences of paragraph 77.
5

6 78. Sierra Club lacks knowledge or information sufficient to form a belief as to the
7 truth of the allegations contained in paragraph 78, and therefore denies them.

8 79. Paragraph 79 references an exhibit purporting to describe Last Chance Road,
9 which exhibit speaks for itself and provides the best evidence of its content.
10

11 80. To the extent that the allegations in paragraph 80 pertain to an unidentified
12 “CDMA,” Sierra Club denies them. In addition, Sierra Club lacks knowledge or information
13 sufficient to form a belief as to the truth of the allegations contained in paragraph 80, and
14 therefore denies them.
15

16 **FOURTH CLAIM**
17 **(TO QUIET TITLE IN PADRE POINT ROAD IN INYO COUNTY)**

18 81. In answer to paragraph 81, Sierra Club incorporates by reference its responses to
19 each of the foregoing paragraphs.

20 82. Sierra Club lacks knowledge or information sufficient to form a belief as to the
21 truth of the allegations contained in paragraph 82, and therefore denies them.

22 83. Sierra Club lacks knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 83, and therefore denies them.
24

25 84. Sierra Club denies paragraph 84.

26 85. Sierra Club lacks knowledge or information sufficient to form a belief as to the
27 truth of the allegations contained in the first sentence of paragraph 85, and therefore denies them.
28 Sierra Club denies the second and third sentences of paragraph 85.

86. Paragraph 86 references an exhibit purporting to describe Padre Point Road, which exhibit speaks for itself and provides the best evidence of its content.

87. To the extent that the allegations in paragraph 87 pertain to an unidentified “CDMA,” Sierra Club denies them. In addition, Sierra Club lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87, and therefore denies them.

REQUEST FOR RELIEF

No response is required to Plaintiff's Request for Relief paragraphs 1-6. To the extent an answer is required, Sierra Club specifically denies each allegation contained in the Request for Relief and denies that Plaintiff is entitled to any relief. Sierra Club requests that this Court:

1. Deny Plaintiff the relief it seeks;
 2. Dismiss this action with prejudice;
 3. Award Sierra Club its costs and attorney fees to the extent provided for by law;
- and
4. Award Sierra Club such other relief as is the Court deems just and proper.

AFFIRMATIVE DEFENSES

By way of affirmative defenses, Sierra Club asserts that:

1. The Court lacks jurisdiction over the subject matter of Plaintiff's Quiet Title Act claims due to Plaintiff's failure to satisfy the "particularity" requirement of the Quiet Title Act and thereby invoke a waiver of the United States' sovereign immunity under the Act.
2. The Court lacks jurisdiction over the subject matter of this action due to Plaintiff's failure to allege facts sufficient to show that they can satisfy the statute of limitations set forth in the Quiet Title Act.

3. Plaintiff has failed to state a claim upon which relief can be granted.

4. Plaintiff's claims are barred by the statute of limitations in the Quiet Title Act.

By way of relief, Sierra Club requests that this Court:

1. Deny plaintiff the relief it seeks.

2. Dismiss this action with prejudice.

3. Award Sierra Club its costs and attorneys' fees to the extent provided for by law.

4. Award Sierra Club such other relief as is just and equitable.

Respectfully submitted July 19, 2007.

s/ Edward B. Zukoski
James S. Angell
Edward B. Zukoski
Earthjustice
1400 Glenarm Place, Suite 300
Denver, CO 80202
Telephone: (303) 623-9466

Michael R. Sherwood (CA Bar No. 63702)
Earthjustice
426 Seventeenth Street 5th floor
Oakland, CA 94612-2807
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Lisa T. Belenky (CA Bar No. 203225)
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1095 Market St., Suite 511
San Francisco, CA 94103
Telephone: (415) 436-9682 x 307
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