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

16 COUNTY OF INYO

No. 1:06-CV-01502-AWI-DLB

17
18 Plaintiff,

DEFENDANTS' ANSWER

19
20 v.

21 DEPARTMENT OF THE INTERIOR,
22 DIRK KEMPTHORNE, in his capacity as
Secretary of the United States Department of
23 the Interior,
24 NATIONAL PARK SERVICE,
MARY A. BOMAR, in her capacity as
25 Director, National Park Service,
JAMES T. REYNOLDS, in his capacity as
26 Superintendent, Death Valley National Park,

Judge Anthony W. Ishii

27 Defendants.
28

1 Defendants United States Department of the Interior, Dirk Kempthorne, National Park
2 Service, Mary A. Bomar, and James T. Reynolds (“Defendants”), by and through counsel,
3 hereby answer and assert defenses to each numbered paragraph of Plaintiff’s Complaint to Quiet
4 Title filed October 25, 2006 (“Complaint”). The numbered paragraphs of this Answer
5 correspond to the numbered paragraphs of the Complaint.
6

7 **JURISDICTION AND VENUE**

8 1. The allegations set forth in paragraph 1 constitute legal assertions to which no
9 response is required.

10 2. Paragraph 2 contains a legal assertion regarding venue to which no response is
11 required. Defendants admit the lands at issue are located in Inyo County, California, that the
12 United States owns the lands, and that the Department of the Interior and the National Park
13 Service manage the lands.
14

15 **INTRODUCTION**

16 3. The allegations set forth in paragraph 3 constitute Plaintiff’s characterization of
17 this action to which no response is required.

18 4. Defendants admit that they have blocked access for mechanical transport and
19 posted as closed to mechanical transport the portion of the alleged “Petro Road” within Death
20 Valley National Park and the alleged “Lost Section Road-South.” Defendants admit having
21 asserted the authority and intention to close the alleged “Last Chance Road” to mechanical
22 transport and aver that the alleged “Last Chance Road” is now closed to mechanical transport.
23 As to “Padre Road,” the references in the Complaint to “Padre Road” and “Padre Point Road”
24 and the depiction of the road at Exhibit 4 create ambiguity as to what right-of-way is claimed,
25 and Defendants therefore cannot meaningfully respond to the allegations of paragraph 4
26 concerning “Padre Road.” The remainder of the allegations of paragraph 4 regarding
27
28

1 Defendants' authority and the express provisions of the California Desert Protection Act
2 ("CDPA") constitute legal assertions to which no response is required.

3 5. The allegations set forth in paragraph 5 constitute legal assertions regarding
4 Plaintiff's statutory responsibilities and the statutory rights of the public to which no response is
5 required.
6

7 6. The allegations set forth in the paragraph 6 constitute legal assertions and/or
8 Plaintiff's characterization of its motivations for filing suit to which no response is required.

9 **PARTIES**

10 7. As to the first sentence of paragraph 7, Defendants admit that the County of Inyo
11 is a public entity of the State of California. The allegation set forth in the second clause of the
12 first sentence regarding the effects of this status constitutes a legal assertion to which no
13 response is required. The allegations set forth in the second and third sentences of paragraph 7
14 constitute legal assertions to which no response is required; insofar as a response is deemed
15 required, Defendants are without knowledge or information sufficient to form a belief as to the
16 truth or falsity of the allegations set forth in the second and third sentences of paragraph 7.
17

18 8. Defendants admit the United States Department of the Interior ("DOI") is a
19 department of the federal government, that DOI has been delegated authority to administer the
20 public lands, and that agencies within the Department maintain offices in California. Defendants
21 deny that the alleged servient estate is part of the public lands.
22

23 9. Defendants admit the allegations of paragraph 9.

24 10. Defendants admit that the National Park Service ("NPS") is an agency within the
25 DOI, however, Defendants deny both that the NPS is charged with management of the Federal
26 public lands and that Death Valley National Park constitutes public lands. Defendants admit that
27 the United States owns the lands at issue and that the NPS maintains a presence in Inyo County.
28

1 11. Defendants admit the allegations of paragraph 11.

2 12. Defendants admit the allegations in the first sentence of paragraph 12.

3 Defendants also admit that portions of Death Valley National Park are located in Inyo County.
4

5 **BACKGROUND AND ALLEGATIONS**
6 **REGARDING R.S. 2477 HIGHWAYS WITHIN THE COUNTY OF INYO**

7 13. Defendants admit that R.S. 2477 was enacted in 1866. The remaining allegations
8 of paragraph 13 constitute Plaintiff's characterization of R.S. 2477 to which no response is
9 required. Insofar as a response is deemed required, Defendants allege that R.S. 2477 speaks for
10 itself, and deny every allegation of paragraph 13 not consistent therewith.

11 14. The allegations set forth in paragraph 14 constitute assertions to which no
12 response is required.

13 15. Defendants admit that R.S. 2477 was repealed in 1976. The remaining allegations
14 of paragraph 15 constitute plaintiff's characterization of the Federal Land Policy and
15 Management Act ("FLPMA") §§ 509(a), 701(a), and 701(h), to which no response is required.
16 Insofar as a response is deemed required, Defendants allege that FLPMA speaks for itself, and
17 deny every allegation of paragraph 15 not consistent therewith.
18

19 16. The allegations set forth in paragraph 16 constitute legal assertions to which no
20 response is required.

21 17. The allegations set forth in paragraph 17 constitute legal assertions to which no
22 response is required.
23

24 18. The allegations set forth in paragraph 18 constitute legal assertions to which no
25 response is required.

26 19. The allegations set forth in paragraph 19 constitute legal assertions to which no
27 response is required.
28

1 20. The allegations set forth in paragraph 20 constitute legal assertions to which no
2 response is required.

3 21. The allegations set forth in paragraph 21 constitute legal assertions to which no
4 response is required.

5 22. The allegations set forth in paragraph 22 constitute legal assertions to which no
6 response is required.

7 23. The allegations set forth in paragraph 23 constitute legal assertions to which no
8 response is required. Insofar as a response is deemed required, Defendants allege that R.S. 2477
9 and the referenced Memorandum and Report speak for themselves, and deny every allegation of
10 paragraph 23 not consistent therewith.

11 24. The allegations set forth in paragraph 24 constitute legal assertions to which no
12 response is required.

13 25. The allegations set forth in paragraph 25 constitute legal assertions to which no
14 response is required.

15 26. Defendants admit that the text quoted in paragraph 26 appears in the text of
16 FLPMA.

17 27. Defendants admit that the text quoted in paragraph 27 appears in the text of
18 FLPMA.

19 28. Defendants deny that the text quoted in paragraph 28 appears in the text of
20 FLPMA.

21 29. Defendants admit that the text quoted in paragraph 29 appears is the text of a
22 since-repealed federal regulation.

23 30. Defendants admit that the text quoted in paragraph 30 appears is the text of a
24 since-repealed federal regulation.

1 31. Defendants admit that the text quoted in paragraph 31 appears is the text of a
2 since-repealed federal regulation.

3 32. The allegations of paragraph 32 are too vague and general to permit a meaningful
4 response.
5

6 33. The allegations set forth in paragraph 33 constitute Plaintiff's characterization of
7 the March 22, 2006 Memorandum of the Secretary of the Interior, to which no response is
8 required. Insofar as a response is deemed required, Defendants allege that the referenced
9 Memorandum speaks for itself, and deny every allegation of paragraph 33 not consistent
10 therewith.

11 34. Defendants admit that prior to the passage of the CDPA, most of the lands at issue
12 in this case were managed by BLM or its predecessor and that, since 1994, most of the lands
13 involved in this case have been managed by NPS. However, given the lengthy time period
14 implicated by Plaintiff's claims and the numerous tracts of land in question, Defendants are
15 presently without information or knowledge sufficient to respond conclusively to the allegations
16 in this paragraph.
17

18 35. The allegations of paragraph 35 are too vague and general to permit a meaningful
19 response. To the extent a response is deemed required, Defendants are without knowledge or
20 information sufficient to form a belief as to the truth or falsity of the allegations set forth in
21 paragraph 35.
22

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

24 36. The allegations set forth in paragraph 36 constitute Plaintiff's characterization of
25 this action to which no response is required.
26

27 37. The allegations set forth in paragraph 37 constitute legal assertions to which no
28 response is required.

1 38. Defendants admit having asserted that neither the public nor the county has the
2 right to pass over the alleged “Petro Road,” “Lost Section Road-South,” and “Last Chance
3 Road,” by means of mechanical transport and that Defendants have closed those three alleged
4 roads to mechanical transport. As to “Padre Road” or “Padre Point Road,” the references in the
5 Complaint to “Padre Road” and “Padre Point Road” and the depiction of the road at Exhibit 4
6 create ambiguity as to what right-of-way is claimed, and Defendants therefore cannot
7 meaningfully respond to the allegations of paragraph 38 as they pertain to “Padre Road” or
8 “Padre Point Road.”
9

10 39. The allegations in the first sentence of paragraph 39 are too vague and general to
11 permit a meaningful response. To the extent a response is deemed required, Defendants are
12 without information or knowledge sufficient to form a belief as to the truth or falsity of the
13 allegations in this sentence. As to the second sentence of paragraph 39, Defendants admit that
14 the CDPA established wilderness areas and that some of the claimed rights-of-way are within
15 wilderness areas that are managed by the NPS. As to the third sentence of paragraph 39,
16 Defendants admit that mechanical transport is generally prohibited within designated wilderness
17 and that maintenance in furtherance of mechanical transport is prohibited in wilderness. The
18 allegations in the fourth sentence of paragraph 39 constitute legal assertions to which no
19 response is required.
20

21 40. Defendants admit that the text quoted in paragraph 40 appears in the text of the
22 CDPA.
23

24 41. Defendants admit that some of the lands involved in this action are depicted on
25 maps referenced in the CDPA. Defendants deny the remaining allegations of paragraph 41.
26

27 42. Defendants admit that the quoted text in paragraph 42 appears in the text of the
28 CDPA.

1 43. To the extent that the allegations of paragraph 43 are intended to pertain to the
2 “CDPA” (i.e., the “California Desert Protection Act,” rather than to the “CDMA” as stated),
3 Defendants admit that the quoted text appears in the text of the CDPA.

4 44. To the extent that the allegations of paragraph 44 are intended to pertain to the
5 “CDPA” (i.e., the “California Desert Protection Act,” rather than to the “CDMA” as stated),
6 Defendants admit that the quoted text appears in the text of the CDPA.

7 45. Defendants admit that the text quoted in paragraph 45 appears in the text of the
8 Wilderness Act.

9 46. The allegations set forth in paragraph 46 constitute legal assertions to which no
10 response is required.

11 47. To the extent that the allegations of paragraph 47 are intended to pertain to the
12 “CDPA” (i.e., the “California Desert Protection Act,” rather than to the “CDMA” as stated),
13 Defendants aver the allegations of paragraph 47 constitute legal assertions to which no response
14 is required. Defendants further allege that the allegations in the second sentence of paragraph 47
15 concerning alleged “rights pursuant to R.S. 2477 in the County highways traversing CDMA [sic]
16 wilderness areas” are too vague and general to permit a meaningful response.

17 48. Defendants are without knowledge or information sufficient to form a belief as to
18 the truth or falsity of the allegations set forth in the first two sentences of paragraph 48. The last
19 sentence of paragraph 48 constitutes a legal assertion to which no response is required.

20 49. The allegations set forth in paragraph 49 constitute legal assertions to which no
21 response is required.

22 50. The allegations of paragraph 50 are too vague and general to permit a meaningful
23 response. Insofar as a response is deemed required, Defendants are without information or
24 knowledge sufficient to form a belief as to the truth or falsity of the allegations in this paragraph.

1 51. The allegations of paragraph 51 concerning “[a]ll such highways” are too vague
2 and general to permit a meaningful response. To the extent these allegations are intended to
3 pertain to the four rights-of-way claimed in the Complaint, and are intended to refer to the
4 “CDPA” (i.e., the “California Desert Protection Act,” rather than to the “CDMA” as stated),
5 Defendants admit having closed to mechanical transport the portion of the alleged “Petro Road”
6 within Death Valley National Park, the alleged “Lost Section Road-South,” and the alleged “Last
7 Chance Road.” As to “Padre Road” or “Padre Point Road,” the references in the Complaint to
8 “Padre Road” and “Padre Point Road” and the depiction of the road at Exhibit 4 create ambiguity
9 as to what right-of-way is claimed, and Defendants therefore cannot meaningfully respond to the
10 allegations of paragraph 51 as they pertain to “Padre Road” or “Padre Point Road.” Defendants
11 are without knowledge or information sufficient to form a belief as to the truth or falsity of the
12 remaining allegations set forth in paragraph 51.
13

14
15 52. The allegations of paragraph 52 concerning “[a]ll such highways” are too vague
16 and general to permit a meaningful response. To the extent these allegations are intended to
17 pertain to the four rights-of-way claimed in the Complaint, Defendants respond that, given the
18 lengthy time period implicated by Plaintiff’s claims and the numerous tracts of land in question,
19 Defendants are presently without knowledge or information sufficient to form a belief as to the
20 truth or falsity of the remaining allegations in paragraph 52.
21

22 53. The allegations of paragraph 53 concerning unidentified “road uses” and “specific
23 means of use” are too vague and general to permit a meaningful response. To the extent a
24 response is deemed required, at the present time Defendants are without knowledge or
25 information sufficient to form a belief as to the truth or falsity of the allegations set forth in
26 paragraph 53.
27
28

1 54. The allegations set forth in paragraph 54 constitute legal assertions to which no
2 response is required.

3 55. Defendants are without knowledge or information sufficient to form a belief as to
4 the truth or falsity of the allegations set forth in paragraph 55.

5
6 **FIRST CLAIM**

7 **(To Quiet Title In Petro Road in Inyo County)**

8 56. Defendants reallege their responses to paragraphs 1 through 55.

9 57. Defendants are without information or knowledge sufficient to form a belief as to
10 the truth or falsity of the allegations set forth in paragraph 57.

11 58. Defendants are without information or knowledge sufficient to form a belief as to
12 the truth or falsity of the allegations set forth in paragraph 58.

13
14 59. Defendants admit that prior to the enactment of the CDPA on October 31, 1994,
15 portions of the alleged “Petro Road” were managed by the Bureau of Land Management
16 (“BLM”) or its predecessor. However, given the lengthy time period implicated by Plaintiff’s
17 claims and the numerous tracts of land in question, Defendants are presently without knowledge
18 or information sufficient to form a belief as to the truth or falsity of the remaining allegations in
19 paragraph 59.
20

21 60. The allegations set forth in paragraph 60 constitute legal assertions to which no
22 response is required.

23 61. Defendants are without information or knowledge sufficient to form a belief as to
24 the truth or falsity of the allegations set forth in the first and third sentences of paragraph 61.
25 The allegations set forth in the second and fourth sentences of paragraph 61 constitute legal
26 assertions to which no response is required.
27
28

62. Defendants are without information or knowledge sufficient to form a belief as to the truth or falsity of the alleged contents of the Inyo County Road Register. In addition, Defendants deny that the legal description provided in this paragraph is accurate or complete.

63. The allegations set forth in paragraph 63 constitute Plaintiff's characterization of Plaintiff's Exhibit 1, to which no response is required.

64. Defendants admit that the portion of the alleged “Petro Road” within Death Valley National Park is closed to mechanical transport. The allegations in the second sentence of paragraph 64 constitute legal assertions and/or Plaintiff’s characterization of its motivations for filing suit to which no response is required.

SECOND CLAIM

(To Quiet Title in Lost Section Road-South in Inyo County)

65. Defendants reallege their responses to paragraphs 1 through 55.

66. Defendants are without information or knowledge sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 66.

67. As to the first sentence of paragraph 67, Defendants admit that prior to the enactment of the CDPA on October 31, 1994, portions of the alleged “Lost Section Road” were managed by the BLM or its predecessor. As to the second sentence of paragraph 67, Defendants admit that portions of the alleged “Lost Section Road” were included in the Death Valley National Monument and remained open for mechanical transport. Defendants admit that in 1994, the alleged “Lost Section Road - South” was depicted on maps as being located in wilderness. Defendants admit the allegations in the fourth sentence of paragraph 67.

68. The allegations set forth in paragraph 68 constitute legal assertions to which no response is required.

1 69. Defendants are without information or knowledge sufficient to form a belief as to
2 the truth or falsity of the allegations set forth in the first and third sentences of paragraph 69.
3 The allegations set forth in the second and fourth sentences of paragraph 69 constitute legal
4 assertions to which no response is required.
5

6 70. Defendants are without information or knowledge sufficient to form a belief as to
7 the truth or falsity of the alleged contents of the Inyo County Road Register. In addition,
8 Defendants deny that the legal description provided in this paragraph is accurate or complete.
9

10 71. The allegations set forth in paragraph 71 constitute Plaintiff's characterization of
11 Plaintiff's Exhibit 2, to which no response is required.
12

13 72. As to the first sentence of paragraph 72, Defendants admit that on or about March
14 2004, the County engaged in grading activity on the alleged "Lost Section Road - South;"
15 Defendants deny the remaining allegations in this sentence. As to the second sentence of
16 paragraph 72, Defendants admit that the area was closed to mechanical transport by virtue of its
17 inclusion in the Death Valley National Park wilderness area. As to the third sentence of
18 paragraph 72, Defendants admit that the NPS has closed the area to mechanical transport and
19 that NPS has conducted natural resource restoration in the area. The allegations set forth in the
20 fourth sentence constitute legal assertions and/or Plaintiff's characterization of its motivations
21 for filing suit to which no response is required.
22

THIRD CLAIM

(To Quiet Title in Last Chance Road in Inyo County)

23 73. Defendants reallege their responses to paragraphs 1 through 55.
24

25 74. Defendants are without information or knowledge sufficient to form a belief as to
26 the truth or falsity of the allegations set forth in paragraph 74.
27
28

1 82. The references in the Complaint to “Padre Road” and “Padre Point Road” and the
2 depiction of the road at Exhibit 4 create ambiguity as to what right-of-way is claimed, and
3 Defendants therefore cannot meaningfully respond to the allegations of the first, fourth and fifth
4 sentences of paragraph 82 concerning “Padre Point Road.” Defendants admit the allegations in
5 the second sentence of paragraph 82. Defendants are without information or knowledge
6 sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in
7 paragraph 82.
8

9 83. The references in the Complaint to “Padre Road” and “Padre Point Road” and the
10 depiction of the road at Exhibit 4 create ambiguity as to what right-of-way is claimed, and
11 Defendants therefore cannot meaningfully respond to the allegations of paragraph 83 concerning
12 “Padre Point Road.” Defendants admit that prior to the enactment of the CDPA on October 31,
13 1994, the lands in this general area were managed by the BLM or its predecessor.
14

15 84. The allegations set forth in paragraph 84 constitute legal assertions to which no
16 response is required.
17

18 85. Defendants are without information or knowledge sufficient to form a belief as to
19 the truth or falsity of the allegations set forth in the first sentence of paragraph 85. The
20 allegations set forth in the second and third sentences of paragraph 85 constitute legal assertions
21 to which no response is required.

22 86. The allegations set forth in paragraph 86 constitute Plaintiff’s characterization of
23 Plaintiff’s Exhibit 4, to which no response is required.
24

25 87. The references in the Complaint to “Padre Road” and “Padre Point Road” and the
26 depiction of the road at Exhibit 4 create ambiguity as to what right-of-way is claimed, and
27 Defendants therefore cannot meaningfully respond to the allegations of the first sentence of
28 paragraph 87 concerning “Padre Point Road” (even assuming that the allegations of that sentence

1 are intended to pertain to the "CDPA" (i.e., the "California Desert Protection Act," rather than to
2 the "CDMA" as stated). As to the second sentence of paragraph 87, to the extent that the
3 allegations are intended to pertain to the "CDPA" (i.e., the "California Desert Protection Act,"
4 rather than to the "CDMA" as stated), Defendants admit that Defendants have stated that
5 mechanical transport is generally not allowed in designated wilderness. The allegations in the
6 third sentence constitute legal assertions and/or Plaintiff's characterization of its motivations for
7 filing suit to which no response is required.
8

9 **REQUEST FOR RELIEF**

10 The remainder of the Complaint constitutes Plaintiff's request for relief to which no
11 response is required. Insofar as a response is required, Defendants deny that Plaintiff is entitled
12 to any relief whatsoever.
13

14 **ALL CLAIMS**

15 Defendants deny each and every allegation of the Complaint, whether express or implied,
16 that has not been specifically admitted or denied.
17

18 The general descriptions and maps of the alleged rights-of-way subject to this action
19 provided in the Complaint and its exhibits do not provide an adequate legal description of the
20 alleged rights-of-way to allow Defendants to conclusively answer Plaintiff's allegations.
21 Therefore, each and every admission or denial in this Answer is qualified to the extent that the
22 lack of an accurate legal description of each alleged right-of-way raises questions or issues
23 concerning the location or other aspects of the alleged right-of-way that cannot be determined
24 due to the inadequacy of the allegations in the Complaint and its exhibits.
25

26 **AFFIRMATIVE DEFENSES**

27 1. Some or all of Plaintiff's causes of action fail to state a claim upon which relief
28 can be granted.

1 2. Some or all of Plaintiffs' claims are barred by the doctrines of abandonment,
2 estoppel, waiver, extinguishment, nonuser, or adverse possession.

3 3. Some or all of Plaintiff's causes of actions fail for lack of subject matter
4 jurisdiction.
5

6 4. Some or all of Plaintiff's causes of action are time-barred by applicable statutes of
7 limitation.

8 5. Some or all of Plaintiff's causes of action fail to set forth with particularity the
9 nature of the right, title or interest claimed by Plaintiff and the circumstances under which it was
10 acquired.
11

12 WHEREFORE, Defendants respectfully request that this Court deny in all respects
13 Plaintiff's request for relief, dismiss the Complaint, enter judgment for Defendants, and grant
14 such other relief as may be appropriate.
15

16 Respectfully submitted this 16th day of February, 2007.
17
18

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