

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ALLEY CATS ALLIES
INCORPORATED,

Plaintiff,

v.

UNITED STATES NATIONAL PARK
SERVICE, an agency of the U.S.
Department of the Interior, CHARLES F.
SAMS III, in his capacity as Director of the
U.S. National Park Service, MARK
FOUST, in his capacity as the Regional
Director of the South Atlantic-Gulf region
of the U.S. National Park Service, DEB
HAALAND, in her capacity as U.S.
Secretary of the Interior, and MYRNA
PALFREY, in her capacity as
Superintendent of the San Juan National
Historic Site,

Defendants.

Case No. 1:24-cv-876-RDM

JOINT MOTION TO VACATE AND/OR MODIFY CERTAIN DEADLINES

Plaintiff and Federal Defendants respectfully move the Court to vacate and/or modify certain deadlines in this case, including the April 16, 2025 hearing date. They do so based on the recent discovery that the administrative record in this matter needs to be supplemented to include public comments that were inadvertently omitted when Federal Defendants lodged the administrative record on July 15, 2024. The Parties provide the following facts in support of this Motion:

1. Plaintiff recently communicated to Federal Defendants that Plaintiff was unable to locate certain public comments in the administrative record that were independently provided to Plaintiff within the last two weeks by individuals and groups who submitted those public comments.

2. As a result, Federal Defendants investigated and determined that a certain set of public comments, namely those public comments addressing the draft environmental assessment (“EA”) at issue in this litigation, which had been submitted via the National Park Service’s (“NPS”) Planning, Environment, and Public Comment (“PEPC”) webform on an NPS website had been inadvertently omitted from the administrative record, even though those public comments had been considered by NPS during its decision-making process, as evidenced by the “Response to Public Comments” included at Attachment A to the FONSI.¹ There were 516 such public comments, covering 210 pages.

3. On March 27, 2025, Federal Defendants filed a notice of lodging of a supplement to the administrative record to include these public comments, and the notice provided a copy of the public comments. ECF No. 44 & 44-3.

4. The Parties agree that Federal Defendants’ need to supplement the administrative record requires a modification of current case deadlines. The Parties agree that the current March 28, 2025 deadline by which to submit the Joint Appendix should be vacated. The Parties also agree the currently scheduled April 16, 2025 hearing should be vacated. They differ slightly as to next steps for proceeding, as set forth below.

5. First, the Parties have the following proposals for next steps after the Federal Defendants’ supplement the administrative record:

- a. Plaintiff’s Position: Plaintiff believes that it may wish to file a motion to govern future proceedings, including but not limited to requesting supplemental briefing, based on Federal Defendants’ significant omission from the original

¹ Plaintiff does not join Federal Defendants’ characterization that it considered the omitted record materials, as it is unable to do so having not seen those materials.

administrative record previously certified to the Court and the Parties on July 15, 2024, and for which the parties' entire merits briefing has been based. Plaintiff cannot make this determination until after its attorneys have had the opportunity to review the additional public comments. Plaintiff is requesting 45 days to review Federal Defendants' supplemented administrative record and prepare a motion to govern future proceedings. Plaintiff commits to conferring with Federal Defendants prior to seeking any future motion to govern proceedings.

- b. Federal Defendants' Position: Federal Defendants do not believe supplemental briefing will be necessary based on the fact that these 516 comments and their allayed concerns were summarized and included in the original administrative record (see NPS_0003581 – NPS_0003615), but do not oppose Plaintiff's request for time to review the additional public comments for a period of 30 days, but oppose a period of 45 days.²
- c. The Parties agree that after whatever timeframe is granted by the Court (30 or 45 days), Plaintiff should either file a motion to govern further proceedings (which Federal Defendants may oppose) or indicate that it will not be filing such a motion.
- d. The Parties therefore ask that the Court issue an order providing that Plaintiff must either file a motion within 30 or 45 days of today's date, or, in the alternative to inform Federal Defendants that they do not intend to file such a motion.

² As noted above, the comments are available for the Court's review as an attachment to Federal Defendants' Notice of Lodging of Supplement to the Administrative Record, ECF No. 44-3.

6. Second, by minute order dated March 21, 2025 the Court has ordered the Parties to file a joint appendix containing all the materials in the administrative record cited by Plaintiff and Federal Defendants in their Summary Judgment briefing by **March 28, 2025**. The Parties agree that, in light of the Federal Defendants supplementing the administrative record, and the possibility that Plaintiff may seek future motions practice based on the supplemented administrative record, it is premature for the Parties to file such an appendix. The Parties therefore propose that the Court issue an order providing that this deadline is extended until two weeks after (1) the Parties informing the Court that Plaintiff does not intend to seek leave to file a motion; or (2) the Court resolves any such motion to govern future proceedings (and any filings subsequently authorized by the Court pursuant to its grant of such motion).³

7. Third, this matter is set for an in-person oral argument on the Parties' Cross-Motions for Summary Judgment on **April 16, 2025**. The Parties propose that the Court vacate the hearing date, to be re-set as soon as possible following (1) the Parties informing the Court that Plaintiff does not intend to file a motion to govern future proceedings; or (2) the Court resolving any such motion, and any resulting supplemental briefing is completed.

8. To the extent the Court has questions about, or would like to discuss the Parties' request, the Parties are prepared to participate in a status conference with the Court.

9. In light of this rescheduling, Federal Defendants note that per the Parties' Joint Status Report filed with the Court on September 4, 2024 (ECF No. 23), should NPS, prior to the Court issuing an order on the pending summary judgment motions, decide to proceed with

³ To the extent the Court allows Plaintiff to file a supplemental brief, Federal Defendants may seek leave to file a response to such brief.

respect to authorizing the removal of free-ranging cats at the Park, as described in the EA, Federal Defendants will notify Plaintiff and the Court 30 days prior to any such action.

WHEREFORE, the Parties respectfully request that the Court issue an order: (1) vacating the March 28, 2025 deadline to file a joint appendix identifying the administrative record materials cited by the Parties in their Cross-Motions for Summary Judgment (to be re-set in the future as described above); (2) vacating the April 16, 2025 hearing date (to be re-set in the future as described above); and (3) ordering Plaintiff to file a motion to govern future proceedings, or alternatively, to inform Federal Defendants that it does not intend to do so, within 30 or 45 days, as the Court chooses to grant, of today's date.

Respectfully submitted this 27th day of March 2025.

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