

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

PUBLIC EMPLOYEES FOR
ENVIRONMENTAL RESPONSIBILITY,
et al.,

Plaintiffs,

v.

DAVID BERNHARDT, Acting Secretary
of the Interior¹, *et al.*,

Defendants,

and

SAFARI CLUB INTERNATIONAL

Proposed Defendant-Intervenor.

Civ. No. 18-cv-01547-JDB

MOTION TO INTERVENE OF SAFARI CLUB INTERNATIONAL

Safari Club International (“Safari Club”), by and through its counsel, moves to intervene as a defendant as of right in this action pursuant to Fed. R. Civ. P. 24(a)(2). If this Court determines that Safari Club does not fulfill the criteria for intervention as of right, Safari Club then seeks leave to intervene permissively pursuant to Fed. R. Civ. P. 24(b)(1)(B). As a final alternative, Safari Club seeks to participate as amici curiae in support of David Bernhardt, *et al.* (“Federal Defendants”). This Motion is supported by the Memorandum below, the accompanying declarations, and other documents on file in this case. Safari Club lodges with this motion a Proposed Answer to be filed if the Court grants intervention.

Pursuant to L.Cv.R. 7(m), counsel for Safari Club contacted counsel for all the parties to this matter to ascertain their clients’ positions on this Motion. Federal Defendants state that they

¹ Automatically substituted in for Ryan Zinke under Fed. R. Civ. P. 25(d).

do not oppose this motion to intervene or for amicus status. Plaintiffs Public Employees for Environmental Responsibility et al. (“PEER”) state that they oppose Safari Club’s intervention and take no position on amicus status.

For the reasons described below, Safari Club respectfully requests that the Court grant Safari Club the right to intervene in this litigation.

**MEMORANDUM IN SUPPORT OF SAFARI CLUB INTERNATIONAL’S
MOTION TO INTERVENE**

I. Introduction

The delisting of the Louisiana black bear at issue in this case benefits the interests of members of Safari Club, primarily in preserving the likelihood that the State of Louisiana will open a well-regulated hunting season for black bears. Safari Club members have definite plans to participate in any such hunt. For this and other reasons, Safari Club seeks to participate as a defendant-intervenor in this matter to defend the U.S. Fish and Wildlife Service’s (“Service”) 2016 delisting. Safari Club moves to participate as a party to represent its own interests and the interests of its members.

Safari Club should be granted intervention as of right because (1) this motion is timely and will not cause prejudice or delay to any of the parties; (2) Safari Club and its members have significant protectable interests in hunting black bears in Louisiana, which will only be possible if the delisting remains in place; (3) these interests would be harmed if PEER prevails in this legal challenge and the Court sets aside the delisting; (4) Safari Club’s more narrow and specific interests cannot be adequately represented by the Federal Defendants; and (5) Safari Club has standing to intervene. If this Court does not grant Safari Club intervention as of right, it should grant Safari Club permissive intervenor status, because Safari Club’s defenses and the main action have questions of law and fact in common. Finally, if this Court denies intervention as of

right and permissive intervention, it should grant leave for Safari Club to participate as amicus curiae.

II. Factual and Procedural Background

A. The Delisting of the Louisiana Black Bear

The Service proposed to delist the Louisiana black bear in May 2015. 80 Fed. Reg. 29394 (May 21, 2015). The Service held two public hearings and accepted comments for 60 days regarding the proposed delisting. On March 11, 2016, the Service removed the Louisiana black bear from the federal list of threatened wildlife. 81 Fed. Reg. 13124 (Mar. 11, 2016).

B. The Procedural History of this Case

On June 28, 2018, PEER filed its complaint against Federal Defendants challenging the delisting. ECF 1. Federal Defendants filed their answer on September 11, 2018. ECF 6. Pursuant to a scheduling order issued by the Court (ECF 11), Federal Defendants filed a certified list of the contents of the administrative record on December 11, 2018. ECF 12. Under the current scheduling order, any response from PEER regarding the administrative record is due January 10, 2019; the Federal Defendants' response would be due by February 1, 2019; and PEER's reply would be due February 15, 2019. If PEER does not file a motion to complete or supplement the administrative record, PEER must file a motion for summary judgment by January 25, 2019. ECF 11. Safari Club is unsure what effect the government shutdown will have on this schedule, but it may lead to extensions to some of these deadlines.

C. Proposed Defendant-Intervenor Safari Club International

Safari Club is a nonprofit corporation incorporated in Arizona, operating under § 501(c)(4) of the Internal Revenue Code, with its headquarters in Washington, D.C. and an office in Tucson, Arizona. Safari Club's membership includes approximately 50,000 individuals from

the United States and many countries around the world. Safari Club has approximately 600 members and two chapters in Louisiana. Its mission and purposes include the conservation of wildlife, protection of the hunter, and education of the public concerning hunting and its use as a conservation tool. Goodenow Decl., Exhibit A, ¶¶ 3-5.

Safari Club works with its sister organization, Safari Club International Foundation (“SCI Foundation”), to carry out its conservation mission. SCI Foundation is a nonprofit corporation, incorporated in Nevada, operating under § 501(c)(3) of the Internal Revenue Code, with principal offices and place of business in Tucson, Arizona. Its missions include funding and directing worldwide programs dedicated to wildlife conservation and outdoor education. A significant percentage of Safari Club’s and SCI Foundation’s annual revenues, including a portion of the dues and fees paid by each member of Safari Club, goes to support SCI Foundation’s conservation efforts around the world. In addition, each individual chapter of Safari Club provides its own funding for conservation efforts locally and across the globe. *Id.* ¶¶ 6-7.

Safari Club and SCI Foundation’s advocacy and conservation interests focus on the concept of the “sustainable use” of wildlife. Sustainable use recognizes that the utilization of wildlife often produces benefits that directly advance and provide incentives for conservation. Well-managed hunting has been a valuable tool in the conservation of many game species and their associated habitats, including numerous species in North America. *Id.* ¶¶ 8-9. As many Safari Club members hunt and enjoy recreational pursuits in Louisiana, Safari Club’s purposes encompass support and protection of hunting in Louisiana. *Id.* ¶¶ 10-11.

Safari Club frequently engages in litigation to support and defend hunting and the participation of hunters in sustainable-use conservation. For example, Safari Club has

participated in numerous cases involving the delisting of gray wolves, grizzly bears, and black bears.² Safari Club has also participated as a plaintiff/appellant or defendant-intervenor in several cases involving the hunting of black bear.³

The declarations of Safari Club members, attached as exhibits to this motion and memorandum, document the interests of SCI members in hunting in general and hunting Louisiana black bears in particular. For example, Safari Club member Gregory Dale Elliott, a resident of Oakdale, Louisiana and a founder and current president of the Louisiana Acadiana Chapter of Safari Club, intends to hunt black bears in Louisiana during the first season after hunting is announced. G. Elliott Decl., Ex. B, ¶ 10. Melissa Evans Elliott, a Safari Club member and current Chapter Secretary of the Louisiana Acadiana Chapter, plans to hunt black bears in Louisiana during the first season that the Louisiana Department of Wildlife and Fisheries establishes a season. M. Elliott Decl., Ex. C, ¶ 10. Safari Club member Howard David Wilson explained:

I have always believed, because I am a Louisiana hunter and because of the abundance of black bears I have witnessed on a very common occurrence, that when and if I ever had an opportunity to harvest a black bear it would be a

² *Humane Soc’y of the U.S., et al., v. Salazar, et al.*, 13-cv-00186 (D.D.C. 2013) (Safari Club intervened in defense of Western Great Lakes gray wolves delisting), *Defenders of Wildlife, et al., v. Salazar, et al.*, 12-cv-01833 (D.D.C. 2012) (Safari Club intervened in defense of delisting of Wyoming’s gray wolves), *Crow Indian Tribe, et al., v. United States of Am., et al.*, 17-cv-00089-DLC (D. Mont. 2017) (Safari Club intervened in defense of Greater Yellowstone Ecosystem grizzly bear delisting); *Def. of Wildlife v. Kempthorne*, 535 F. Supp. 2d 121, 123 (D.D.C. 2008) (Safari Club intervened as defendant in delisting case involving Florida black bear).

³ *Ctr. for Biological Diversity v. Zinke*, 313 F. Supp. 3d 976, 980 (D. Alaska 2018) (defendant-intervenor); *N.J. Outdoor All. v. N.J. Dep’t of Env’tl. Prot.*, No. A-0525-18T4, 2018 WL 6005064 (N.J. Super. Ct. App. Div. Nov. 16, 2018) (appellant); *Animal Prot. League of N.J. v. N.J. Dep’t of Env’tl. Prot.*, 423 N.J. Super. 549, 34 A.3d 784 (App. Div. 2011) (intervenor–respondent); *N.J. Animal Rights All. v. N.J. Dep’t of Env’tl. Prot.*, 396 N.J. Super. 358, 934 A.2d 52 (App. Div. 2007) (intervenor-respondent); *Safari Club Int’l v. N.J. Dep’t of Env’tl. Prot.*, 373 N.J. Super. 515, 521 (App. Div. 2004) (appellant).

Louisiana black bear and that I would hunt it just as President Roosevelt did so many years ago.

Wilson Decl., Ex. E, ¶ 11; *see also* Kennedy Decl., Ex. D, ¶ 9.

III. Argument

A. Safari Club is Entitled to Intervene as of Right Under Federal Rule 24(a)(2)

Safari Club has filed a timely motion for intervention. Safari Club's interests and its members' interests in hunting Louisiana black bears will be impaired by the relief that Plaintiffs seek. The existing parties will not adequately represent these interests. Therefore, Safari Club is entitled to intervene as of right.

Federal Rule of Civil Procedure 24(a)(2), which governs intervention as of right, states in pertinent part:

On timely motion, the court must permit anyone to intervene who: ... claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represented that interest.

The D.C. Circuit has determined that intervention as of right depends upon the applicant's ability to satisfy five prerequisites: (1) the timeliness of the motion; (2) a showing of "adequate interest;" (3) a possible impairment of that interest; (4) a lack of adequate representation by the existing parties to the action; and (5) standing. *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003).⁴ Safari Club satisfies all five prerequisites.

⁴ This Court has noted that parties that demonstrate the requisites for intervention as of right normally need not independently prove their standing. "The standing inquiry is repetitive in the case of intervention as of right because an intervenor who satisfies Rule 24(a) will also have Article III standing." *Akiachak Native Cmty. v. U.S. Dep't of Interior*, 584 F. Supp. 2d 1, 7 (D.D.C. 2008); *see also WildEarth Guardians v. Salazar*, 272 F.R.D. 4, 13 n.5 (D.D.C. 2010) ("In most instances, the standing inquiry will fold into the underlying inquiry under Rule 24(a): generally speaking, when a putative intervenor has a 'legally protected' interest under Rule 24(a), it will also meet constitutional standing requirements, and vice versa.").

1. This Motion is Timely

Safari Club has timely asserted its own interests and the interests of its members who will be significantly impacted by the outcome of this litigation. The case is still not in the briefing stage. The parties currently are addressing the Administrative Record. If the parties dispute the contents, the motions and oppositions will not all be filed until February 15, 2019. Safari Club does not expect to participate in such a motion. As it has done in countless other cases, Safari Club will abide by all merits briefing schedules established by this Court and will work to avoid duplicative briefing. No prejudice will come to any party from the granting of this Motion at this stage of the litigation. *See NAACP v. New York*, 413 U.S. 345, 366 (1973). Consequently, this Motion is timely.

2. Safari Club and Its Individual Members Have Substantial Legal Interests in the Outcome of This Lawsuit

Safari Club has substantial legal interests in the subject matter of this suit. PEER asks this Court to invalidate the 2016 delisting of the Louisiana black bear, which would return the species to the threatened species list. With the bear delisted, the state can consider opening a bear season, in which Safari Club members will participate. If the bear returns to threatened status, the state will not consider or authorize a black bear hunting season. Safari Club members have direct and concrete interests in participating in a bear season authorized under state law.

For intervention as of right, a party must assert an interest in the subject matter of the suit. *Foster v. Gueory*, 655 F.2d 1319, 1324 (D.C. Cir. 1981). The D.C. Circuit has defined the interest test as one of efficiency rather than one of exclusivity: “The ‘interest’ test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967).

As demonstrated above, Safari Club members have definite future plans to hunt Louisiana black bear when the state opens a season. In addition, as conservationists, Safari Club members are concerned with the proper management and conservation of this species, which includes well-regulated hunting. Safari Club member Richard R. Kennedy III explained:

The current available scientific data about the Louisiana black bear population coupled with the frequency of human/bear interactions shows that the population is healthy and can be sustained with regulated bear harvests. I support management of the black bear population through controlled hunting practices. If the plaintiffs succeed in their effort to place Louisiana's black bears back on threatened species list, *it is most likely that I will be deprived of the opportunity to participate in the management and conservation of Louisiana's black bears through hunting.* If the Louisiana Department of Wildlife and Fisheries is prevented from using hunting to manage the black bear population, the number of bears will grow and the number of undesirable human/bear incidents will likely increase. This will lead to harm to other species, their habitat and will eventually have a detrimental effect on Louisiana citizens – myself included.

R. Kennedy Decl. Ex. D, ¶ 11 (emphasis added).

Safari Club, as an organization, has an interest in promoting and protecting sustainable-use conservation through hunting. Safari Club also seeks to preserve its members' ability to participate in future black bear hunting in Louisiana.

3. PEER's Proposed Relief Will Impair Safari Club's Legal Interest

If PEER obtains the relief it seeks, it is extremely unlikely that Safari Club members will be able to participate in future black bear hunts in Louisiana as long as the bear is listed. This Court has previously explained that an intervenor-applicant can show its interest will be impaired where the government's "decision below was favorable to [the intervenor-applicant], and the present action is a direct attack on that action." *WildEarth*, 272 F.R.D. at 14; *see also Cnty. of San Miguel, Colo. v. MacDonald*, 244 F.R.D. 36, 44 (D.D.C. 2007). Safari Club members who plan to hunt black bears in Louisiana when the state authorizes hunts will be harmed if PEER's

success in this litigation deprives them of the ability to engage in those activities. *See, e.g.*, G. Elliott Decl., Ex. B, ¶ 11; H. Wilson Decl., Ex. E, ¶ 15.

4. The Parties to This Action Offer Inadequate Representation

Federal Defendants inadequately represent Safari Club's interests in defending against PEER's legal challenges. Federal Defendants do not participate in Louisiana black bear hunting under state law. They do not practice sustainable-use conservation through hunting. While they will generally defend the delisting, they do not have an interest in the impact of the delisting on the state's ability to open a black bear hunting season. Safari Club does. Defendant-Intervenor status will allow it to protect these interests.

To satisfy the inadequate representation standard for intervention as of right, a proposed intervenor need only show that the existing representation "may be" inadequate, and the showing required is "minimal." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). "[E]ven when the interest of a federal agency and potential intervenor can be expected to coincide, 'that does not necessarily mean [] adequacy of representation is ensured for purpose of Rule 24(a)(2).'" *Crossroads Grassroots Policy Strategies v. Fed. Election Comm'n*, 788 F.3d 312, 321 (D.C. Cir. 2015) (reversing district court finding of adequate representation) (*quoting* *Natural Res. Def. Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977)). "[M]erely because parties share a general interest in the legality of a program or regulation does not mean their particular interests coincide so that representation by the agency alone is justified." *Am. Horse Prot. v. Veneman*, 200 F.R.D. 153, 158 (D.D.C. 2001); *see also* *Fund for Animals*, 322 F.3d at 737 (Service could not adequately represent the "more narrow and parochial" interests of Mongolia in litigation challenging the Service's listing and importation obligations with respect to foreign species of argali sheep, even though both entities participating in the litigation were

involved in efforts to conserve the sheep species and were attempting to defend the legality of the same ESA regulation). “[E]ven ‘a shared general agreement . . . does not necessarily ensure agreement in all particular respects,’ . . . and ‘[t]he tactical similarity of the present legal contentions of the [parties] does not assure adequacy of representation or necessarily preclude the [intervenor] from the opportunity to appear in [its] own behalf.’” *Nuesse*, 385 F.2d at 703.

Federal Defendants do not share Safari Club’s exact concerns. They make delisting decisions based on five risk factors identified in the Section 4 of the ESA. 16 U.S.C. § 1533(a)(1). They do not consider the impact of the delisting on individuals’ ability to hunt Louisiana black bear. Consequently, Safari Club’s focus will be both narrower and deeper than that of the Federal Defendants. The D.C. Circuit has acknowledged the potential benefits offered by an intervenor whose depth of interest can enhance the defense provided by a more broadly concerned governmental entity. *See Natural Res. Def. Council*, 561 F.2d at 912 (intervenor “likely to serve as a vigorous and helpful supplement to [agency’s] defense”); *see also Fund for Animals*, 322 F.3d at 736 n.9 (“For just these reasons, we have often concluded that governmental entities do not adequately represent the interests of aspiring intervenors.”) (collecting authorities).⁵

In some cases, an intervenor may have the ability to pursue the litigation in directions that the original defendant is unwilling or unable to go. For example, in one case, Safari Club, as a defendant-intervenor, was able to move the D.C. Circuit to vacate a ruling made moot by regulations issued by the Service, the Defendant. *Humane Soc’y of the U.S. v. Kempthorne*, 527

⁵ Through various briefing strategies (*e.g.*, staggered briefing, coordination between parties), Safari Club can avoid duplicating the arguments of the Federal Defendants. Safari Club will make every effort to avoid duplication and will endeavor to assist in the efficient resolution of this case, as it has done in other cases in which it intervened. *See supra.* notes 2-3.

F.3d 181, 188 (D.C. Cir. 2008). Although the Service also filed a motion to vacate, the court denied the Service's motion due to the role the agency's regulation played in mootng the matter. As Safari Club had not been the cause of mootng the case, the court was able to vacate the district court opinion by granting Safari Club's motion for vacatur.

While Safari Club may share some common interests with Federal Defendants, the obligations of the Federal Defendants to their larger constituencies make it impossible for them to provide representation that will protect the unique and possibly divergent interests of Safari Club and its members.

5. Safari Club Has Demonstrated Standing to Intervene

For some of the same reasons that Safari Club has demonstrated the impairment of its interests, Safari Club also satisfies all the criteria for defendant-intervenor standing. Constitutional standing generally requires the party to show: (1) an injury-in-fact that is (a) concrete and particularized and (b) actual and imminent; (2) causation; and (3) redressability. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). Standing for a defendant-intervenor requires a showing that the possible outcome of the case would harm the applicant's concrete interests. *Military Toxic Project v. Envtl. Prot. Agency*, 146 F.3d 948, 954 (D.C. Cir. 1998) (Court agreed that organization had defendant-intervenor standing because it benefited from the challenged rule and would suffer concrete injury if the court granted relief sought by petitioners). "The 'injury in fact' requirement in an environmental case is satisfied if a party adequately shows that he or she has an aesthetic or recreational interest in a particular place or animal, and that interest is impaired by a defendant's conduct." *Humane Soc'y of the U.S. v. Jewell*, 76 F. Supp. 3d 69, 106 (D.D.C. 2014), *aff'd sub nom. Humane Soc'y of the U.S. v. Zinke*, 865 F.3d 585 (D.C. Cir. 2017).

Safari Club's members have an injury-in-fact based on their interest in hunting Louisiana black bear. Other courts have found Safari Club's members' conservation and recreational interests in wildlife as bases for injury-in-fact and constitutional standing. *Safari Club Int'l v. Jewell*, 76 F. Supp. 3d 198 (D.D.C. 2014) (Safari Club allowed to pursue claims against the Service's findings related to Zimbabwe elephant importation); *Safari Club Int'l v. Jewell*, 842 F.3d 1280 (D.C. Cir. 2016) (Safari Club had standing to pursue claims against the Service's finding related to Tanzania elephant importation); *Humane Soc'y of the U.S.*, 527 F.3d at 184 (D.C. Cir. 2008), (Safari Club intervened as of right in challenge to permits issued for wolf management); *Friends of Animals v. Kempthorne*, 452 F. Supp. 2d 64, 70-71 (D.D.C. 2006) (Safari Club intervened as of right in challenge to regulations authorizing hunting of captive exotic antelope); *Fund for Animals v. Norton*, 295 F. Supp. 2d 1, 2 (D.D.C. 2003) (noting that the court had earlier in the case allowed intervention of Safari Club and other hunting organizations in a lawsuit concerning importation of game animals).

Injury to Safari Club and its members' interests will occur if PEER is successful in invalidating the delisting of the Louisiana black bear. Safari Club members will almost certainly be deprived of their ability to participate in future black bear hunting seasons.⁶

Safari Club also has organizational standing. Standing for an organization exists when:

⁶ In addition, Safari Club satisfies any prudential zone of interest standing requirements. The ESA's purposes include delisting species when they have recovered and no longer satisfy the criteria for a threatened or endangered species. *See* 16 U.S.C. § 1533(c)(2) ("The Secretary shall--(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and (B) determine on the basis of such review whether any such species should--(i) be removed from such list;"). Delisting returns primary management of the species to the state and allows the Service to focus its resources on other listed species. The state, in turn, free from the mantle of ESA restrictions, can authorized well-regulated hunting seasons, which benefits Safari Club and its members.

(1) at least one of its members would have standing to sue in his own right, (2) the interests the association seeks to protect are germane to its purpose, and (3) neither the claim asserted nor the relief requested requires that an individual member of the association participate in the lawsuit.

Sierra Club v. Envtl. Prot. Agency, 292 F.3d 895, 898 (D.C. Cir. 2002) (citing *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 342–43 (1977)). Safari Club meets these requirements because: (1) as described in detail above, Safari Club’s members will hunt Louisiana black bear; (2) the ability to hunt domestic wildlife, as part of sustainable-use conservation and management of Louisiana black bear, is germane to Safari Club’s missions; and (3) the relief requested by PEER does not require the direct participation of Safari Club’s individual members.

Accordingly, as Safari Club demonstrates standing, in addition to the other four criteria required for intervention as of right, the Court should grant its motion to intervene as of right.

B. Alternatively, the Court Should Permit Safari Club to Intervene Under Rule 24(b)(2)

If the Court finds that Safari Club does not meet the criteria for intervention as of right, Safari Club alternatively seek permissive intervention under Federal Rule of Civil Procedure 24(b), which states:

On timely motion, the court may permit anyone to intervene who: has a claim or defense that shares with the main action a common question of law or fact In exercising its discretion, the Court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.

“Rule 24(b) . . . provides basically that anyone may be permitted to intervene if his claim and the main action have a common question of law or fact.” *Nuesse*, 385 F.2d at 704 (D.C. Cir. 1967).

“Although the rule speaks in terms of a ‘claim or defense’ this is not interpreted strictly so as to preclude permissive intervention.” *Id.*

As discussed above, Safari Club's motion to intervene is timely, and it and its members have significant protectable interests in the subject matter of this action. Safari Club's defenses will respond to PEER's claims and will include, but may not be limited to, arguments in support of the legality of Federal Defendants' delisting. These arguments relate to issues under the ESA that Safari Club has litigated before and has an interest in addressing, including hybridization, historical habitat, peer review, and assessment of the listing factors, to name a few. Safari Club's defenses share substantial questions of law and fact with the claims raised by PEER's Complaint and Federal Defendants' likely defenses.

Moreover, by allowing Safari Club to intervene, the Court will have a party to this action that will advocate for the rights of those who wish to participate in hunting Louisiana black bear. Safari Club "can reasonably be expected to contribute to the informed resolutions of . . . questions when, and if, they arise before the District Court." *Natural Res. Def. Council*, 561 F.2d at 913.

Safari Club's intervention at this time will not unfairly delay or prejudice the adjudication of the parties' rights. The case is still not in the briefing stage. The parties are still addressing the Administrative Record. If the parties dispute the contents, they will file motions and oppositions. Safari Club expects that it will not participate in these motions. As it has done in countless other cases, Safari Club will abide by all briefing schedules established by this Court and will work to avoid duplicative briefing. As the permissive intervention rule references delay or prejudice to the "adjudication" of the parties' right, not the rights themselves, the focus is on whether intervention will help or hinder the Court in resolving the case. As an engaged defendant-intervenor, Safari Club has proven helpful in the resolution of other wildlife and

hunting cases, and can do so here. Accordingly, even if this Court denies Safari Club's intervention as a matter of right, it should grant permissive intervention in this action.

C. Amici Curiae

If the Court does not grant Safari Club intervenor status, Safari Club requests that the Court allow it to participate as amici curiae and to file briefs on the merits of this case, including in support of any motion for summary judgment by Federal Defendants and/or in opposition to any such motion by PEER. The Court has "broad discretion" to allow the participation of amici curiae. *Nat'l Ass'n of Home Builders v. U.S. Army Corps of Eng'rs*, 519 F. Supp. 2d 89, 93 (D.D.C. 2007). For all the reasons described above concerning Safari Club's interests in this case, the Court should exercise that discretion so that Safari Club has a voice in this important public interest case.

IV. Conclusion

Safari Club satisfies the requirements for intervention as of right and permissive intervention. This Motion is timely and documents the substantial interests that Safari Club and its members have in the delisting of the Louisiana black bear. Federal Defendants will defend the legality of the enhancement findings, but do not share Safari Club's interests in the sustainable harvesting of this species. In addition, Federal Defendants must defend this case in a way that will balance the competing interests of the diverse groups. Without Safari Club's participation, the interests of non-governmental persons and entities who support sustainable-use conservation of Louisiana black bears, including through hunting, will not adequately be represented.

Dated: January 4, 2019.

Respectfully Submitted,

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