

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

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<b>FRIENDS OF THE EARTH,</b>	)	
<b>BLUEWATER NETWORK DIVISION,</b>	)	
<i>et al.,</i>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>UNITED STATES DEPARTMENT OF</b>	)	
<b>THE INTERIOR, <i>et al.,</i></b>	)	
	)	
<b>Defendants.</b>	)	
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**Civil Action No. 05-2302 (RCL)**

**ORDER**

Before the Court are the federal defendants' Motion [51] to Dismiss, the ORV Defendants' Motion [49] to Dismiss, and the Manufacturer/User Defendants' Motion [52] to Dismiss, and the plaintiffs' Motion [60] to File Surreply. Upon consideration of the motions, the papers in support of and opposition thereto, the applicable law, and the entire record herein, and for the reasons stated in the accompanying Memorandum Opinion issued this date, it is hereby

ORDERED, that the Motion [60] to File Surreply is GRANTED; and it is further

ORDERED, that the Motions [49, 51, & 52] to Dismiss are GRANTED in part and DENIED in part; and it is further

ORDERED, that as to plaintiff Bluewater Network/Friends of the Earth, Counts I, II, III, and IV of the Second Amended Complaint are DISMISSED; and it is further

ORDERED, that as to plaintiff Wildlands CPR, the Motions to Dismiss are DENIED as to the portions of Count I that seek review of National Park Service's response to those portions

of plaintiffs’ rulemaking petition that sought system-wide regulations defining off-road vehicle usage and monitoring and enforcement regulations pertaining to ORV use, *see* Second Amended Complaint ¶¶ 73(c), 73(d), 73(e), and as to those portions of Count I that seek review of the Park Service’s response to those portions of plaintiffs’ rulemaking petition that sought repeal of ORV-use authorizations in Arches National Park and Canyonlands National Park, *id.* ¶¶ 73(a), 73(b); and it is further

ORDERED, that as to plaintiff Wildlands CPR, the other park-specific aspects of Count I are DISMISSED for failure to establish standing, with the exception of Count I as it applies to Glen Canyon; and it is further

ORDERED, that as to plaintiff Wildlands CPR, summary judgment on that part of Count I that relates to Glen Canyon is GRANTED to defendants, and JUDGMENT shall be entered in favor of defendants; and it is further

ORDERED, that as to plaintiff Wildlands CPR, summary judgment is also GRANTED to defendants on Counts II, III, and IV, which do not state a claim under the APA, and JUDGMENT shall be entered in favor of defendants; and it is further

ORDERED, that as to plaintiff National Parks Conservation Association (“NPCA”), the Motions to Dismiss are DENIED as to the aspects of Count I that seek review of the National Park Service’s response to those portions of plaintiffs’ rulemaking petition that sought system-wide regulations defining off-road vehicle usage and monitoring and enforcement regulations pertaining to ORV use, *see* Second Amended Complaint ¶¶ 73(c), 73(d), 73(e), and as to the portions of Count I that seek review of the Park Service’s response to those portions of plaintiffs’ rulemaking petition that sought repeal of ORV-use authorizations in Amistad National

Recreation Area, *id.* ¶ 73(b); and it is further

ORDERED, that as to plaintiff NPCA, the other park-specific aspects of Count I are DISMISSED for failure to establish standing, with the exception of Count I as it applies to Big South Fork National Recreation Area and Cape Lookout National Seashore; and it is further

ORDERED, that as to plaintiff NPCA, summary judgment on that part of Count I that relates to Big South Fork and Cape Lookout is GRANTED to defendants, because there is no final agency action to review, and JUDGMENT shall be entered in favor of defendants; and it is further

ORDERED, that as to plaintiff NPCA, summary judgment is also GRANTED to defendants on Counts II, III, and IV, which do not state a claim under the APA, and JUDGMENT shall be entered in favor of defendants; and it is further

ORDERED, that as to all plaintiffs, the Motion [52] to Dismiss is DENIED insofar as it seeks to dismiss Count V, the plaintiffs' FOIA claims.

SO ORDERED.

Signed by United States District Judge Royce C. Lamberth, March 21, 2007.