

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

No. 2:11-cv-35-FL

DEFENDERS OF WILDLIFE and )  
NATIONAL WILDLIFE REFUGE )  
ASSOCIATION, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
NORTH CAROLINA DEPARTMENT OF )  
TRANSPORTATION; FEDERAL )  
HIGHWAY ADMINISTRATION; JOHN F. )  
SULLIVAN, III, Division Administrator, )  
Federal Highway Administration; and )  
EUGENE A. CONTI, JR., Secretary, North )  
Carolina Department of Transportation, )  
 )  
Defendants, )  
 )  
and )  
 )  
CAPE HATTERAS ELECTRICAL )  
MEMBERSHIP CORPORATION, )  
 )  
Intervenor-Defendant. )

**AMENDED SCHEDULING ORDER**

Fed. R. Civ. P. 26

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On November 1, 2011, the Court entered an Order adopting the schedule proposed by the parties in their Rule 26(f) Joint Report filed October 19, 2011. On January 24, 2012, the Court entered an Order granting the motion of Cape Hatteras Electric Membership Corporation to intervene in the above-captioned action. In that Order, the Court directed the parties to “confer and submit to the court within fourteen (14) days of the entry of [the] order a supplement proposing any necessary changes to the current schedule.”

Through undersigned counsel, the parties have conferred and propose the following amended schedule for proceeding in this matter:

- a. On January 31, 2012, Federal Defendants filed and served the Administrative Record and the certified index to the Administrative Record.
- b. The parties will attempt in good faith to resolve any issues related to the contents of the Administrative Record as follows: On or before March 9, 2012, Plaintiffs and Intervenor will notify Defendants of any materials they believe should be added to the Administrative Record. Defendants will respond to such notification(s) on or before March 23, 2012.
- c. If the parties cannot resolve all issues related to the composition of the Administrative Record, the Plaintiffs, but not Intervenor, may file a motion to complete or supplement the Administrative Record on or before April 6, 2012. The Federal Defendants and the State Defendants may each file a response to any such motion on or before April 20, 2012.
- d. If no such motion to complete or supplement the Administrative Record is made, the Plaintiffs' Motion for Summary Judgment shall be due May 4, 2012, accompanied by a memorandum not to exceed 60 pages.
- e. The Federal Defendants' and the State Defendants' Cross-Motions for Summary Judgment and Responses in Opposition to Plaintiffs' Motion for Summary Judgment, and memoranda in support thereof, shall each be due June 15, 2012, and each memorandum shall not exceed 60 pages.
- f. The Intervenor may file a single Memorandum in Response to Defendants' and Plaintiffs' Motions for Summary Judgment (either in opposition or support thereof), not to exceed 30 pages, by June 22, 2012. Intervenor's memorandum shall address only those issues that affect its interests and shall not duplicate arguments

advanced by the Federal Defendants and State Defendants in their motions and memoranda.

g. The Plaintiffs' Reply Memorandum in Support of its Motion for Summary Judgment and Response in Opposition to Defendants' Motions for Summary Judgment shall be due July 20, 2012, and shall not exceed 40 pages.

h. The Plaintiffs' Reply Memorandum in Support of its Motion for Summary Judgment and in Response to Intervenor's Memorandum shall be due July 27, 2012, shall not exceed 10 pages, and shall be limited to addressing those issues argued by Intervenor.

i. The Federal Defendants' and the State Defendants' Reply Memoranda in Support of their respective Motions for Summary Judgment shall each be due August 17, 2012, and each reply memorandum shall not exceed 20 pages.

j. The Intervenor's Reply Memorandum shall be due August 24, 2012, and shall not exceed 10 pages.

k. The Plaintiffs' Surreply, if any, shall be due August 31, 2012, and shall not exceed 10 pages.

l. If the Plaintiffs move to complete or supplement the Administrative Record, the parties will submit a revised proposed briefing schedule to the Court.

Dated: February 8, 2012

Respectfully submitted,

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IT IS SO ORDERED, this 9th day of February, 2012.

/s/ Louise W. Flanagan  
LOUISE W. FLANAGAN  
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February, 2012, I have served the foregoing proposed Amended Scheduling Order on the parties listed below by electronically filing it with the Clerk of Court on this date using the CM/ECF system, which will send notification of such filing to, and pursuant to Local Civil Rule 5.1(e) shall constitute service upon, the following:

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