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12 *Counsel for American Farm Bureau Federation, et al.*
13 *Proposed Intervenor-Defendants (Refer to signature*
14 *page for complete list of parties represented)*

15 **Application for admission pro hac vice pending*

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

18 STATE OF CALIFORNIA, et al.,

19 *Plaintiffs,*

20 v.

21 ANDREW R. WHEELER, et al.,

22 *Defendants,*

23 and

24 AMERICAN FARM BUREAU FEDERATION,
25 et al.

26 *Applicant Intervenor-Defendants.*

No. 20-cv-03005-RS

**[PROPOSED] BUSINESS
INTERVENORS' ANSWER TO THE
COMPLAINT**

Date: June 25, 2020

Time: 1:30 p.m.

Courtroom: San Francisco Courthouse,
Courtroom 3—17th Floor

Judge: Hon. Richard Seeborg

1 Pursuant to Federal Rule of Civil Procedure 8, Intervenor-Defendants the American Farm
2 Bureau Federation, American Petroleum Institute, American Road and Transportation Builders
3 Association, Chamber of Commerce of the United States of America, Edison Electric Institute,
4 Leading Builders of America, National Alliance of Forest Owners, National Association of Home
5 Builders, National Cattlemen’s Beef Association, National Corn Growers Association, National
6 Mining Association, National Pork Producers Council, National Stone, Sand, and Gravel
7 Association, New York Farm Bureau, Public Lands Council, and U.S. Poultry & Egg Association
8 (collectively, the “Business Intervenors”), through the undersigned counsel, respectfully answer
9 the Complaint in the above-captioned action.

10 The headings and subheadings within the Complaint do not contain allegations that require
11 a response. To the extent a response is required, the allegations contained in the headings and
12 subheadings are denied.

13 1. Paragraph 1 characterizes Plaintiffs’ lawsuit and does not require a response. To the
14 extent a response is required, the Business Intervenors admit that the United States Environmental
15 Protection Agency (“EPA”) and the United States Army Corps of Engineers (collectively, the
16 “agencies”) published a rule entitled “The Navigable Waters Protection Rule: Definition of ‘Waters
17 of the United States’ (“2020 Rule”) on April 21, 2020. *See* 85 Fed. Reg. 22,250 (Apr. 21, 2020).
18 The Business Intervenors deny that the Plaintiffs are entitled to the relief they seek.

19 2. Paragraph 2 consists of opinions and legal conclusions to which no response is
20 required. To the extent a response is required, the Business Intervenors admit that the 2020 Rule
21 defines the term “waters of the United States” (“WOTUS”) for purposes of the Clean Water Act
22 (“CWA”), 33 U.S.C. § 1251 *et seq.*

23 3. Paragraph 3 consists of characterizations, opinions, and legal conclusions to which
24 no response is required. Paragraph 3 also characterizes and selectively quotes from statutory
25 authority, which is publicly available, speaks for itself, is the best evidence of its contents, and to
26 which no response is required.

27 4. Paragraph 4 consists of opinions and legal conclusions to which no response is
28 required. Paragraph 4 also characterizes and cites the *Federal Register*, which is publicly available,

1 speaks for itself, and is the best evidence of its contents.

2 5. The Business Intervenors admit the following allegations in Paragraph 5: The
3 agencies promulgated a rule, “Definition of ‘Waters of the U.S.’”—Recodification of Pre-Existing
4 Rules,” 84 Fed Reg. 56,626, on October 22, 2019 (“Repeal Rule”). The Repeal Rule repeals an
5 earlier regulation, “Clean Water Rule: Definition of ‘Waters of the U.S.’,” 80 Fed. Reg. 37,054
6 (June 29, 2015) (“2015 WOTUS Rule”), and restores the legal status quo ante that existed prior to
7 the 2015 WOTUS Rule. The remainder of Paragraph 5 consists of characterizations and legal
8 conclusions to which no response is required.

9 6. Paragraph 6 consists of opinions, characterizations, and legal conclusions to which
10 no response is required. To the extent a response is required, the Business Intervenors admit that
11 the 2020 Rule replaces the 2019 Rule with a revised definition of “WOTUS” for purposes of the
12 CWA. They further admit that coverage of the 2020 Rule is different from that of the 2015 Rule as
13 well as the pre-2015 regulatory regime, and further admit that some wet areas covered by those
14 regimes would not be jurisdictional under the 2020 Rule. The Business Intervenors deny that the
15 2020 Rule conflicts with the text of the CWA, deny that the 2020 Rule contradicts the CWA’s
16 objective, and deny that the 2020 Rule overlooks the agencies’ prior scientific findings and policy
17 and practice, or the recommendations of the agencies’ Science Advisory Board. They further deny
18 the remaining allegations in Paragraph 6.

19 7. Paragraph 7 consists of opinions, characterizations, and legal conclusions to which
20 no response is required. Paragraph 7 also characterizes and cites to a legal opinion, which is publicly
21 available, speaks for itself, and is the best evidence of its contents.

22 8. Paragraph 8 consists of opinions, characterizations, and legal conclusions to which
23 no response is required. To the extent a response is required, the Business Intervenors deny the
24 allegations in Paragraph 8.

25 9. Paragraph 9 consists of opinions, characterizations, and legal conclusions to which
26 no response is required. To the extent a response is required, the Business Intervenors deny the
27 allegations in Paragraph 9.

28 10. Paragraph 10 consists of opinions and legal conclusions to which no response is

1 required. To the extent a response is required, the Business Intervenors deny that the 2020 Rule
2 exposes the States and Cities to pollution, places States and Cities at a competitive disadvantage,
3 or injures the States' and Cities' sovereign or proprietary interests. The Business Intervenors lack
4 sufficient information to respond to the allegation regarding the ability of the States and Cities to
5 manage their regulatory programs, and deny the remaining allegations in Paragraph 10.

6 11. Paragraph 11 consists of opinions, characterizations, and legal conclusions to which
7 no response is required. To the extent a response is required, the Business Intervenors deny the
8 allegations in Paragraph 11.

9 12. Paragraph 12 consists of a characterization of the Plaintiffs' lawsuit and the relief
10 sought therein. To the extent a response is required, the Business Intervenors deny Plaintiffs are
11 entitled to the relief sought in Paragraph 12.

12 13. Admitted.

13 14. Admitted.

14 15. Admitted.

15 16. The Business Intervenors admit that the State-Plaintiffs are sovereign states of the
16 United States of America. They further admit that the North Carolina Department of Environmental
17 Quality is an executive agency of the State of North Carolina, that the District of Columbia is a
18 municipal corporation and is the local government for the territory constituting the permanent seat
19 of the government of the United States, and that the City of New York is a municipal corporation
20 and political subdivision of the State of New York. The Business Intervenors lack sufficient
21 information or knowledge to admit or deny the truth of the remaining allegations in Paragraph 16.

22 17. Admitted.

23 18. Admitted.

24 19. Admitted.

25 20. Admitted.

26 21. Paragraph 21 states a legal conclusion to which no response is required.

27 22. Paragraph 22 states a legal conclusion to which no response is required. Paragraph
28 22 also quotes from 5 U.S.C. § 551(5), which speaks for itself, is the best evidence of its contents,

1 and to which no response is required.

2 23. Paragraph 23 states a legal conclusion to which no response is required. Paragraph
3 23 also selectively quotes from statutory authority, which is publicly available, speaks for itself,
4 and is the best evidence of its contents.

5 24. Paragraph 24 states a legal conclusion to which no response is required.

6 25. Paragraph 25 consists of legal conclusions to which no response is required.
7 Paragraph 25 also quotes 5 U.S.C. § 553(c), which is publicly available, speaks for itself, and to
8 which no response is required.

9 26. Paragraph 26 states a legal conclusion to which no response is required.

10 27. Paragraph 27 states a legal conclusions to which no response is required.

11 28. Paragraph 28 states a legal conclusions to which no response is required.

12 29. Paragraph 29 states a legal conclusions to which no response is required. Paragraph
13 29 also quotes from 5 U.S.C. § 706(2)(A), which is publicly available, speaks for itself, and to
14 which no response is required.

15 30. Paragraph 30 states a legal conclusion to which no response is required. In addition,
16 Paragraph 30 quotes from 33 U.S.C. § 1251(a), which is publicly available, speaks for itself, and
17 to which no response is required.

18 31. Paragraph 31 consists of opinions and legal conclusions to which no response is
19 required. Paragraph 31 also selectively quotes from statutory authority (33 U.S.C. §§ 1311(a),
20 1342, 1344, 1362(7), 1362(12)), which is publicly available, speaks for itself, and to which no
21 response is required.

22 32. Paragraph 32 consists of characterizations, opinions, and legal conclusions to which
23 no response is required. Paragraph 32 also characterizes and selectively quotes from legal opinions
24 that speak for themselves, are the best evidence of their contents, and to which no response is
25 required.

26 33. Paragraph 33 consists of characterizations and legal conclusions to which no
27 response in required. Paragraph 33 also characterizes and selectively quotes from statutory
28 authority and legislative history, which are publicly available, speak for themselves, are the best

1 evidence of their contents, and to which no response is required.

2 34. Paragraph 34 consists of characterizations and legal conclusions to which no
3 response is required. Paragraph 34 also characterizes and selectively quotes from statutory
4 authority, which is publicly available, speaks for itself, is the best evidence of its contents, and to
5 which no response is required.

6 35. Paragraph 35 consists of characterizations and legal conclusions to which no
7 response is required. Paragraph 35 also characterizes and selectively quotes from statutory
8 authority, which is publicly available, speaks for itself, is the best evidence of its contents, and to
9 which no response is required.

10 36. Paragraph 36 consists of characterizations and legal conclusions to which no
11 response is required. In addition, Paragraph 36 cites statutory authority, which is publicly available,
12 speaks for itself, and is the best evidence of its contents.

13 37. Paragraph 37 consists of characterizations and legal conclusions to which no
14 response is required. In addition, Paragraph 37 cites statutory authority, which is publicly available,
15 speaks for itself, is the best evidence of its contents, and to which no response is required.

16 38. Paragraph 38 consists of characterizations and legal conclusions to which no
17 response is required. In addition, Paragraph 38 cites statutory authority, which is publicly available,
18 speaks for itself, is the best evidence of its contents, and to which no response is required.

19 39. Paragraph 39 consists of characterizations and legal conclusions to which no
20 response is required. In addition, Paragraph 39 cites statutory authority, which is publicly available,
21 speaks for itself, is the best evidence of its contents, and to which no response is required.

22 40. Paragraph 40 consists of characterizations and legal conclusions to which no
23 response is required. In addition, Paragraph 40 cites and selectively quotes from statutory authority,
24 which is publicly available, speaks for itself, is the best evidence of its contents, and to which no
25 response is required.

26 41. Paragraph 41 consists of characterizations and legal conclusions to which no
27 response is required. In addition, Paragraph 41 characterizes and selectively quotes from the
28 *Federal Register*, which is publicly available, speaks for itself, is the best evidence of its contents,

1 and to which no response is required.

2 42. The Business Intervenors admit that the agencies issued a joint legal memorandum
3 on January 15, 2003. Appendix A, “Advance Notice of Proposed Rulemaking on the Clean Water
4 Act Regulatory Definition of ‘Waters of the United States,’” 68 Fed. Reg. 1991, 1996 (Jan. 15,
5 2003). The Business Intervenors also admit that the EPA issued a guidance memorandum entitled
6 “Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in *Rapanos v. United*
7 *States & Carabell v. United States*” in December 2008. The remainder of Paragraph 42 consists of
8 characterizations and opinions to which no response is required.

9 43. Paragraph 43 consists of characterizations and legal conclusions to which no
10 response is required. Paragraph 43 also characterizes certain administrative materials that are
11 publicly available, speak for themselves, are the best evidence of their contents, and to which no
12 response is required.

13 44. Paragraph 44 consists of characterizations and legal conclusions to which no
14 response is required. Paragraph 44 also characterizes certain administrative materials that are
15 publicly available, speak for themselves, are the best evidence of their contents, and to which no
16 response is required.

17 45. The Business Intervenors admit that the Agencies promulgated a rule in 2015
18 defining “WOTUS” for purposes of the CWA, which became effective on August 28, 2015. The
19 remainder of Paragraph 45 consists of characterizations and legal conclusions to which no response
20 is required.

21 46. Paragraph 46 consists of characterizations, and legal conclusions to which no
22 response is required. Paragraph 46 also characterizes and quotes from the *Federal Register*, which
23 is publicly available, speaks for itself, is the best evidence of its contents, and to which no response
24 is required.

25 47. Paragraph 47 consists of characterizations and legal conclusions to which no
26 response is required. Paragraph 47 also characterizes and selectively quotes from public documents
27 that speak for themselves, are the best evidence of their contents, and to which no response is
28 required. To the extent a response is required, the Business Intervenors deny the allegations in

1 Paragraph 47.

2 48. The Business Intervenors admit the President issued Executive Order 13778 entitled
3 “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the
4 United States’ Rule,” which is codified at 82 Fed. Reg. 12,497, in 2017. The remainder of Paragraph
5 48 characterizes and selectively quotes from the *Federal Register*, which is publicly available,
6 speaks for itself, and to which no response is required.

7 49. The Business Intervenors admit the agencies promulgated the Repeal Rule on
8 October 22, 2019, which repealed the earlier 2015 Rule. The remainder of Paragraph 49
9 characterizes and selectively quotes from the *Federal Register*, which is publicly available, speaks
10 for itself, and to which no response is required.

11 50. Paragraph 50 consists of opinions, characterizations, and legal conclusions to which
12 no response is required. To the extent a response is required, the Business Intervenors admit that
13 coverage of the 2020 Rule is different from that of the 2015 Rule as well as the pre-2015 regulatory
14 regime, and further admit that some wet areas covered by those regimes would not be jurisdictional
15 under the 2020 Rule. The Business Intervenors deny the remaining allegations in Paragraph 50.

16 51. Paragraph 51 characterizes and selectively quotes from the *Federal Register*, which
17 is publicly available, speaks for itself, is the best evidence of its contents, and to which no response
18 is required.

19 52. Paragraph 52 consists of characterizations and legal conclusions to which no
20 response is required. In addition, Paragraph 52 characterizes and selectively quotes from the
21 *Federal Register*, which is publicly available, speaks for itself, is the best evidence of its contents,
22 and to which no response is required.

23 53. Paragraph 53 consists of characterizations and legal conclusions to which no
24 response is required. In addition, Paragraph 53 characterizes and selectively quotes from the
25 *Federal Register*, which is publicly available, speaks for itself, is the best evidence of its contents,
26 and to which no response is required.

27 54. The Business Intervenors admit that the 2020 Rule contains certain exclusions from
28 the definition of WOTUS. The remainder of Paragraph 54 consists of characterizations and legal

1 conclusions to which no response is required. In addition, Paragraph 54 characterizes and
2 selectively quotes from the *Federal Register*, which is publicly available, speaks for itself, is the
3 best evidence of its contents, and to which no response is required.

4 55. The Business Intervenors admit that the 2020 Rule excludes interstate waters as a
5 separate category of WOTUS. The remainder of Paragraph 55 consists of opinions and legal
6 conclusions to which no response is required.

7 56. Paragraph 56 consists of opinions, characterizations, and legal conclusions to which
8 no response is required. In addition, Paragraph 56 characterizes and cites from administrative
9 materials that are publicly available, speak for themselves, are the best evidence of their contents,
10 and to which no response is required. To the extent a response is required, the Business Intervenors
11 admit that coverage of the 2020 Rule is different from that of the 2015 Rule as well as the pre-2015
12 regulatory regime, and further admit that some wet areas covered by those regimes would not be
13 jurisdictional under the 2020 Rule.

14 57. Paragraph 57 consists of opinions, characterizations, and legal conclusions to which
15 no response is required. In addition, Paragraph 57 characterizes and cites from publicly available
16 sources, including administrative materials, which speak for themselves, are the best evidence of
17 their contents, and to which no response is required. To the extent a response is required, the
18 Business Intervenors admit that coverage of the 2020 Rule is different from that of the 2015 Rule
19 as well as the pre-2015 regulatory regime, and further admit that some wet areas covered by those
20 regimes would not be jurisdictional under the 2020 Rule. The Business Intervenors deny the
21 remaining allegations in Paragraph 57.

22 58. Paragraph 58 consists of opinions, characterizations, and legal conclusions to which
23 no response is required. To the extent a response is required, the Business Intervenors deny the
24 allegations in Paragraph 58.

25 59. Paragraph 59 consists of opinions, characterizations, and legal conclusions to which
26 no response is required. In addition, Paragraph 59 characterizes and selectively quotes from legal
27 opinions and the *Federal Register*, which are publicly available, speak for themselves, are the best
28 evidence of its contents, and to which no response is required.

1 60. Paragraph 60 consists of opinions, characterizations, and legal conclusions to which
2 no response is required. Paragraph 60 also characterizes and selectively quotes from the *Federal*
3 *Register*, which speaks for itself, is the best evidence of its contents, and to which no response is
4 required. To the extent a response is required, the Business Intervenors deny the allegations in
5 Paragraph 60.

6 61. Paragraph 61 consists of opinions, characterizations, and legal conclusions to which
7 no response is required. To the extent a response is required, the Business Intervenors deny the
8 allegations in Paragraph 61.

9 62. Paragraph 62 consists of opinions, characterizations, and legal conclusions to which
10 no response is required. To the extent a response is required, the Business Intervenors deny the
11 allegations in Paragraph 62.

12 63. Paragraph 63 consists of opinions, characterizations, and legal conclusions to which
13 no response is required. To the extent a response is required, the Business Intervenors deny the
14 allegations in Paragraph 63.

15 64. Paragraph 64 characterizes and selectively quotes from public documents that speak
16 for themselves, are the best evidence of their contents, and to which no response is required.

17 65. Paragraph 65 consists of opinions, characterizations and legal conclusions to which
18 no response is required. To the extent a response is required, the Business Intervenors deny the
19 allegations in Paragraph 65.

20 66. The Business Intervenors admit that the agencies engaged with the EPA's Science
21 Advisory Board ("SAB") during the development of the 2020 Rule, including meeting with the
22 SAB prior to and following publication of the proposed 2020 Rule. They further admit that SAB
23 issued a draft commentary on the proposed rule on December 31, 2019, and held a public meeting
24 on the proposed rule on January 17, 2020. The Business Intervenors further admit that the agencies
25 signed the final 2020 Rule on January 23, 2020. The remaining allegations in Paragraph 66 consist
26 of opinions to which no response is required.

27 67. Paragraph 67 consists of characterizations and legal conclusions to which no
28 response is required. Paragraph 67 also characterizes and selectively quotes from certain public

1 materials which speak for themselves, are the best evidence of their contents, and to which no
2 response is required.

3 68. Paragraph 68 consists of opinions and characterizations to which no response is
4 required. Paragraph 68 further selectively quotes from the *Federal Register*, which is publicly
5 available, speaks for itself, is the best evidence of its contents, and to which no response it required.
6 To the extent a response is required, the Business Intervenors deny the allegations in Paragraph 68.

7 69. Paragraph 69 consists of opinions, characterizations, and legal conclusions to which
8 no response is required. To the extent a response is required, the Business Intervenors deny the
9 allegations in Paragraph 69.

10 70. Paragraph 70 consists of opinions, characterizations, and legal conclusions to which
11 no response is required. To the extent a response is required, the Business Intervenors deny the
12 allegations in Paragraph 70.

13 71. Paragraph 71 consists of opinions, characterizations, and legal conclusions requiring
14 no response. To the extent a response is required, the Business Intervenors admit that coverage of
15 the 2020 Rule is different from that of the 2015 Rule as well as the pre-2015 regulatory regime,
16 and further admit that some wet areas covered by those regimes would not be jurisdictional under
17 the 2020 Rule. The Business Intervenors deny the remaining allegations in Paragraph 71.

18 72. Paragraph 72 consists of opinions, characterizations, and legal conclusions to which
19 no response is required. In addition, Paragraph 72 cites and selectively quotes from the *Federal*
20 *Register*, which is publicly available, speaks for itself, and is the best evidence of its contents. To
21 the extent a response is required, the Business Intervenors deny the allegations in Paragraph 72.

22 73. Paragraph 73 consists of opinions, characterizations, and legal conclusions to which
23 no response is required. To the extent a response is required, the Business Intervenors deny the
24 allegations in Paragraph 73.

25 74. Paragraph 74 consists of opinions and characterizations to which no response is
26 required. Paragraph 74 also characterizes the *Federal Register*, which is publicly available, speaks
27 for itself, and is the best evidence of its contents. To the extent a response is required, the Business
28 Intervenors deny that the allegations in Paragraph 74.

1 75. Denied.

2 76. The Business Intervenors admit that the Plaintiffs' jurisdictions cover vast areas of
3 the country, and that Plaintiffs are geographically situated along some of the Nation's waters. The
4 Business Intervenors further admit that Plaintiffs have authority to address water pollution
5 generated by sources within their borders, and that they do not have authority to directly regulate
6 water pollution generated by sources outside of their borders. The Business Intervenors lack
7 sufficient knowledge to respond to the remainder of the allegations in Paragraph 76.

8 77. The Business Intervenors lack sufficient knowledge to respond to the allegation that
9 the Plaintiffs rely on uniform nationwide pollution controls. The Business Intervenors deny that the
10 Plaintiffs will suffer the harm under the 2020 Rule, and deny the remaining allegations in Paragraph
11 77.

12 78. Paragraph 78 consists of opinions, characterizations, and legal conclusions to which
13 no response is required. To the extent that a response is required, the Business Intervenors deny the
14 allegations in Paragraph 78.

15 79. Paragraph 79 consists of opinions, characterizations, and legal conclusions to which
16 no response is required. In addition, Paragraph 79 characterizes and cites certain public documents
17 that speak for themselves, are the best evidence of their contents, and to which no response is
18 required. To the extent a response is required, the Business Intervenors admit that coverage of the
19 2020 Rule is different from that of the 2015 Rule as well as the pre-2015 regulatory regime, and
20 further admit that some wet areas covered by those regimes would not be jurisdictional under the
21 2020 Rule. Further, to the extent a response is required, the Business Intervenors deny the
22 remaining allegations in Paragraph 79.

23 80. Paragraph 80 characterizes and selectively quotes from certain publicly available
24 materials which speak for themselves, are the best evidence of their contents, and to which no
25 response is required. The Business Intervenors lack sufficient knowledge to respond to the
26 remaining allegations in Paragraph 80.

27 81. Paragraph 81 consists of opinions and legal conclusions to which no response is
28 required. The remainder of Paragraph 81 characterizes and selectively quotes from administrative

1 materials, which are publicly available, speak for themselves, are the best evidence of their
2 contents, and to which no response is required.

3 82. Paragraph 82 consists of characterizations and legal conclusions which require no
4 response is required.

5 83. Paragraph 83 consists of opinions, characterizations, and legal conclusions requiring
6 no response. Paragraph 83 further characterizes and selectively quotes from certain publicly
7 available documents which speak for themselves, are the best evidence of their contents, and to
8 which no response is required. To the extent a response is required, the Business Intervenors deny
9 that the 2020 Rule risks more damage from oil spills.

10 84. The Business Intervenors lack sufficient knowledge to respond to the allegations in
11 Paragraph 84 pertaining to the effect of the 2020 Rule on the Plaintiffs' regulatory programs, the
12 internal governance or appropriation decisions of the Plaintiffs, or any reliance by the Plaintiffs on
13 federal regulations. The Business Intervenors further deny that the agencies failed to consider the
14 States' and Cities' purported reliance interests in the 2020 Rule, and deny that 2020 Rule abandons
15 the agencies' long-standing position and policy.

16 85. Paragraph 85 consists of opinions, speculation, and legal conclusions to which no
17 response is required. To the extent a response is required, the Business Intervenors deny the
18 allegations in Paragraph 85.

19 86. The allegations in Paragraph 86 consists of opinions and speculation to which no
20 response is required. To the extent a response is required, the Business Intervenors deny that the
21 2020 Rule will impair water recreation industries, deny that the 2020 will make water less desirable
22 for fishing, boating, or swimming, and further deny the remaining allegations in Paragraph 86.

23 87. The Business Intervenors admit that Plaintiffs own, operate, finance, or manage
24 property within their borders. The remaining allegations in Paragraph 87 consist of opinions and
25 legal conclusions to which no response is required. To the extent a response is required, the
26 Business Intervenors deny that the 2020 Rule impairs Plaintiffs' proprietary interests, deny that the
27 2020 Rule will destroy habitat or reduce wildlife populations, and deny that the 2020 Rule will
28 allow increased pollution or loss of wetland functions. The Business Intervenors lack sufficient

1 information to respond to the remaining allegations in Paragraph 87.

2 88. The Business Intervenors deny Plaintiffs are entitled to the relief requested and deny
3 Plaintiffs will suffer any injury caused by the 2020 Rule.

4 The allegations following Paragraph 88 are legal statements of causes of action and a prayer
5 for relief to which no response is required.

6 **GENERAL DENIAL**

7 To the extent that any factual allegation in the Complaint has not been admitted or
8 specifically responded to, the Business Intervenors deny such allegation.

9 **DEFENSES**

10 1. Plaintiffs have failed to state a claim for which relief can be granted with respect to
11 one or more of the claims set forth in the Complaint.

12 2. The Business Intervenors reserve the right to raise any defense, including but not
13 limited to those found in Federal Rules of Civil Procedure 8(c) and 12, that may be supported by
14 the record in this case.

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Dated this 21st day of May, 2020.

MAYER BROWN LLP

/s/ C. Mitchell Hendy
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*Pro hac vice motion pending

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Defendants*
American Farm Bureau Federation;
American Petroleum Institute; American
Road and Transportation Builders
Association; Chamber of Commerce of the
United States of America; Edison Electric
Institute; Leading Builders of America;
National Alliance of Forest Owners; National
Association of Home Builders; National
Cattlemen's Beef Association; National Corn
Growers Association; National Mining
Association; National Pork Producers
Council; National Stone, Sand, and Gravel
Association; Public Lands Council; and U.S.
Poultry & Egg Association

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed and thereby caused the foregoing document to be served via the CM/ECF system in the United States District Court for the Northern District of California on all parties registered for CM/ECF in the above-captioned matter.

Dated at Los Angeles, California, this 21st day of May, 2020.

s/ C. Mitchell Hendy