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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:  
NATURAL RESOURCES DEFENSE :  
COUNCIL, INC., : 16 Civ. 1251 (ER)  
:  
Plaintiff, :  
:  
v. : **ANSWER**  
:  
UNITED STATES ENVIRONMENTAL :  
PROTECTION AGENCY and GINA MCCARTHY, :  
in her official capacity as Administrator of the :  
United States Environmental Protection Agency, :  
:  
Defendants. :  
:  
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Defendants United States Environmental Protection Agency (“EPA”) and Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (collectively with EPA, “Defendants”), answer the allegations in the complaint as follows:

**INTRODUCTION**

1. Paragraph 1 consists of Plaintiff’s characterization of this action, to which no response is required.

2. Defendants admit that perchlorate contamination in drinking water may pose a risk to human health at certain levels, including risks to fetuses, infants, young children, and that it may cause developmental delays, reduced growth, and impaired learning capabilities. Defendants otherwise deny the allegations in Paragraph 2.

3. The allegations in Paragraph 3 constitute a statement of law, to which no response is required.

4. Paragraph 4 consists of a description of EPA's actions in a Federal Register Notice published on February 11, 2011, to which Defendants respectfully refer the Court for a true and complete statement of its contents.

5. The allegations in Paragraph 5 constitute a statement of law, to which no response is required.

6. The allegations in Paragraph 6 constitute a statement of law, to which no response is required

7. The allegations in Paragraph 7 constitute a statement of law, to which no response is required.

8. Defendants admit the allegations in Paragraph 8.

9. Defendants state that whether EPA's actions violate the Safe Water Drinking Act is a statement of law, to which no response is required, and otherwise deny the allegations in Paragraph 9.

10. Paragraph 10 consists of Plaintiff's characterization of the relief it seeks in this action, to which no response is required.

## **JURISDICTION AND VENUE**

11. Paragraph 11 consists of statements of law and Plaintiff's characterization of its complaint, to which no response is required.

12. Paragraph 12 consists of statements of law, to which no response is required.

13. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning where NRDC resides, and otherwise respond that Paragraph 13 consists of statements of law and statements regarding venue, to which no response is required.

14. Defendants admit the allegations in Paragraph 14.

## **PARTIES**

15. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16

17. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, except to the extent that the allegations in Paragraph 17 are statements of law, the Defendants state that no response is required.

18. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18. To the extent that the allegations in Paragraph 18 are statements of law, the Defendants state that no response is required.

19. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first, fourth, and fifth sentences of Paragraph 19, except that Defendants admit that perchlorate has been found in some public drinking water systems. Defendants respectfully refer the Court to the Federal Register notice referred to in the second sentence of

Paragraph 19, for a true and complete statement of its contents. As to the third sentence of Paragraph 19, Defendants admit that EPA has neither proposed nor finalized any limits on perchlorate in drinking water, and otherwise deny.

20. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20.

21. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in sentences one, three, four, five, and six of Paragraph 21. Defendants admit the second sentence of Paragraph 21. Sentences three, four, and six also contain legal conclusions, to which no response is required.

22. Paragraph 22 consists of Plaintiff's characterization of the relief it seeks in this action, to which no response is required.

23. Defendants admit the allegations in Paragraph 23.

24. Defendants admit the allegations in Paragraph 24.

#### **STATUTORY AND REGULATORY FRAMEWORK**

25. Defendants admit that Congress passed the Safe Water Drinking Act in 1974 with the goal of protecting public health.

26. The allegations in Paragraph 26 contain statements of law, to which no response is required.

27. The allegations in Paragraph 27 contain statements of law, to which no response is required.

28. Defendants admit that EPA's published lists of contaminants are referred to as "contaminant candidate lists," or "CCLs."

29. The allegations in Paragraph 29 contain statements of law, to which no response is required.

30. The allegations in Paragraph 30 contain statements of law, to which no response is required.

31. The allegations in Paragraph 31 contain statements of law, to which no response is required.

32. The allegations in Paragraph 32 contain statements of law, to which no response is required.

33. The allegations in Paragraph 33 contain statements of law, to which no response is required.

34. The allegations in Paragraph 34 contain statements of law, to which no response is required.

35. The allegations in Paragraph 35 contain statements of law, to which no response is required.

36. The allegations in Paragraph 36 contain Plaintiff's statements of law, to which no response is required.

#### **FACTUAL BACKGROUND**

37. Defendants admit the allegations in Paragraph 37.

38. Defendants admit that perchlorate has been used and manufactured in the United States and has been used by the military and defense industries for decades, and otherwise deny the allegations in Paragraph 38 as ambiguous and vague.

39. Defendants admit that perchlorate is soluble in water and that perchlorate contamination in soil can move into and through ground and surface water, and otherwise deny the allegations in Paragraph 39 as ambiguous and vague.

40. Defendants admit the allegations in Paragraph 40 of the complaint.

41. The allegations of Paragraph 41 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 41 for a true and complete statement of its contents.

42. The allegations of Paragraph 42 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 42 for a true and complete statement of its contents.

43. Defendants admit that perchlorate contamination in drinking water systems may pose a threat to human health at certain levels and admit that when ingested, perchlorate may impair the uptake of iodine into the thyroid gland, which may disrupt thyroid hormone production. Defendants otherwise deny the allegations in Paragraph 43.

44. Defendants admit that thyroid hormone is critical for normal development including pre-natal and post-natal brain development, and otherwise deny the allegations in Paragraph 44 as ambiguous and vague.

45. Defendants admit that, at certain levels, perchlorate may pose a risk to fetuses, infants, and young children, and otherwise deny the allegations in Paragraph 45.

46. Defendants admit the allegations in Paragraph 46.

47. Defendants admit that reductions in thyroid hormone levels may be associated with impacts to brain development and cognitive functions during sensitive early life stages, and otherwise deny the allegations in Paragraph 47 as ambiguous and vague.

### **REGULATORY BACKGROUND**

48. The allegations of Paragraph 48 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 48 for a true and complete statement of its contents.

49. The allegations of Paragraph 49 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 49 for a true and complete statement of its contents.

50. The allegations of Paragraph 50 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 50 for a true and complete statement of its contents.

51. The allegations of Paragraph 51 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 51 for a true and complete statement of its contents.

52. The allegations of Paragraph 52 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer

the Court to the Federal Register publication referred to in Paragraph 52 for a true and complete statement of its contents.

53. The allegations of Paragraph 53 purport to summarize information published in the Federal Register, which is the best evidence of its own contents. Defendants respectfully refer the Court to the Federal Register publication referred to in Paragraph 53 for a true and complete statement of its contents. To the extent that any remaining allegations in Paragraph 53 are statements of law, the Defendants state that no response is required.

54. Defendants admit the allegations of Paragraph 54.

55. Defendants admit that EPA has not proposed a maximum contaminant level goal or a national primary drinking water regulation for perchlorate, but otherwise deny the allegations in Paragraph 55.

56. Defendants admit the allegations of Paragraph 56.

#### **CLAIMS FOR RELIEF**

57. Defendants incorporate by references their responses to Paragraphs 1-56.

58. The allegations in Paragraph 58 are statements of law, to which no response is required.

59. Defendants admit that EPA has not proposed a maximum contaminant level goal and a national primary drinking water regulation for perchlorate, and state that the remaining allegations of Paragraph 59 are statements of law, to which no response is required.

60. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 60. The second sentence of Paragraph 60 consists of Plaintiff's assertion of a right to relief, to which no response is required.

61. Defendants incorporate by references their responses to Paragraphs 1-60.

62. The allegations in Paragraph 62 are statements of law, to which no response is required.

63. Defendants admit that EPA has not published a maximum contaminant level goal nor promulgated a national primary drinking water regulation for perchlorate, and states that the remaining allegations of Paragraph 63 are statements of law, to which no response is required.

64. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 64. The second sentence of Paragraph 64 consists of Plaintiff's assertion of a right to relief, to which no response is required.

#### **PRAYER FOR RELIEF**

The remaining allegations consist of Plaintiff's prayer for relief, to which no response is required. Defendants deny that Plaintiff is entitled to any of the relief sought in the Complaint.

Dated: New York, New York  
May 10, 2016

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