

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SOUTHERN ENVIRONMENTAL  
LAW CENTER

PLAINTIFF,

*v.*

FEDERAL AVIATION  
ADMINISTRATION

DEFENDANT.

Civil Action No.

1:18-CV-04763-LMM

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW Defendant Federal Aviation Administration ("Defendant" or "FAA"), by and through the United States Attorney for the Northern District of Georgia, and answers the allegations in Plaintiff Southern Environmental Law Center's ("Plaintiff" or "SELC") Complaint for Declaratory and Injunctive Relief, as follows:

**FIRST DEFENSE**

Defendant's actions did not violate the Freedom of Information Act ("FOIA") or any other statutory or regulatory provision.

## **SECOND DEFENSE**

Plaintiff is not entitled to compel production of records exempt from disclosure by one or more statutory exemptions. *See, e.g.*, 5 U.S.C. § 552. Disclosure of such information is not required or permitted.

## **THIRD DEFENSE**

The Court lacks subject matter jurisdiction over Plaintiff's Complaint to the extent Defendant has not improperly withheld information within the meaning of the FOIA, 5 U.S.C. § 552.

## **FOURTH DEFENSE**

The Court lacks jurisdiction over the subject matter of this Complaint for any relief that exceeds the relief authorized by statute under 5 U.S.C. § 552.

## **FIFTH DEFENSE**

In response to the enumerated paragraphs in the Complaint, Defendant responds as follows:

### Introduction

1. Defendant admits that Plaintiff submitted two FOIA requests to Defendants - one on March 13, 2018 and the other on March 19, 2018 (collectively referred to as "Plaintiff's FOIA requests"). Except as thus stated, denied.

2. Defendant admits that it has not issued a final response to Plaintiff's FOIA requests. Defendant avers that they are in the process of searching for records responsive to Plaintiff's FOIA requests. Defendant is without knowledge or information sufficient to admit or deny the matters asserted and therefore denies the same.

3. Defendant admits that it has been in communication with Plaintiff regarding Plaintiff's FOIA requests. Except as thus stated, denied.

#### Jurisdiction and Venue

4. Defendant admits that Plaintiff's Complaint seeks to bring an action under pursuant to 5 U.S.C. § 552, 28 U.S.C. § 1331, and 28 U.S.C. § 2201. Except as thus stated, denied.

5. Admitted.

#### The Parties

6. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 6 of Plaintiff's Complaint and therefore denies the same.

7. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 7 of Plaintiff's Complaint and therefore denies the same.

8. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 8 of Plaintiff's Complaint and therefore denies the same.

9. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 9 of Plaintiff's Complaint and therefore denies the same.

10. Admitted.

11. Admitted.

12. Denied.

13. Admitted.

#### Legal Background

14. The allegations in paragraph 14 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

15. The allegations in paragraph 15 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

16. The allegations in paragraph 16 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

17. The allegations in paragraph 17 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

18. The allegations in paragraph 18 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

19. The allegations in paragraph 19 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

#### Factual Background

20. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 20 of Plaintiff's Complaint and therefore denies the same.

21. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 21 of Plaintiff's Complaint and therefore denies the same.

22. Defendant admits that Camden County is seeking a Launch Site Operator License form the FAA. The remaining allegations in paragraph 22 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

23. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 23 of Plaintiff's Complaint and therefore denies the same. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA requests.

24. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 24 of Plaintiff's Complaint and therefore denies the same. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA requests.

25. Defendant admits that on March 16, 2018, the FAA published a request for comments on its Draft Environmental Impact Statement ("DEIS") and that the FAA extended the deadline for comments until June 14, 2018. Except as thus stated, denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA requests.

26. With respect to the allegations in paragraph 26 of the Complaint, Defendant states that if the DEIS is properly authenticated, the document will speak for itself. Defendant is without sufficient knowledge to admit or deny the allegations in paragraph 26.

27. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 27 of Plaintiff's Complaint and therefore denies the same.

Plaintiff's FOIA Requests

I. The DEIS Request

28. Defendant admits that it received a FOIA request from Plaintiff dated March 13, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents. Except as thus stated, denied.

29. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 29 of Plaintiff's Complaint and therefore denies the same.

30. Defendant admits that it received Plaintiff's FOIA request dated March 13, 2018 and respectfully refers the Court to Defendant's acknowledgment letter for a complete and accurate statement of its contents. Except as thus stated, denied.

31. Admitted.

32. Defendant admits that it sent a letter to Plaintiff on May 23, 2018 and respectfully refers the Court to that letter for a complete and accurate statement of its contents. Except as thus stated, denied..

33. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 33 of Plaintiff's Complaint and therefore denies the same.

34. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 34 of Plaintiff's Complaint and therefore denies the same.

35. Denied.

## II. The Hazard Analysis Request

36. Denied.

37. Defendant admits that it received a FOIA request from Plaintiff dated March 19, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents. Except as thus stated, denied.

38. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 38 of Plaintiff's Complaint and therefore denies the same.

39. Defendant admits that it received Plaintiff's FOIA request dated March 19, 2018 and respectfully refers the Court to Defendant's acknowledgment letter for a complete and accurate statement of its contents. Except as thus stated, denied.

40. Admitted.

41. Defendant admits that it sent a letter to Plaintiff on May 23, 2018 and respectfully refers the Court to that letter for a complete and accurate statement of its contents. Except as thus stated, denied.



42. Admitted.

43. Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 43 of Plaintiff's Complaint and therefore denies the same.

44. Denied.

45. Denied.

SELC's Constructive Exhaustion of Administrative Remedies

46. The allegations in paragraph 46 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

47. Denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

48. Admitted. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

49. Admitted. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

50. Denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

51. Admitted.

Claims for Relief

COUNT ONE:

Improper Withholding of Records Responsive to the DEIS Request

52. In response to paragraph 52 of the Complaint, Defendant incorporates by reference Defendant's responses to all preceding paragraphs.

53. The allegations in paragraph 53 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

54. The allegations in paragraph 54 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

55. The allegations in paragraph 55 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

56. The allegations in paragraph 56 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

COUNT TWO:

Improper Withholding of Records Responsive to the Hazard Analysis Request

57. In response to paragraph 57 of the Complaint, Defendant incorporates by reference Defendant's responses to all preceding paragraphs.

58. The allegations in paragraph 58 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

59. The allegations in paragraph 59 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

60. The allegations in paragraph 60 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

61. The allegations in paragraph 61 of the Complaint state legal conclusions to which no response is required. Except as thus stated, denied.

Prayer for Relief

The paragraph of Plaintiff's Complaint under the heading "PRAYER FOR RELIEF," and each numbered subpart thereof, constitutes Plaintiff's prayer for relief to which no response is required. However, to the extent a response is required, Defendant denies that Plaintiff is entitled to any relief requested, or to any relief whatsoever against Defendants.

**SIXTH DEFENSE**

Except as expressly admitted above, all allegations in Plaintiff's Complaint stand denied, and Defendant further denies that Plaintiff is entitled to any of the relief requested.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant respectfully requests that this action be dismissed with prejudice and that the Court grant Defendant such other relief as may be appropriate.

Dated: December 21, 2018

Respectfully submitted,

BYUNG J. PAK  
*United States Attorney*

*/s/ Samuel H. Williams*  
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**Certificate of Compliance**

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing motion and brief have been prepared using Book Antiqua, 13 point font.

*/s/ Samuel H. Williams*

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SAMUEL H. WILLIAMS

*Assistant United States Attorney*

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**Certificate of Service**

I served this document today by filing it using the Court's CM/ ECF system,  
which automatically notifies the parties and counsel of record.

December 21, 2018.

*/s/ Samuel H. Williams*

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SAMUEL H. WILLIAMS

*Assistant United States Attorney*