IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE)	
COUNCIL, INC.; CENTER FOR SCIENCE)	
IN THE PUBLIC INTEREST; FOOD)	
ANIMAL CONCERNS TRUST; PUBLIC)	
CITIZEN, INC.; and UNION OF)	
CONCERNED SCIENTISTS, INC.,)	
)	
Plaintiffs,)	11 CIV 3562 (THK)
)	ECF Case
v.)	
)	
UNITED STATES FOOD AND DRUG)	
ADMINISTRATION; MARGARET)	
HAMBURG, in her official capacity as)	
Commissioner, United States Food and Drug)	
Administration; CENTER FOR)	
VETERINARY MEDICINE; BERNADETTE)	
DUNHAM, in her official capacity as)	
Director, Center for Veterinary Medicine;)	
UNITED STATES DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES; and)	
KATHLEEN SEBELIUS, in her official)	
capacity as Secretary, United States)	
Department of Health and Human Services,)	
)	
Defendants.)	
)	

PLAINTIFFS' RESPONSE TO THE GOVERNMENT'S STATEMENT OF UNDISPUTED MATERIAL FACTS PURSUANT TO LOCAL CIVIL RULE 56.1 REGARDING PLAINTIFFS' THIRD CLAIM FOR RELIEF

Plaintiffs respond as follows to the Statement of Undisputed Material Facts Pursuant to

Local Civil Rule 56.1 submitted by Defendants on March 21, 2012:

1. The administrative record of the citizen petitions: (1) filed with FDA on March 9, 1999, by plaintiffs Center for Science in the Public Interest, Food Animal Concerns Trust ("FACT"), Public Citizen, Inc., and Union of Concerned Scientists, Inc. ("UCS") and (2) filed with FDA on April 7, 2005, by plaintiffs FACT and UCS submitted a citizen petition to FDA (collectively, the "Citizen Petitions"), filed in this action by the Government on March 21, 2012; under the Certification of Karen Kennard, Division of Dockets Management, executed on March 20, 2012, constitutes the administrative record upon which FDA denied the Citizen Petitions.

CONTROVERTED. For the reasons set forth in their accompanying Motion to Complete the Administrative Record, plaintiffs request an order that the administrative record be completed with the industry comments filed as Exhibits C, D, and E to the Declaration of Mitchell S. Bernard, Feb. 21, 2012 (Dkts. 59-3, 59-4, 59-5).

Dated: April 2, 2012 Respectfully submitted,

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s/ Jennifer A. Sorenson

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