

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No: 4:18-CV-00097-D**

SOUND RIVERS, INC., et al.,)
)
 Plaintiffs,)
)
 v.)
)
 U.S. FISH AND WILDLIFE SERVICE,)
 et al.,)
)
 Defendants.)

ORDER

Before the Court is the Federal Defendants’ “Motion for Clarification of the Court’s October 27, 2018 Scheduling Order and for Alternative Scheduling Order.”

UPON CONSIDERATION of the motion and being otherwise fully advised in the premises, it is ORDERED AND ADJUDGED that the Federal Defendants’ motion is GRANTED.

The “Scheduling Order” dated October 27, 2018 (ECF No. 34) is hereby VACATED.

The Court hereby adopts the proposed deadlines set forth in the joint report of the parties’ planning meeting and proposed schedule (ECF No. 30) as follows:

Administrative Record

February 15, 2019 Federal Defendants shall lodge with the Court and produce the Agencies’ administrative records to Plaintiffs and the NCDOT Defendants.

March 22, 2019 Plaintiffs shall notify Defendants of their position on whether they believe the administrative records are complete and will provide Defendants with any materials they seek to include in the administrative records, specifying in which record they seek to include the materials.

- April 3, 2019 Defendants shall respond to Plaintiffs' notification as to completeness of the administrative records.
- April 17, 2019 Plaintiffs shall file any motion challenging the completeness of the administrative records, the applicability of any exceptions to record review, or the need for judicial review of extra-record materials.
- May 8, 2019 The NCDOT Defendants and Federal Defendants will each file their response to any motion challenging the completeness of the administrative records, the applicability of any exceptions to record review, or the need for judicial review of extra-record materials.
- May 22, 2019 Plaintiffs shall file their reply brief in support of any motion challenging the completeness of the administrative records, the applicability of any exceptions to record review, or the need for judicial review of extra-record materials.

Summary Judgment Briefing Schedule

If record motion briefing proceeds as set forth above, the parties will submit a joint status report within fourteen (14) days of the Court's decision resolving the record motion, proposing a schedule for resolving the merits of Plaintiffs' claims. In the event that no record motion is filed, the parties shall resolve the merits of Plaintiffs' claims through cross-motions for summary judgment as follows:

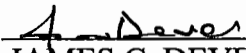
- April 23, 2019 Plaintiffs shall file their motion for summary judgment. Plaintiffs' supporting memorandum shall not exceed 50 pages.
- May 29, 2019 The NCDOT Defendants and Federal Defendants shall each file their oppositions to Plaintiffs' motion for summary judgment and cross-motions for summary judgment. Defendants' respective supporting memoranda shall not exceed 50 pages each.
- June 27, 2019 Plaintiffs shall file their combined reply and response in opposition to Defendants' respective cross-motions. Plaintiffs' supporting memorandum shall not exceed 40 pages.
- July 19, 2019 The NCDOT Defendants and Federal Defendants each shall file

their replies. Defendants' respective supporting memoranda shall not exceed 25 pages each.

In addition, motions to join additional parties and to amend pleadings must be made promptly after the information giving rise to the motion becomes known to the party or counsel. Any such motion filed after December 21, 2018, must meet the standards of Fed. R. Civ. P. 15 and 16.

Finally, the parties are reminded that, on request, this court will assist with settlement negotiations or other ADR such as summary jury trial by making available a judge other than the trial judge to explore possibilities.

SO ORDERED. This 17 day of December 2018.



JAMES C. DEVER III
United States District Judge