

**U.S. District Court
District of South Dakota (Western Division)
CIVIL DOCKET FOR CASE #: 5:21-cv-05072-LLP**

Black Hills Clean Water Alliance v. U.S. Forest Service et al
Assigned to: U.S. District Judge Lawrence L. Piersol
Cause: 05:552 Freedom of Information Act

Date Filed: 10/21/2021
Date Terminated: 03/29/2023
Jury Demand: None
Nature of Suit: 895 Other Statutes:
Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Black Hills Clean Water Alliance

represented by **Bruce H. Ellison**
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ATTORNEY TO BE NOTICED

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V.

Defendant

U.S. Forest Service
an agency of the United States

represented by **Alison J. Ramsdell**
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Defendant

U.S. Department of Agriculture
an agency of the United States

represented by **Alison J. Ramsdell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/21/2021	<u>1</u>	COMPLAINT, \$402 fee paid, receipt# ASDDC-3654483, in shell case on 10/21/21 filed by Black Hills Clean Water Alliance on 10/21/21. (Attachments: # <u>1</u> Exhibit 1 – FOIA, # <u>2</u> Exhibit 2 – Public Meeting Materials, # <u>3</u> Exhibit 3– F3 POO, # <u>4</u> Exhibit 4 – Regional FS FOIA Response) (SLW) (Entered: 10/22/2021)
10/26/2021	<u>2</u>	MOTION for Attorney Jeffrey Parsons to be Admitted Pro Hac Vice (paid \$100 PHV fee; receipt number ASDDC-3657392) by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 10/26/2021)
10/26/2021	<u>3</u>	MOTION for Attorney Travis Stills to be Admitted Pro Hac Vice (paid \$100 PHV fee; receipt number ASDDC-3657406) by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 10/26/2021)
10/26/2021	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS (BLACK HILLS CLEAN WATER ALLIANCE vs. US FOREST SERVICE). (Ellison, Bruce) Modified on 10/26/2021 to remove restriction.(CLR) (Entered: 10/26/2021)
10/26/2021	<u>5</u>	Summonses Issued as to USA. Summmmons(es), AO 85, and Rule 73 Memo delivered to plaintiff's counsel via electronic delivery to plaintiffs attorney. (Attachments: # <u>1</u> Summonses Issued, # <u>2</u> AO 85)(CLR) (Entered: 10/26/2021)
10/27/2021	<u>6</u>	ORDER granting <u>2</u> Motion for Admission Pro Hac Vice of Attorney Jeffrey C. Parsons for Black Hills Clean Water Alliance. Signed by U.S. District Judge Lawrence L. Piersol on 10/27/2021. (VMM) (Entered: 10/27/2021)
10/27/2021	<u>7</u>	ORDER granting <u>3</u> Motion for Admission Pro Hac Vice of Attorney Travis E. Stills for Black Hills Clean Water Alliance. Signed by U.S. District Judge Lawrence L. Piersol on 10/27/2021. (VMM) (Entered: 10/27/2021)
11/08/2021	<u>8</u>	CERTIFICATE OF SERVICE by Black Hills Clean Water Alliance . (Ellison, Bruce) (Entered: 11/08/2021)
12/01/2021	<u>9</u>	NOTICE of Appearance by Alison J. Ramsdell on behalf of All Defendants. (Ramsdell, Alison) (Entered: 12/01/2021)
12/23/2021	<u>10</u>	ANSWER to <u>1</u> Complaint, by All Defendants. (Ramsdell, Alison) (Entered: 12/23/2021)
01/18/2022	<u>11</u>	ORDER for Discovery Report and Scheduling Information. Signed by U.S. District Judge Lawrence L. Piersol on 01/18/2022. (Attachments: # <u>1</u> Letter to Counsel)(VMM) (Entered: 01/18/2022)
02/16/2022	<u>12</u>	Discovery Report re <u>11</u> Order for Discovery Report <i>Report of the Parties' Planning Meeting</i> by Black Hills Clean Water Alliance. Related document: <u>11</u> Order for Discovery Report.(Ellison, Bruce) (Entered: 02/16/2022)
04/06/2022	<u>13</u>	RULE 16 SCHEDULING ORDER: Discovery due by 5/2/2022 Motions due by 5/16/2022. Court Trial set for 9/22/2022 at 09:00 AM in Rapid City Courtroom 2 – Room 236 before U.S. District Judge Lawrence L. Piersol.. Signed by U.S. District Judge Lawrence L. Piersol on 04/06/2022. (VMM) (Entered: 04/06/2022)
04/15/2022	<u>14</u>	SCHEDULING ORDER: Settlement Conference set for 4/25/2022 at 01:00 PM in Sioux Falls Grand Jury Room – Room 124B before US Magistrate Judge Veronica L. Duffy. Signed by US Magistrate Judge Veronica L. Duffy on 4/15/2022. (PM) (Entered: 04/15/2022)
04/22/2022		Settlement Conference Canceled***Hearings terminated (Duffy, Veronica) (Entered: 04/22/2022)
04/25/2022	<u>15</u>	SCHEDULING ORDER: Settlement Conference set for 6/28/2022 at 09:30 AM in Sioux Falls Magistrate Chambers – Room 119 before US Magistrate Judge Veronica L. Duffy. Signed by US Magistrate Judge Veronica L. Duffy on 4/25/22. (Duffy, Veronica) (Entered: 04/25/2022)
05/16/2022	<u>16</u>	MOTION to Extend Deadlines by U.S. Department of Agriculture, U.S. Forest Service. (Ramsdell, Alison) (Entered: 05/16/2022)

05/18/2022	<u>17</u>	Amended Rule 16 Scheduling Order. Motions due by 7/14/2022. Court Trial set for 9/22/2022 at 09:00 AM in Rapid City Courtroom 2 – Room 236 before U.S. District Judge Lawrence L. Piersol. Signed by U.S. District Judge Lawrence L. Piersol on 05/18/2022. (VMM) Modified on 5/18/2022 (VMM). (Entered: 05/18/2022)
06/28/2022	18	Settlement Conference held on 6/28/2022 before US Magistrate Judge Veronica L. Duffy. The parties did not succeed in settling their claims. (Duffy, Veronica) (Entered: 06/28/2022)
07/14/2022	<u>19</u>	MOTION for SUMMARY JUDGMENT by U.S. Department of Agriculture, U.S. Forest Service. (Ramsdell, Alison) (Entered: 07/14/2022)
07/14/2022	<u>20</u>	MEMORANDUM in Support re <u>19</u> MOTION for SUMMARY JUDGMENT filed by U.S. Department of Agriculture, U.S. Forest Service. (Ramsdell, Alison) (Entered: 07/14/2022)
07/14/2022	<u>21</u>	STATEMENT OF UNDISPUTED MATERIAL FACTS re <u>19</u> Motion for Summary Judgment filed by U.S. Department of Agriculture, U.S. Forest Service. (Ramsdell, Alison) (Entered: 07/14/2022)
07/14/2022	<u>22</u>	(FILED IN ERROR) DECLARATION of Margaret Scofield re <u>19</u> MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Exhibit A–BHCWA FOIA Request, # <u>2</u> Exhibit B–Response to Expedited Request, # <u>3</u> Exhibit C–Partial Response, # <u>4</u> Exhibit D–Final Determination) (Ramsdell, Alison) Modified on 7/15/2022 (CLR). (Entered: 07/15/2022)
07/15/2022	<u>23</u>	(FILED IN ERROR) DECLARATION of Margaret Scofield re <u>19</u> MOTION for SUMMARY JUDGMENT (duplicate declaration with additional exhibits). (Attachments: # <u>1</u> Exhibit E–BHCWA FOIA Appeal, # <u>2</u> Exhibit F–Status Email, # <u>3</u> Exhibit G–Partial Appeal Response, # <u>4</u> Exhibit H–BHCWA Reply Email, # <u>5</u> Exhibit I–Harke Reply Email, # <u>6</u> Exhibit J–BHCWA Confirmation Email, # <u>7</u> Exhibit K–Scofield Reply Email, # <u>8</u> Exhibit L–Final Response Letter, # <u>9</u> Exhibit M–Vaughn Index, # <u>10</u> Exhibit N–Redacted Disclosures) (Ramsdell, Alison) Modified on 7/15/2022 (CLR). (Entered: 07/15/2022)
07/15/2022		NOTICE of Filing Error: <u>22</u> Declaration and <u>23</u> Declaration were filed in error and should be disregarded. (Ramsdell, Alison) (Entered: 07/15/2022)
07/15/2022	<u>24</u>	DECLARATION of MARGARET SCOFIELD re <u>19</u> MOTION for SUMMARY JUDGMENT . (Attachments: # <u>1</u> Exhibit A – BHCWA FOIA Request, # <u>2</u> Exhibit B – Response to Expedited Request, # <u>3</u> Exhibit C – Partial Response, # <u>4</u> Exhibit D – Final Determination, # <u>5</u> Exhibit E – BHCWA FOIA Appeal, # <u>6</u> Exhibit F – Status Email, # <u>7</u> Exhibit G – Partial Appeal Response, # <u>8</u> Exhibit H – BHCWA Reply Email, # <u>9</u> Exhibit I – Harke Reply Email, # <u>10</u> Exhibit J – BHCWA Confirmation Email, # <u>11</u> Exhibit K – Scofield Reply Email, # <u>12</u> Exhibit L – Final Response Letter, # <u>13</u> Exhibit M – Vaughn Index, # <u>14</u> Exhibit N – Redacted Disclosures) (Ramsdell, Alison) (Entered: 07/15/2022)
07/27/2022	<u>25</u>	SECOND AMENDED RULE 16 SCHEDULING ORDER: Motion Hearing set for 9/6/2022 at 02:00 PM in Rapid City Courtroom 2 – Room 236 before U.S. District Judge Lawrence L. Piersol Signed by U.S. District Judge Lawrence L. Piersol on 7/26/2022. (DJP) (Entered: 07/27/2022)
08/03/2022	<u>26</u>	MOTION to Extend Deadlines by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 08/03/2022)
08/04/2022	<u>27</u>	RESPONSE to Motion re <u>26</u> MOTION to Extend Deadlines filed by All Defendants. (Ramsdell, Alison) (Entered: 08/04/2022)
08/10/2022	<u>28</u>	ORDER granting <u>26</u> Motion to Extend Deadlines. Plaintiff may serve and file a reply brief by 8/11/2022. Signed by U.S. District Judge Lawrence L. Piersol on 08/10/2022. (VMM) (Entered: 08/10/2022)
08/11/2022	<u>29</u>	RESPONSE to Motion re <u>19</u> MOTION for SUMMARY JUDGMENT filed by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 08/11/2022)
08/11/2022	<u>30</u>	(FILED IN ERROR) DECLARATION of BRUCE ELLISON re <u>29</u> Response to Motion for Summary Judgment. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit) (Ellison, Bruce) Modified on 8/12/2022 (CLR).

		(Entered: 08/11/2022)
08/11/2022	<u>31</u>	RESPONSE to <u>21</u> Statement of Undisputed Material Facts filed by Black Hills Clean Water Alliance. (Ellison, Bruce) Modified on 9/13/2022 to correct link per chambers. (CLR) (Entered: 08/11/2022)
08/12/2022		NOTICE of Filing Error: <u>30</u> Declaration was filed in error and should be disregarded. (Ellison, Bruce) (Entered: 08/12/2022)
08/12/2022	<u>32</u>	DECLARATION of BRUCE ELLISON re <u>29</u> Response to Motion for Summary Judgment. (Attachments: # <u>1</u> Exhibit Forest Service Initial Rule 26 Disclosures, # <u>2</u> Exhibit FS FOIA Email and Forms, # <u>3</u> Exhibit Declaration of Dr. Jarding, # <u>4</u> Exhibit Emails RE Discovery Scheduling Issues, # <u>5</u> Exhibit Plaintiff's Rule 26 Disclosures, # <u>6</u> Exhibit Defendant's Letter RE Production BHCWA v. USFS Case No. 5:20-cv-5034) (Ellison, Bruce) (Entered: 08/12/2022)
08/25/2022	<u>33</u>	Unopposed MOTION to Extend Deadlines to <i>Extend Reply Deadline</i> by U.S. Department of Agriculture, U.S. Forest Service. (Ramsdell, Alison) (Entered: 08/25/2022)
08/29/2022	<u>34</u>	REPLY to Motion Response re <u>19</u> MOTION for SUMMARY JUDGMENT filed by All Defendants. (Ramsdell, Alison) (Entered: 08/29/2022)
08/29/2022	<u>36</u>	ORDER granting <u>33</u> Motion to Extend Deadlines. Signed by U.S. District Judge Lawrence L. Piersol on 08/29/2022. (VMM) (Entered: 08/30/2022)
08/30/2022	<u>35</u>	ORDER re <u>25</u> Scheduling Order. Signed by U.S. District Judge Lawrence L. Piersol on 08/30/2022. (VMM) (Entered: 08/30/2022)
08/30/2022	<u>37</u>	ORDER. Signed by U.S. District Judge Lawrence L. Piersol on 08/30/2022. (VMM) (Entered: 08/30/2022)
08/31/2022		Reset Hearing (location only): Motion Hearing set for 9/6/2022 at 02:00 PM in Rapid City Courtroom 1 – Room 301 before U.S. District Judge Lawrence L. Piersol (TAL) (Entered: 08/31/2022)
09/06/2022	<u>38</u>	Motion Hearing held on 9/6/2022 re <u>19</u> MOTION for SUMMARY JUDGMENT filed by U.S. Department of Agriculture, U.S. Forest Service before U.S. District Judge Lawrence L. Piersol.. (Court Reporter: Connie Heckenlaible) (SLT) (Entered: 09/06/2022)
09/09/2022	<u>39</u>	MOTION for Leave to Supplement Record by U.S. Department of Agriculture, U.S. Forest Service. (Attachments: # <u>1</u> Exhibit A – PROPOSED Second Scofield Declaration, # <u>2</u> Exhibit B – PROPOSED Supplemental Vaughn Index) (Ramsdell, Alison) (Entered: 09/09/2022)
09/09/2022	<u>40</u>	DECLARATION of Alison J. Ramsdell re <u>39</u> MOTION for Leave to Supplement Record . (Attachments: # <u>1</u> Exhibit A – Emails re: recent search, extension, # <u>2</u> Exhibit B – Email correspondence re: supplemental disclosure, # <u>3</u> Exhibit C – Email correspondence re: motion for leave to supplement, # <u>4</u> Exhibit D – Email correspondence attaching supplemental disclosure) (Ramsdell, Alison) (Entered: 09/09/2022)
09/15/2022	<u>41</u>	RESPONSE to Motion re <u>39</u> MOTION for Leave to Supplement Record filed by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 09/15/2022)
09/21/2022	<u>42</u>	ORDER. Signed by U.S. District Judge Lawrence L. Piersol on 09/21/2022. (MSB) (Entered: 09/21/2022)
09/21/2022	<u>43</u>	ORDER granting <u>39</u> Motion for Leave to to Supplement Record. Signed by U.S. District Judge Lawrence L. Piersol on 09/21/2022. (MSB) (Entered: 09/21/2022)
09/28/2022	<u>44</u>	First MOTION to Extend <i>Discovery by Three Days</i> by Black Hills Clean Water Alliance. (Ellison, Bruce) (Entered: 09/28/2022)
09/29/2022	<u>45</u>	ORDER granting <u>44</u> Motion to Extend. Signed by U.S. District Judge Lawrence L. Piersol on 09/29/2022. (MSB) (Entered: 09/29/2022)

11/23/2022	<u>46</u>	TRANSCRIPT OF MOTIONS HEARING (Motion for Summary Judgment) re <u>38</u> held on September 6, 2022 before Judge Lawrence L. Piersol. Court Reporter: Connie Heckenlaible, Telephone number: 605-945-4627. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. The parties have twenty-one (21) calendar days to file a Redaction Request of this transcript. Release of Transcript Restriction set for 2/22/2023. (CJH) (Entered: 11/23/2022)
01/11/2023	<u>47</u>	ORDER re: status of discovery. Signed by U.S. District Judge Lawrence L. Piersol on 1/11/23. (SKK) (Entered: 01/11/2023)
01/20/2023	<u>48</u>	STATUS REPORT <i>BY DEFENDANTS</i> by U.S. Department of Agriculture, U.S. Forest Service (Ramsdell, Alison) (Entered: 01/20/2023)
01/20/2023	<u>49</u>	DECLARATION of ALISON J. RAMSDELL re <u>48</u> Status Report . (Attachments: # <u>1</u> Exhibit A – Defendants' Answers and Responses) (Ramsdell, Alison) (Entered: 01/20/2023)
02/10/2023	<u>50</u>	First MOTION to Extend re <u>47</u> Order of January 11, 2023, MOTION to Extend Deadlines by Black Hills Clean Water Alliance. (Attachments: # <u>1</u> Attachment Status Report, # <u>2</u> Exhibit email chai) (Ellison, Bruce) (Entered: 02/10/2023)
02/15/2023	<u>51</u>	ORDER granting <u>50</u> Motion to Extend; granting <u>50</u> Motion to Extend Deadlines re <u>50</u> First MOTION to Extend re <u>47</u> Order of January 11, 2023 MOTION to Extend Deadlines . Signed by U.S. District Judge Lawrence L. Piersol on 02/15/2023. (ARW) (Entered: 02/16/2023)
03/14/2023	<u>52</u>	SCHEDULING ORDER: Telephonic Motion Hearing set for 3/20/2023 at 2:00 PM in Sioux Falls Courtroom 1, Room 203A before U.S. District Judge Lawrence L. Piersol. Signed by U.S. District Judge Lawrence L. Piersol on 3/14/23. (SKK) Modified on 3/15/2023 (SKK). (Entered: 03/15/2023)
03/20/2023	<u>53</u>	Motion Hearing held on 3/20/2023 re <u>19</u> MOTION for SUMMARY JUDGMENT filed by U.S. Department of Agriculture, U.S. Forest Service before U.S. District Judge Lawrence L. Piersol. (Court Reporter: Carla Dedula) (MSB) (Entered: 03/20/2023)
03/29/2023	<u>54</u>	MEMORANDUM OPINION AND ORDER granting <u>19</u> Motion for Summary Judgment. Signed by U.S. District Judge Lawrence L. Piersol on 3/29/2023. (ARW) (Entered: 03/29/2023)
03/29/2023	<u>55</u>	JUDGMENT in favor of U.S. Department of Agriculture, U.S. Forest Service against Black Hills Clean Water Alliance. Signed by U.S. District Judge Lawrence L. Piersol on 3/29/2023. (ARW) (Entered: 03/29/2023)