

James M. Manley, Esq. (CO No. 40327)  
(admitted pro hac vice)  
Steven J. Lechner, Esq. (CO No. 19853)  
(admitted pro hac vice)  
Mountain States Legal Foundation  
2596 South Lewis Way  
Lakewood, Colorado 80227  
(303) 292-2021  
(303) 292-1980 (facsimile)  
jmanley@mountainstateslegal.com  
lechner@mountainstateslegal.com

John L. Runft, Esq. (ISB No. 1059)  
Runft and Steele Law Offices, PLLC  
1020 West Main Street, Suite 400  
Boise, Idaho 83702  
(208) 333-8506  
(208) 343-3246 (facsimile)  
jrunft@runftsteele.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

ELIZABETH E. MORRIS and  
ALAN C. BAKER,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS,  
*et al.*,

Defendants.

Case No. 3:13-CV-00336-BLW

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' STATEMENT OF  
MATERIAL FACTS**

Pursuant to Local Civil Rule 7.1(c)(2), Plaintiffs submit this response to Defendants' Statement of Material Facts (Dkt. 52-2), using the same paragraph numbering found in Defendants' Statement. Plaintiffs do not concede the materiality, relevance, or admissibility of anything contained in or referenced by Defendants' Statement.

1. Undisputed.

2. Disputed, to the extent ¶ 2 conflicts with or misrepresents information contained in ¶ 3 of Defendants' Statement of Material Facts.

3. Disputed, to the extent ¶ 3 conflicts with or misrepresents information contained ¶ 2 of Defendants' Statement of Material Facts.

4. Undisputed that ¶ 4 reflects the opinion of Stephen B. Austin.

5. Undisputed.

6. Undisputed.

7. Undisputed.

8. Disputed, to the extent ¶ 8 suggests "important infrastructure such as dams and levees" are "open to the public." *See* AR at 0001148 ("At many Visitor Centers, adjacent facilities such as powerhouses, may require restricted access which will be controlled by others. Additional security for these areas may be provided by the Park Ranger staff or contract law enforcement personnel.").

9. Undisputed.

10. Undisputed, with the qualification that "critical dam assets are owned by private entities, federal agencies, and state and local governments. Dam assets are regulated by a variety of entities." U.S. Department of Homeland Security, Office of Inspector General, DHS Risk Assessment Efforts in the Dams Sector (2011), at 2, *available at* [http://www.oig.dhs.gov/assets/Mgmt/OIG\\_11-110\\_Sep11.pdf](http://www.oig.dhs.gov/assets/Mgmt/OIG_11-110_Sep11.pdf).

11. Undisputed.

12. Undisputed.

13. Undisputed that ¶ 13 substantially reflects a statement contained in the "VISITOR AND RANGER SAFETY REVIEW FINAL REPORT - SEPTEMBER 1995." AR at 0000613.

14. Undisputed that ¶ 14 reflects the opinion of Stephen B. Austin.

15. Undisputed that ¶ 15 reflects the opinion of Stephen B. Austin.

16. Undisputed that ¶ 16 reflects the opinion of Stephen B. Austin.

17. Undisputed that ¶ 17 reflects the opinion of Stephen B. Austin.

18. Undisputed.

19. Disputed to the extent that ¶ 19 suggests that the cited sources draw any comparisons between Corps-managed lands and “U.S. National Park Service recreational areas.” Rather, “[i]t is important to note here that a comparative analysis cannot be performed between the Corps and other Federal land management agencies. *Poor record keeping on the part of the Corps has precluded such an analysis.*” AR at 0000660; 0000676 (emphasis added).

20. Undisputed that ¶ 20 reflects the opinion of Stephen B. Austin.

21. Undisputed.

22. Undisputed.

23. Undisputed, with the qualification that “[i]t is important to note here that a comparative analysis cannot be performed between the Corps and other Federal land management agencies. Poor record keeping on the part of the Corps has precluded such an analysis.” AR at 0000660; 0000676.

24. Undisputed, with the qualification that “[i]t is important to note here that a comparative analysis cannot be performed between the Corps and other Federal land management agencies. Poor record keeping on the part of the Corps has precluded such an analysis.” AR at 0000660; 0000676.

25. Undisputed, with the qualification that “[i]t is important to note here that a comparative analysis cannot be performed between the Corps and other Federal land

management agencies. Poor record keeping on the part of the Corps has precluded such an analysis.” AR at 0000660; 0000676.

26. Undisputed, with qualification that the survey did not report any unsafe or dangerous situations as the result of law-abiding individuals carrying firearms for self-defense. See AR at 0001090.

27. Undisputed that ¶ 27 reflects the opinion of Stephen B. Austin.

28. Undisputed and demonstrates that the Corps’ complaint is with Congress, not the requirements of the Second Amendment.

29. Undisputed that ¶ 29 reflects the opinion of Stephen B. Austin and demonstrates that the Corps’ complaint is with Congress, not the requirements of the Second Amendment.

30. Undisputed that ¶ 30 reflects the opinion of Stephen B. Austin.

31. Undisputed.

DATED this 19th day of June 2014.

Respectfully submitted,

/s/ James M. Manley  
James M. Manley, Esq. (CO No. 40327)  
*(admitted pro hac vice)*  
Steven J. Lechner, Esq. (CO No. 19853)  
*(admitted pro hac vice)*  
Mountain States Legal Foundation  
2596 South Lewis Way  
Lakewood, Colorado 80227  
(303) 292-2021  
(303) 292-1980 (facsimile)  
jmanley@mountainstateslegal.com  
lechner@mountainstateslegal.com

John L. Runft, Esq. (ISB No. 1059)  
Runft and Steele Law Offices, PLLC  
1020 West Main Street, Suite 400  
Boise, Idaho 83702

(208) 333-8506  
(208) 343-3246 (facsimile)  
jrunft@runftsteele.com

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 19th day of June, 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Joanne P. Rodriguez  
Assistant United States Attorney  
District Of Idaho  
Washington Group Plaza IV  
800 East Park Boulevard, Suite 600  
Boise, ID 83712-7788  
Joanne.Rodriguez@Usdoj.gov

Daniel Riess  
Trial Attorney  
U.S. Department of Justice Civil Division, Rm. 6122  
20 Massachusetts Avenue, NW  
Washington, D.C. 20530  
Daniel.Riess@usdoj.gov

/s/ James M. Manley  
James M. Manley, Esq.