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**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**

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

Pursuant to Local Civil Rule 7.1(c)(2), Defendants are required to file with their opposition to Plaintiffs' cross-motion for summary judgment [ECF No. 54] a separate statement, not to exceed ten (10) pages, of all material facts which Defendants contend are in dispute. Preliminarily, Defendants note that this Statement is solely designed to respond to Plaintiffs' statement of undisputed material

facts by identifying which of the factual grounds for Plaintiffs' motion are disputed. In light of Defendants' separate motion for summary judgment, the use of the word "disputed" or similar references herein should not be construed to mean that Defendants believe that there are genuine issues of fact that would necessitate a trial. Rather, such language simply means that Defendants dispute Plaintiffs' statement regarding that matter. Defendants maintain their position that there are *no* genuine issues of material fact with respect to the grounds entitling Defendants to summary judgment.

1-5. Undisputed.

6. Disputed. Lieutenant Colonel Timothy Vail is the current Walla Walla District Commander, and has been substituted in this action pursuant to Federal Rule of Civil Procedure 25(d)(1).

7. Defendants dispute Plaintiffs' characterization of 36 C.F.R. § 327.13 and ECF No. 8. Defendants respectfully refer the Court to this regulation and document, and further aver that these materials speak for themselves.

8. Undisputed that Congress has not authorized Corps Park Rangers to carry firearms, to execute search warrants, or to enforce any federal laws except for issuing citations for violations of regulations governing Corps-managed land, and thus, Park Rangers are neither equipped nor trained to function as law enforcement officers.

9. Defendants dispute Plaintiffs' characterization of the documents contained at AR 0000558, 0000675, and 0001090. Defendants respectfully refer the Court to AR 0000558, 0000675, and 0001090, and further aver that these documents speak for themselves.

10. Defendants dispute Plaintiffs' characterization of page 23 of the document "The Visitor Assistance Survey: An Evaluation of Safety at Corps Recreational Projects" (June 1996) ("Visitor Assistance Survey"). AR 0000570. Defendants respectfully refer the Court to AR 0000570, and further aver that this document speaks for itself.
11. Undisputed that page 23 of the Visitor Assistance Survey contains the sentence quoted by Plaintiffs. AR at 0000570.
12. Undisputed that page 23 of the Visitor Assistance Survey reported that 58% of respondents to the survey perceived law enforcement agreements between the Corps and local law enforcement agencies to be a combination of very adequate and adequate. AR at 0000570.
13. Undisputed that page 23 of the Visitor Assistance Survey contains the following sentences: "In addition, nearly 30 percent of [survey] respondents indicated that they had trouble contacting law enforcement authorities (see Figure 25). Although 30 percent was not statistically significant, having difficulties contacting law enforcement agencies 3 out of 10 times during crises poses safety hazards to visitors and project staff." AR at 0000570.
14. Undisputed that security personnel do not electronically screen persons entering Corps-administered campgrounds in the Walla Walla District or Corps lands frequented by Plaintiff Morris to determine whether persons are carrying firearms or weapons of any kind.
15. Undisputed that security personnel do not restrict access to Corps-administered campgrounds in the Walla Walla District or Corps-administered public lands frequented by

Plaintiff Morris to only those persons who have been screened and determined to be unarmed.

16-24. Undisputed.

25. Undisputed that on or about April 22, 2013, counsel for Plaintiff Baker contacted District Commander Kelley to request that Plaintiff Baker be permitted to carry a loaded firearm during his upcoming visit to Dent Acres Campground.

26-27. Undisputed.

28. Undisputed that on or about May 31, 2013, Plaintiff Baker camped at Dent Acres Campground, and that 36 C.F.R. § 327.13 was in effect on the campground at the time of Plaintiff Baker's visit.

29. Undisputed.

30. Undisputed that on or about November 1-2, 2013, Plaintiff Baker visited Chief Timothy Park at Lower Granite Lake, and that 36 C.F.R. § 327.13 was in effect in the park at the time of Plaintiff Baker's visit.

31. Undisputed that in a declaration filed on November 25, 2013, Plaintiff Baker represented that he had concrete plans to camp on Corps-administered public lands "in the future." ECF No. 33-1, at ¶ 4.

32-40. Undisputed.

41. Undisputed that on or about June 10, 2013, attorney James M. Manley contacted District Commander Kelley to request that his client, whose name was not identified (but who was later identified as Plaintiff Morris), be permitted to carry a loaded firearm when she visits Corps-owned public land. See ECF No. 10.

42-44. Undisputed.

Dated: July 25, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 25th day of July 2014, I filed the foregoing Response to Plaintiffs' Statement of Undisputed Material Facts 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:

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/s/ Daniel Riess  
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