

**STATE OF RHODE ISLAND  
PROVIDENCE, SC.**

**SUPERIOR COURT**

Alexandra Duryea; Carmen Boyan, a minor :  
child by next best friend Justin Boyan; :  
Neelam Ahmed; Stephan Follett; Victoria :  
Huertas, a minor child by next best friend :  
Monica Huertas; Jeremi Huertas by next :  
best friend Monica Huertas; Meghan :  
Janicki, a minor child by next best friend :  
Scott Janicki Eve Kelley; Chloe Moers, a :  
minor child by best friend Ewa Roselli; :  
Greg (Chip) Slaybaugh; Phillip Tierney, a :  
minor child by next best friend Jenn :  
Tierney; Catherine Scott; Jamiel Conlon; :  
Nature’s Trust Rhode Island; Sisters of :  
Mercy Ecology; and Mercy Ecology, Inc. :

*Plaintiffs/Appellants* :

vs. :

C.A. NO. PC-18-7920

Rhode Island Department of Environmental :  
Management; Janet Coit, in her capacity as :  
Director of the Rhode Island Department of :  
Environmental Management :

*Defendants/Appellees* :

**ANSWER OF THE DEFENDANTS**

NOW COME the Defendants, the Rhode Island Department of Environmental Management and Janet Coit in her capacity as Director thereof (collectively, “RIDEM” or the “Department”), and hereby submit this answer to the Amended Complaint, filed with the court on or about November 15, 2018 (the “Amended Complaint”) and served (along with a copy of the original complaint, which was filed on or about November 2, 2018, and never served) upon RIDEM through the Attorney General’s Office on or about November 21, 2018, by Plaintiffs.

In accordance with Rule 80(a) of the Rhode Island Rules of Civil Procedure, no answer from RIDEM is required in response to the Amended Complaint. Notwithstanding that fact, RIDEM submits this answer in order to expressly deny any and all allegations contained in the

aforementioned pleading that may be construed as allegations against DEM, and to assert the affirmative defenses asserted below.

1. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 1 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
2. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 2 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
3. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 3 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
4. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 4 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
5. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 5 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
6. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 6 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
7. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 7 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
8. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
9. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
10. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 10 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.

11. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 11 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
12. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 12 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
13. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 13 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
14. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 14 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
15. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 15 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
16. RIDEM is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 16 of Plaintiffs' Amended Complaint, but leaves the Plaintiffs to their burden of proof.
17. Admitted.
18. Admitted.
19. Admitted as to R.I. Gen. Laws § 42-35-15, but denied as to R.I. Gen. Laws §§ 42-35-7, 8-2-13, and 8-2-14
20. Admitted.
21. RIDEM admits that the Plaintiffs' Petition requested that RIDEM initiate rulemaking, but denies all other allegations in Paragraph 21 of Plaintiffs' Amended Complaint.
22. Denied.
23. RIDEM Admits that the Plaintiffs' Petition requested eleven (11) items, but denies all other allegations in Paragraph 23 of Plaintiffs' Amended Complaint.
24. RIDEM admits that it denied the Plaintiffs' Petition in full on October 5, 2018, but Denies all other allegations in Paragraph 24 of Plaintiffs' Amended Complaint.
25. RIDEM hereby incorporates all previous responses to Paragraphs 1-24 as if set forth fully herein.

26. Denied.

27. RIDEM admits that its denial of Plaintiffs' Petition on October 5, 2018 constitutes a "determination required by law" and therefore is an "agency action" within the meaning of the Administrative Procedures Act.

28. Denied.

29. Denied as to all allegations and sub-paragraphs.

30. RIDEM hereby incorporates all previous responses to Paragraphs 1-29 as if set forth fully herein.

31. Denied.

WHEREFORE, Defendants respectfully request that Plaintiff's Complaint be denied in its entirety and dismissed, and that the final decision of the Department, denying Plaintiff's Petition for Rulemaking, be upheld.

**AFFIRMATIVE DEFENSES**

1. Insufficiency of service of process (R.I. R.C.P. 12(b)(5) and R.I.G.L. §42-35-15).
2. Failure to state a claim for which relief can be granted (R.I. R.C.P. 12(b)(6) and R.I.G.L. §42-35-15).
3. RIDEM, in responding to the Plaintiffs' Petition, followed all proscribed rules and administrative procedures, and has taken all appropriate actions relative to this matter.

Respectfully submitted,  
Defendants RIDEM and Janet Coit,  
By their Attorney,

Date: December 11, 2018

/s/ Susan Forcier  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of December, 2018, a true and original copy of this document was served through the electronic filing system on the following:

Allison M. Quay, Esq.  
The Law Offices of Richard S. Humphrey  
3852 Main Road  
Tiverton, RI 02878

/s/ Susan Forcier