

No. 07-1180

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IN THE  
**Supreme Court of the United States**

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DEFENDERS OF WILDLIFE AND SIERRA CLUB,  
*Petitioners,*

v.

MICHAEL CHERTOFF,  
SECRETARY OF HOMELAND SECURITY,  
*Respondent.*

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On Petition for a Writ of Certiorari to  
The United States District Court for  
The District of Columbia

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BRIEF OF THE NATIONAL ADVOCACY CENTER OF THE  
SISTERS OF THE GOOD SHEPHERD, CENTER FOR  
BIOLOGICAL DIVERSITY, ENDANGERED SPECIES  
COALITION, GREENPEACE, INC., NATIONAL AUDUBON  
SOCIETY, INC., NATIONAL TRUST FOR HISTORIC  
PRESERVATION, NATURAL RESOURCES DEFENSE  
COUNCIL, NATIONAL WILDLIFE FEDERATION, SOCIETY  
FOR AMERICAN ARCHAEOLOGY, THE TOHONO O'ODHAM  
NATION, THE WILDERNESS SOCIETY, WORLD WILDLIFE  
FUND, AND UNITED CHURCH OF CHRIST  
AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

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BRIEF OF *AMICI CURIAE*  
NATIONAL PUBLIC INTEREST AND RELIGIOUS  
ORGANIZATIONS,  
A FEDERALLY RECOGNIZED TRIBE,  
AND A CHURCH

INTERESTS OF *AMICI*

The organizations listed in the appendix, including a federally recognized tribe, a church, and non-profit organizations supporting work in the fields of religion, environmental protection, historic and archaeological protection, submit this *amicus curiae* brief in support of the petition for a writ of *certiorari* filed by Defenders of Wildlife and Sierra Club (“Defenders”).<sup>1</sup> *Amici* have substantial experience and interest in the laws that are the subject of the waiver exercised in this case, and in laws waived by the respondent under the same statute before and since the District Court’s ruling in this case. *Amici* also have demonstrated interest and expertise regarding the natural and historic resources and religious interests protected by the laws waived.

This case raises the significant question of whether Congress can delegate to an executive branch official the authority to waive all laws – except for the Constitution – if that official finds in his or her sole discretion that such a waiver is necessary to ensure expeditious construction of barriers and

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<sup>1</sup> Counsel for respondent received timely notice of the intent to file this brief under Rule 37.2(a) and consented to it. All parties have consented to the filing of this brief. No counsel for a party in this case authored this brief in whole or in part, and no person or entity, other than *amici* or their counsel, made a monetary contribution in the brief’s preparation or submission.