

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge John L. Kane

Civil Action No. 09-cv-00085-AP

COLORADO ENVIRONMENTAL COALITION,  
WESTERN COLORADO CONGRESS,  
WILDERNESS WORKSHOP,  
BIODIVERSITY CONSERVATION ALLIANCE,  
SOUTHERN UTAH WILDERNESS ALLIANCE,  
RED ROCK FORESTS,  
WESTERN RESOURCE ADVOCATES,  
NATIONAL WILDLIFE FEDERATION,  
CENTER FOR BIOLOGICAL DIVERSITY,  
THE WILDERNESS SOCIETY,  
NATURAL RESOURCES DEFENSE COUNCIL,  
DEFENDERS OF WILDLIFE, and  
SIERRA CLUB,

Plaintiffs/Petitioners,

v.

KEN SALAZAR, Secretary of the Interior, in his official capacity;  
WILMA LEWIS, Assistant Secretary, Land and Minerals Management, in her official capacity;  
BOB ABBEY, Director, Bureau of Land Management, in his official capacity; and  
THE UNITED STATES DEPARTMENT OF THE INTERIOR and  
THE BUREAU OF LAND MANAGEMENT, federal agencies.

Defendants/Respondents, and

SHELL FRONTIER OIL & GAS INC.,

Intervenor Defendant

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**JOINT CASE MANAGEMENT PLAN**

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## **1. APPEARANCES OF COUNSEL AND PRO SE PARTIES**

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**2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION**

Petitioners allege that this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question), 5 U.S.C. §§ 701-706 (judicial review provisions of the Administrative Procedure Act), and 16 U.S.C. §§ 1540(c), (g) (action arising under the ESA and citizen suit provision).

Federal Respondents anticipate raising Petitioners' lack of standing and lack of ripeness as jurisdictional defenses.

Intervenor Defendant anticipates raising Petitioners' lack of standing and lack of ripeness as jurisdictional defenses

**3. DATES OF FILING OF RELEVANT PLEADINGS**

- A. Date Complaint/Petition for Review Was Filed:** January 16, 2009
- B. Date Complaint/Petition for Review Was Served on U.S. Attorney's Office:** February 2, 2009
- D. Date First Amended Complaint/Petition for Review Was Filed:** June 15, 2009
- C. Date Federal Defendants/Respondents Answer Was Filed:** July 15, 2010
- E. Date Defendant Intervenor's Answer Was Filed:** July 16, 2010

**4. STATEMENT REGARDING WHETHER THIS CASE RAISES UNUSUAL CLAIMS OR DEFENSES**

The Parties do not at this point anticipate unusual claims or defenses.

## **5. OTHER MATTERS**

The parties' proposed briefing schedule in this case is based on several considerations particular to this case and case number 09-cv-91-JLK, also involving the same parties, counsel, and related claims.

First, Federal Respondents anticipate that the administrative record in this case will be unusually large, exemplified, for example, by the fact that the underlying challenged action amended ten separate Bureau of Land Management Resource Management Plans in Wyoming, Utah, and Colorado. Federal Respondents estimate that the administrative record in this case will include between 100,000 to 500,000 pages (or images) when finally complete. It will take the Federal Respondents the full six months allotted in the parties' proposed briefing schedule to produce the administrative record. Production of an administrative record in this case is complicated not only by the large size of the record, but also because of the need for a limited staff of government employees to collect documents and electronic records in multiple formats from multiple locations and to contract with a qualified vendor at an estimated cost of in excess of one hundred thousand dollars to prepare the administrative record for production.

Second, the parties are engaged in substantive negotiations that they hope will lead to settlement of both this case and case number 09-cv-91-JLK. Although discussions have been ongoing for many months, the parties have recently made significant strides in their negotiations. The parties hope to conclude their negotiations in the next several months. Thus, we propose a briefing schedule that would allow negotiations to proceed for several months, while the agencies work on assembling the administrative record, but also sets a reasonable timetable for litigating this case in the event the parties do not settle.

Third, the parties propose a briefing schedule that is coordinated with the briefing schedule in case number 09-cv-91-JLK. Federal Respondents, in particular, seek to stagger the deadlines for filing of the administrative records in both cases to minimize the significant burden involved in having the same limited staff of government employees produce two very large administrative records on parallel timetables. The parties also propose to stagger the subsequent briefing deadlines in both cases to permit the parties and their counsel to avoid simultaneous briefing deadlines in both cases.

## **6. BRIEFING SCHEDULE**

The filing dates for briefs on the merits are conditioned on the Parties filing no motions to complete and/or supplement the administrative record. Should such a motion be filed, the briefing deadlines shall be stayed. Within 10 days of an order of this Court resolving any motion to complete and/or supplement the administrative record, the Parties shall file a revised Joint Case Management Plan setting new briefing deadlines.

- A. Deadline for Filing Administrative Record:** February 4, 2011
- B. Deadline for Parties to Confer on Record Disputes:** April 5, 2011
- C. Deadline for Filing Motions to Complete and/or Supplement the Administrative Record:** May 5, 2011. Any such motions shall be briefed in accordance with applicable rules, *e.g.* Respondents' response would be due May 26, 2011, and Petitioners' reply brief due June 9, 2011
- D. Petitioners' Opening Brief Due:** June 4, 2011 (assuming the Parties file no motions to complete and/or supplement the administrative record)
- E. Respondents Response Brief Due:** July 19, 2011 (assuming the Parties file no motions to complete and/or supplement the administrative record)
- F. Petitioners' Reply Brief (If Any) Due:** August 18, 2011 (assuming the Parties file no motions to complete and/or supplement the administrative record)

**7. STATEMENTS REGARDING ORAL ARGUMENT**

All parties request oral argument in order to assist the Court in understanding the law and facts at issue in this case.

**8. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE**

*Indicate below the parties' consent choice.*

- A.  All parties have consented to the exercise of jurisdiction of a United States Magistrate Judge.
- B.  All parties have not consented to the exercise of jurisdiction of a United States Magistrate Judge.

**9. OTHER MATTERS**

The Parties understand that Parties filing motions for extension of time or continuances must comply with D.C.Colo.LCivR 5.1(g) by submitting proof that a copy of the motion has been served upon all attorneys of record and all pro se parties. Parties filing motions for extension of time or continuances must comply with D.C. Colo. LCivR 6.1(e) by serving such motion upon the moving attorney's client.

**10. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN**

The Parties agree that the Joint Case Management Plan may be altered or amended only upon a showing of good cause.

DATED this 10<sup>th</sup> day of August, 2010.

BY THE COURT:

s/John L. Kane  
U.S. DISTRICT COURT JUDGE

APPROVED:

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Western Resources Advocates, The Wilderness Society, and Wilderness Workshop



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