

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Judge John L. Kane

Civil Action No. **10-cv-00036-AP**

WILDEARTH GUARDIANS,

Plaintiff,

v.

KEN SALAZAR, in his official capacity as Secretary, U.S. Department of the Interior,

Defendant.

ORDER

Kane, J.

On November 10, 2010, Defendant filed a Motion for Leave to Conduct Jurisdictional Discovery (doc. 27) concurrent with a Motion to Dismiss (doc. 26). Although initially opposed, Plaintiff has since acquiesced to Defendant's proposed discovery.

Jurisdictional discovery is proper when a defendant moves to dismiss for lack of jurisdiction and pertinent facts bearing on the question of jurisdiction are controverted or where a more satisfactory showing of the facts is necessary, *Sivoza v. Nat'l Inst. of Standards & Tech.*, 282 F.3d 1320, 1326 (10th Cir. 2002). In the instant case, Defendants are challenging the sufficiency of Plaintiff's standing evidence – specifically the Declaration of Nicole Rosmarino (doc. 24-1). Discovery will aid the resolution of Defendant's Motion to Dismiss. As a result, Defendant's Motion for Leave to Conduct Jurisdictional Discovery is GRANTED.

Defendant is granted leave to conduct jurisdictional discovery, pursuant to Fed. R. Civ. P. 26, 30, 33, 34, and 36, limited to topics relating to the alleged injury of Plaintiff's declarant,

Nicole Rosmarino. Defendant's initial written discovery shall be propounded by December 6, 2010, and all standing discovery shall be completed no later than March 6, 2011. Pursuant to my earlier Order Modifying the Briefing Schedule for Defendant's Motion to Dismiss (doc. 31), Defendant's Brief in Support of the Motion to Dismiss shall be filed no later than March 27, 2011.

Dated: November 29, 2010

BY THE COURT:

/s/John L. Kane

SENIOR U.S. DISTRICT JUDGE