

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-cv-02428-AP

JAMES KLEINERT, *et al.*,

Petitioners,

v.

KEN SALAZAR, *et al.*,

Federal Respondents.

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**PETITIONERS' AND FEDERAL RESPONDENTS'  
JOINT CASE MANAGEMENT PLAN FOR PETITION FOR REVIEW OF AGENCY  
ACTION IN ENVIRONMENTAL CASE**

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The Federal Respondents, Ken Salazar, Secretary of the U.S. Department of the Interior; Robert Abbey, Director, U.S. Bureau of Land Management; Helen Hankins, BLM Colorado State Director, Connie Clementson, Field Manager of BLM's Tres Rios Field Office,<sup>1</sup> and Greg Shoop, District Manager for BLM's Front Range District (collectively, "Federal Respondents"), and Petitioners James Kleinert, *et al.*, hereby file their Joint Case Management Plan per the Court's January 25, 2011 Order (Dkt. No. 45).

**1. APPEARANCES OF COUNSEL**

**A. For Petitioners:**

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<sup>1</sup> The BLM component of the Dolores Public Land Office has been renamed the Tres Rios Field Office.

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B. For Federal Respondents:

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

The Petitioners argue that there is subject matter jurisdiction based on the principles of final agency action, standing and ripeness. The Federal Respondents contend that this Court lacks subject matter jurisdiction over Petitioners' claims based on, *inter alia*, principles of mootness, lack of standing, ripeness, and sovereign immunity. Federal Respondents further argue that one or more of Petitioners' claims is barred by the statute of limitations, and purports to

challenge an agency action that is not final under the Administrative Procedure Act (“APA”), 5 U.S.C. § 704.

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

- A. Date Petition for Review Was Filed: September 14, 2011.**
- B. Date Petition for Review Was Served on U.S. Attorney's Office:  
October 24, 2011.**
- C. Date Answer to Petition Was Filed:  
January 20, 2012.**

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

The parties do not believe that this case raises unusual claims or defenses.

**5. OTHER MATTERS**

Petitioners plan to file an amended complaint on or before February 13, 2012, after which a revised case management report will need to be filed. To the extent an amended complaint is filed, the Federal Respondents intend to request an extension of time to permit them 60 days to respond to or answer the amended complaint. The Petitioners do not have an objection to such a request.

**6. PROPOSED BRIEFING SCHEDULE**

- A. Deadline for Filing Administrative Record:  
March 15, 2012.**
- B. Deadline for Parties to Confer on Record Disputes:  
April 16, 2012.**
- C. Deadline for Filing Motions to Complete and/or Supplement the  
Administrative Record:  
May 16, 2012.**

**D. Petitioners' Opening Brief Due:**

**June 15, 2012.** The page limit for this brief shall be 25 pages.

**E. Federal Respondents' Response Brief Due:**

**July 16, 2012.** The page limit for this brief shall be 40 pages.

**F. Petitioners' Reply Brief (If Any) Due:**

**July 30, 2012.** The page limit for this brief shall be 15 pages.

**7. STATEMENTS REGARDING ORAL ARGUMENT**

**A. Petitioners' Statement:**

**Petitioners do not request oral argument.**

**B. Federal Respondents' Statement:**

**Federal Respondents do not request oral argument.**

**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. (X) All parties have not consented to the exercise of jurisdiction of a United States Magistrate Judge.**

**9. OTHER MATTERS**

**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 9th day of February, 2012.

BY THE COURT:

  
U.S. DISTRICT COURT JUDGE

APPROVED:

*/s/ Diane Wolfson (with permission)*

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*/s/ J. Brett Grosko*

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