

**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'  
AMENDED 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 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 Amended Joint Case Management Plan per the Court's February 15, 2012 Order (Dkt. No. 50).

**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.

DIANE WOLFSON  
Law Office of Diane Wolfson  
560 Mountain Village Blvd., Suite 102A  
Mountain Village, CO 81435  
Telephone: (970) 728-4471  
Facsimile: (970) 369-1429  
Email: [Wolfson@TellurideLaw.com](mailto:Wolfson@TellurideLaw.com)

B. For Federal Respondents:

J. BRETT GROSKO  
Trial Attorney (Md. Bar)  
United States Department of Justice  
Wildlife and Marine Resources Section  
601 D Street, N.W.  
Washington, D.C. 20004  
Telephone: (202) 305-0342  
Facsimile: (202) 305-0275  
Brett.Grosko@usdoj.gov

JOANNA K. BRINKMAN  
Trial Attorney (IL Bar)  
United States Department of Justice  
Natural Resources Section  
601 D St. N.W.  
Washington, D.C. 20004  
Telephone: (202) 305-0476  
Facsimile: (202) 305-0267  
Joanna.Brinkman@usdoj.gov

**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, purports to

challenge an agency action that is not final under the Administrative Procedure Act (“APA”), 5 U.S.C. § 704, or is barred due to Petitioners’ failure to exhaust administrative remedies.

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

- A. Date Amended Petition for Review Was Filed: February 13, 2012.**
- B. Date Amended Petition for Review Was Served on U.S. Attorney's Office:**  
N/A.
- C. Date Answer to Petition Was Filed:**

Federal Respondents filed a Motion to Dismiss the Amended Petition on April 13, 2012 (Dkt. No. 51). Petitioners have not yet responded to the Federal Respondents’ Motion to Dismiss.

**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**

No other matters need to be brought before the Court.

**6. BRIEFING SCHEDULE**

**A. Deadline for Filing Administrative Record:**

If the Court denies the Motion to Dismiss in full or in part, Federal Respondents shall file an answer to all remaining claims in Petitioners’ Amended Petition no later than 30 days after the date of the Court’s order denying the motion in full or in part. Federal Respondents shall then file the administrative record 60 days after the date of the Court’s order denying in full or in part Federal Respondents’ Motion to Dismiss.

**B. Deadline for Parties to Confer on Record Disputes:**

30 Days after the Federal Respondents file the Administrative Record, if any.

**C. Deadline for Filing Motions to Complete and/or Supplement the Administrative Record:**

30 Days after the deadline for the Parties to confer on record disputes, if any.

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

30 days after the deadline for filing any motions to complete and/or supplement the record. However, if any motions to complete and/or supplement the record are filed, then the deadline for Petitioners' opening merits brief shall be due 30 days after the date of the Court's order granting or denying that motion. The page limit for this brief shall be 25 pages.

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

30 Days after the deadline for filing Petitioners' opening brief. The page limit for this brief shall be 40 pages.

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

21 Days after the deadline for filing Federal Respondents' response brief. 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 Amended Joint Case Management Plan may be altered or amended only upon a showing of good cause.

DATED this 7<sup>th</sup> day of May, 2012.

BY THE COURT:

APPROVED:

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

*/s/ Diane Wolfson (with permission)*

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DIANE WOLFSON  
Law Office of Diane Wolfson  
560 Mountain Village Blvd., Suite 102A  
Mountain Village, CO 81435  
Telephone: (970) 728-4471  
Facsimile: (970) 369-1429  
Email: [Wolfson@TellurideLaw.com](mailto:Wolfson@TellurideLaw.com)

IGNACIA S. MORENO  
Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division  
SETH M. BARSKY, Chief  
Wildlife and Marine Resources Section

*/s/ J. Brett Grosko*

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J. BRETT GROSKO  
Trial Attorney (Md. Bar)  
United States Department of Justice  
Wildlife and Marine Resources Section  
601 D Street, N.W.  
Washington, D.C. 20004  
Telephone: (202) 305-0342  
Facsimile: (202) 305-0275  
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JOANNA K. BRINKMAN  
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Telephone: (202) 305-0476  
Facsimile: (202) 305-0267  
Joanna.Brinkman@usdoj.gov

*Attorneys for Federal Respondents*

OF COUNSEL:

Danielle DiMauro  
Office of the Regional Solicitor  
Rocky Mountain Region  
755 Parfet St., Suite 151  
Lakewood, Colorado 80215