

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

Civil Action No. 11-cv-02896-AP

THE WATER SUPPLY AND STORAGE COMPANY,
a Colorado Non-Profit Mutual Ditch and Reservoir Company.

Plaintiff,

v.

UNITED STATES DEPARTMENT OF AGRICULTURE.

TOM VILSACK,

In his official capacity as Secretary of the United States Department of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE,
An Agency of the United States Department of Agriculture.

MARIBETH GUSTAFSON,

In her official capacity as Regional Forester for the Rocky Mountain Region of the
United States Department of Agriculture Forest Service.

GLENN P. CASAMASSA,

In his official capacity as Forest Supervisor of the Arapaho and Roosevelt National
Forest and Pawnee National Grassland, United States Department of Agriculture Forest
Service.

UNITED STATES DEPARTMENT OF INTERIOR.

KEN SALAZAR,

In his official capacity as Secretary of the United States Department of Interior.

UNITED STATES NATIONAL PARK SERVICE,

An Agency of the United States Department of Interior.

JOHN WESSELS,

In his official capacity as Director, Intermountain Region. United States National Parks
Service.

Defendants.

and,

COLORADO TROUT UNLIMITED,

Defendant-Intervenor.

**JOINT CASE MANAGEMENT PLAN
FOR REVIEW OF AGENCY ACTION**

1. APPEARANCES OF COUNSEL

A. Attorneys for Plaintiff The Water Supply and Storage Company (“WSSC”):

Howard Kenison, Esq.
Patrick G. Compton, Esq.
Lindquist & Vennum PLLP
600 17th Street, Suite 1800 South
Denver, Colorado 80202-5441

B. Attorneys for Defendants United States Department of Agriculture, Tom Vilsack, United States Department of Agriculture Forest Service, Maribeth Gustafson, Glenn P. Casamassa, United States Department of the Interior, Ken Salazar, United States National Park Service, and John Wessels (“Federal Defendants”):

David Gehlert, Esq.
Natural Resources Section
Environment and Nat. Resources Div.
U.S. Department of Justice
999 18th Street South Terrace, Suite 370
Denver, Colorado 80294

and

Nathalie Cohen, Esq.
Assistant U. S. Attorney
U.S. Attorney’s Office
1225 17th Street
Suite 700
Denver, CO 80202

C. Attorneys for Defendant-Intervenor Colorado Trout Unlimited (“CTU”):

David Glandorf, Esq.
Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4200
Denver, Colorado 80202-2642

and

Michael K. Murphy, Esq.
Zia C. Oatley, Esq.
Gibson, Dunn & Crutcher, LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036

2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

The District Court has original jurisdiction over the claims alleged by WSSC pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (United States as a defendant), and 5 U.S.C. § 706 (Administrative Procedure Act). The Federal Defendants dispute that the Court has jurisdiction with respect to WSSC's Third Claim for Relief.

3. DATES OF FILING OF RELEVANT PLEADINGS

A. Date Petition for Review Was Filed:

WSSC's operative pleading is its First Amended Complaint ("Complaint"), which was filed on November 9, 2011.

B. Date Petition for Review Was Served on U.S. Attorney's Office:

WSSC's Complaint was served on the U.S. Attorney's Office on November 10, 2011.

C. Date Answer or Other Response Was Filed:

The Federal Defendants filed their Answer ("Answer") on January 9, 2012. CTU's Answer was accepted for filing on January 26, 2012.

4. STATEMENT(S) REGARDING WHETHER THIS CASE RAISES UNUSUAL CLAIMS OR DEFENSES

This case does not present any unusually complicated or out-of-the-ordinary claims, such as constitutional challenges to a statute or regulation, alleged due process violations, or requests for emergency relief.

5. OTHER MATTERS

None.

6. PROPOSED BRIEFING SCHEDULE

A. Deadline for Filing Administrative Record:

March 26, 2012.

The Parties request this extended deadline for filing the administrative record because application of the 30-day default deadline provided in the Court's form Joint

Case Management Plan would compromise the ability of the Federal Defendants to compile and organize the extensive administrative record for their respective Records of Decision. The administrative record for the decisions at issue spans a six-year period, involves more than two dozen individuals and agencies and is anticipated to be voluminous. Production of the record will also require coordination between the Federal Defendants, which will add time to the process. In addition, the office of the National Park Service that is compiling the Park Service portion of the administrative record is short-staffed, which adversely affects its ability to prepare the administrative record in a period shorter than what is proposed.

B. Deadline for Parties to Confer on Record Disputes:

April 27, 2012.

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

May 29, 2012.

D. Opening Brief:

WSSC's Opening Brief will be due July 12, 2012. The Opening Brief will generally conform to the requirements of Fed. R. App. Rules 28 and 32, and 10th Cir. R. 28 and 32, with the exception that the Opening Brief may contain up to 40 pages, as long as it does not contain more than 18,500 words.

E. Response Briefs:

The Federal Defendants' Response Brief and CTU's Response Brief will each be due August 20, 2012. Each Response Brief will generally conform to the requirements of Fed. R. App. Rules 28 and 32, and 10th Cir. R. 28 and 32, with the exception that each Response Brief may contain up to 40 pages, as long as it does not contain more than 18,500 words.

F. Reply Brief and Supplemental Brief:

WSSC's Reply Brief will be due September 19, 2012. The Federal Defendants may file a Supplemental Brief, on or before September 19, 2012, solely limited to responding to arguments presented by CTU in any Response Brief it files. WSSC's Reply Brief and any Supplemental Brief filed by the Federal Defendants will generally conform to the requirements of Fed. R. App. Rules 28 and 32, and 10th Cir. R. 28 and 32 applicable to reply briefs, with the exception that either the Reply Brief or Supplemental Brief may contain up to 20 pages, as long as it does not contain more than 9,250 words.

7. STATEMENTS REGARDING ORAL ARGUMENT

A. WSSC's Statement:

WSSC respectfully requests oral argument in this matter. This case may present issues regarding the nature and breadth of the United States' authority under the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1765, et seq. ("FLPMA" or "Act") upon which the Court may find oral argument beneficial.

B. The Federal Defendants' Statement:

The Federal Defendants join in WSSC's Statement Regarding Oral Argument and request for oral argument.

C. CTU's Statement:

CTU joins in WSSC's Statement Regarding Oral Argument and request for oral argument.

8. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE

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

None.

10. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN

The parties acknowledge and agree that this Joint Case Management Plan may be altered or amended only upon a showing of good cause.

DATED this 2nd day of February, 2012.

BY THE COURT:

s/John L. Kane

The Honorable John L. Kane,
United States District Court Judge

APPROVED and SUBMITTED this 27th day of January, 2012:

Original Signature on File

s/ Howard Kenison

Howard Kenison
Patrick G. Compton
Lindquist & Vennum PLLP
600 17th Street
Suite 1800 South
Denver, CO 80202-5441

Attorneys for Plaintiff

Original Signature on File

s/ David Gehlert

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Colorado Trout Unlimited**