

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

Civil Action No. 1:13-cv-01723-AP

HIGH COUNTRY CITIZENS' ALLIANCE,
WILDEARTH GUARDIANS, and SIERRA CLUB,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, BUREAU
OF LAND MANAGEMENT, UNITED STATES
DEPARTMENT OF THE INTERIOR, DANIEL
JIRÓN, in his official capacity as Regional Forester
for the U.S. Forest Service's Rocky Mountain
Region, SCOTT ARMENTROUT, in his official
capacity as Supervisor of the Grand Mesa,
Uncompahgre, and Gunnison National Forests, and
HELEN HANKINS, in her official capacity as the
Bureau of Land Management's Colorado State Office
Director

Defendants,

and

ARK LAND COMPANY, INC., and MOUNTAIN
COAL COMPANY, L.L.C.,

Intervenor-Defendants

JOINT CASE MANAGEMENT PLAN

1. APPEARANCES OF COUNSEL

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2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

The Court has jurisdiction based on the presentation of federal question, 28 U.S.C. § 1331.

Anticipated jurisdictional defenses: Respondents and/or Intervenor-Defendants may assert that Plaintiffs lack standing to assert some or all of the claims in the Second Amended Complaint.

3. DATES OF FILING OF RELEVANT PLEADINGS

- A. Date Petition for Review Was Filed:** July 2, 2013, amended July 5, 2013 and July 24, 2013
- B. Date Petition for Review Was Served on U.S. Attorney's Office:** July 3, 2013
- C. Date Answer or Other Response Was Filed:** For Intervenor-Defendants, July 10, 2013. Federal Defendants' Response will be filed by September 3, 2013.

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

None.

5. OTHER MATTERS

Scheduling – A motion for a Temporary Restraining Order/Preliminary Injunction was filed July 5, 2013 and scheduled to be heard July 11, 2013. Following a ruling by the Interior Board of Land Appeals on July 10, 2013, the Parties negotiated a Stipulation, filed July 24, 2013, that obviated the need for resolution of the Temporary Restraining Order/Preliminary Injunction motion. Pursuant to that Stipulation, the Parties are seeking to submit the case for resolution on the merits on the earliest reasonable schedule. Consequently, the deadlines for various submissions in this JCMP are more accelerated than is provided in the template.

6. BRIEFING SCHEDULE

A. Deadline for Filing Administrative Record:

There are four challenged decisions: (1) the June 27, 2013 Decision Record for the Sunset Trail Area Coal Exploration Plan;¹ (2) the August 2, 2012 Forest Service Record of Decision approving Lease Modifications COC-1362 and COC-67232 (“FS-ROD”); (3) the December 2012 Bureau of Land Management Record of Decision approving Lease Modifications COC-1362 and COC-67232 (“BLM-ROD”) and (4) promulgation of the “North Fork Exemption” to the Colorado Roadless Rule 36 C.F.R. § 294.43(c)(1)(ix). Each will have its own administrative record (“AR”). Deadlines for distribution of drafts of the Administrative Records (ARs) are:

| | |
|---|--------------------|
| (1) June 27, 2013 Decision Record AR -- | September 17, 2013 |
| (2) FS ROD -- | October 1, 2013 |
| (3) BLM ROD -- | October 1, 2013 |
| (4) Colorado Roadless Rule AR -- | October 22 , 2013 |

B. Deadlines for Parties to Confer on Record Disputes:

| | |
|---|--------------------|
| (1) June 27, 2013 Decision Record AR -- | September 30, 2013 |
| (2) FS ROD -- | October 21, 2013 |
| (3) BLM ROD -- | October 21, 2013 |
| (4) Colorado Roadless Rule AR -- | November 12, 2013 |

C. Deadline for Filing Motions to Complete and/or Supplement the Administrative Record: December 3, 2013.

D. Deadline for Filing the Administrative Records: December 3, 2013.

E. Petitioners’ Opening Brief Due: December 13, 2013.

F. Respondents’ Response Brief Due: January 17, 2014.

G. Intervenors’ Response Brief (if any) Due: January 22, 2014.

H. Petitioner’s Reply Brief Due: February 12, 2014.

¹ There is a potential disagreement among the parties as to whether the Forest Service concurrence to the June 27, 2013 Decision Record constitutes a separate challengeable decision. The Parties agree that documents considered by the Forest Service pursuant to its concurrence should be included in the Administrative Record.

7. STATEMENTS REGARDING ORAL ARGUMENT

Joint Statement

The Parties agree that oral argument could be helpful to the Court, given the complexity of the dispute, and request oral argument to the extent it would assist the Court in reaching a determination on the merits.

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 acknowledge the requirements of D.C.COLO.LCivR 5.1G and D.C.COLO.LCivR 6.1E.

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. The parties agree that if disputes over the need to supplement, complete, or strike portions of the administrative record(s) cannot be resolved without briefing, the parties will propose modifying this Joint Case Management Plan's deadlines for filing an amended complaint and opening, responsive, and reply briefs on the merits.

Future Amendments to the Complaint.

Plaintiffs' Position: Plaintiffs reserve the right to seek the Court's leave to further amend their complaint and the right to request an enlargement of the briefing schedule to accommodate resolution on the merits of all of Plaintiffs' claims. Plaintiffs reserve this right because it is possible that upon reviewing the administrative records, Plaintiffs may identify a good faith basis for an additional claim or additional claims.

Federal Defendants' and Defendant-Intervenors' Position: The Federal Defendants and Defendant Intervenors reserve the right to oppose any such amendment or request for enlargement of the briefing schedule. They reserve these rights because they do not know what amendments Plaintiffs may seek, the Parties have previously stipulated to a need for expeditious resolution on the merits, and because the scope of Plaintiffs' claims should presently be reasonably discernible based upon Plaintiffs' stated interests and the Federal Defendants' publicly stated reasons for the challenged decisions.

DATED this 6th day of August, 2013.

BY THE COURT

s/John L. Kane
Senior U.S. District Judge

APPROVED:

ROBERT G. DREHER
Acting Assistant Attorney General
Environment & Natural Resources Division

s/David B. Glazer, with permission 8/5/13

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