

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 1:13-cv-01988-AP

ROCKY MOUNTAIN WILD,
GRAND CANYON TRUST,
CENTER FOR BIOLOGICAL DIVERSITY,
SIERRA CLUB,
SOUTHERN UTAH WILDERNESS ALLIANCE,
BIODIVERSITY CONSERVATION ALLIANCE, and
LIVING RIVERS,

Petitioners,

v.

NEIL KORNZE, Principal Deputy Director, Bureau of Land Management, and,
BUREAU OF LAND MANAGEMENT,

Respondents,

AMERICAN PETROLEUM INSTITUTE,

Proposed Respondent-Intervenor.

JOINT CASE MANAGEMENT PLAN FOR PETITIONS
FOR REVIEW OF AGENCY ACTION

1. APPEARANCES OF COUNSEL

For Petitioners:

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For Federal Respondents:

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For Proposed Respondent-Intervenor:

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2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

Petitioners allege that the Court has jurisdiction based on the presentation of federal question, 28 U.S.C. § 1331. Petitioners also allege that the Court also has jurisdiction under the citizen suit provision of the Endangered Species Act, 16 U.S.C. § 1540; and the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.*

Federal Respondents and proposed Respondent-Intervenor may assert, as the facts warrant, the following jurisdictional defenses: Article III standing and ripeness. Federal Respondents and proposed Respondent-Intervenor do not waive their right to assert any other applicable jurisdictional defenses.

3. DATES OF FILING OF RELEVANT PLEADINGS

A. Date Petition for Review Was Filed:

July 25, 2013

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

July 29, 2013

C. Date Answer or Other Response Was Filed:

September 27, 2013

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

Not Applicable

5. OTHER MATTERS

A motion to intervene filed by American Petroleum Institute ("API") is currently pending before the Court. The parties' positions concerning API's motion to intervene have not changed since the completion of briefing on that motion.

6. PROPOSED BRIEFING SCHEDULE

Petitioners, Respondents, and proposed Respondent-Intervenor ("parties") have conferred and propose the schedule set forth below. The parties agree that the merits briefs shall comply with the rules of the United States Court of Appeals for the Tenth Circuit regarding length. *See* F.R.A.P. 32(a)(7). If granted intervention, the parties agree that API shall be subject to the same length limits as Federal Respondents.

A. Deadline for Filing Administrative Record:

March 28, 2014. The administrative record shall be filed manually in electronic format (e.g., DVDs) and served on the parties of record in the same format. The administrative record files will be produced in a searchable format (i.e., PDF) to the extent possible.

B. Deadline for Seeking Leave to Amend Complaint:

April 28, 2014

Petitioners also reserve the right to request leave to supplement their complaint at any time prior to final judgment based on new facts, claims, or developments.

C. Deadline for Parties to Confer on Record Disputes:

April 28, 2014

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

May 12, 2014

Response and Reply deadlines for such motions are governed by D.C.COLO.L.Civ.R. 7.1(C).

E. Petitioners' Opening Brief Due:

If the parties do not file motions to complete and/or supplement the administrative record, Petitioners' Opening Brief shall be filed no later than May 27, 2014.

If any party files a motion to complete and/or supplement the administrative record, Petitioners' Opening Brief shall be filed not later than 21 days after resolution of such motion.

F. Respondents' Response Brief Due:

Federal Respondents' Response Brief shall be filed thirty (30) days following service of Petitioners' Opening Brief.

If API is granted intervention, API's response brief shall be filed seven (7) days following service of Federal Respondents' Response Brief.

G. Petitioners' Reply Brief Due:

Petitioners' Reply Brief shall be filed twenty-one (21) days following service of Federal Respondents' Response Brief or, if API is granted intervention, twenty-one (21) days following service of API's Response Brief.

7. STATEMENTS REGARDING ORAL ARGUMENT

A. Petitioners' Statement:

Petitioners request oral argument. This is an important case that could affect the management of over 800,000 acres of public lands in Colorado, Utah, and Wyoming, and the

protections for endangered and threatened species that depend on these lands. This case is also very unlikely to go to trial, meaning that oral argument on Petitioners' petition/motion will be Petitioners only opportunity to appear in person and present their case to the Court.

B. Respondents' Statement:

Federal Respondents do not specifically request oral argument, but do not oppose Petitioners' request.

C. Proposed Defendant-Intervenor's Statement:

API does not specifically request oral argument, but does not oppose Petitioners' request.

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

Parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 5.1(d) by submitting proof that a copy of the motion has been served upon all attorneys of record. Parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1(c) by serving such motion on 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 11th day of February, 2014.

BY THE COURT

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

APPROVED:

/s/ Marc D. Fink

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