

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 15-cv-00130-CMA
(Consolidated with Civil Action No. 15-cv-00131 and Civil Action No. 15-cv-00286)

IN RE: GUNNISON SAGE-GROUSE ENDANGERED SPECIES ACT LITIGATION

**ORDER GRANTING IN PART JOINT MOTION TO STAY DEADLINE TO COMPLETE
AND/OR SUPPLEMENTAL ADMINISTRATIVE RECORD (DOC. # 69)**

This matter is before the Court on the Joint Motion to Stay Deadline for Plaintiffs to Move to Complete and/or Supplement filed by the Center for Biological Diversity (“the Center”), the Western Watersheds Project, U.S. Fish and Wildlife Service (“the Service”), Dan Ashe, U.S. Department of the Interior, Sally Jewell, NOAA Fisheries, Eileen Sobeck, U.S. Department of Commerce, and Penny Pritzker (collectively, “the Movants”). (Doc. # 69.) All parties to this litigation discussed this motion at a status conference held on February 4, 2016. (Doc. # 74.)

This case is before the Court on review of the decision of the Service to list the Gunnison Sage-Grouse as a “threatened” species under the Endangered Species Act. Certain parties sued the government claiming that the Gunnison Sage-Grouse should have been listed as an endangered species (the Center, Western Watersheds Project, WildEarth Guardians, and Dr. Clait Braun), and other parties sued the government claiming that the Gunnison Sage-Grouse should not have any listing at all (the State of Colorado, Gunnison County, the Board of County Commissioners of the County of

Gunnison, the Gunnison County Stockgrowers' Association, the State of Utah, and San Juan County). For efficiency reasons, all of the cases were consolidated.

The Case Management Plan set September 11, 2015, as the deadline for the government to file the pertinent administrative records in this case. (Doc. # 68 at 4.) There are three administrative records at issue in this appeal: (1) the Service's combined record for the listing and critical habit decisions ("the Listing and Critical Habitat Record"); (2) the Service's administrative record for its policy decision regarding its interpretation of the phrase "significant portion of its range" ("the Service's SPR Policy Record"); and (3) the administrative record of the National Oceanic and Atmospheric Administration ("NOAA") for its policy decision regarding its interpretation of the phrase "significant portion of its range" ("NOAA's SPR Policy Record"). (Doc. # 68 at 4.)

On September 11, 2015, the government filed two of the three administrative records: the Listing and Critical Habitat Record and NOAA's SPR Policy Record. (Doc. # 68 at 4.) However, the Service's SPR Policy Record has not yet been filed because that administrative record is currently the subject of litigation in a case pending before the United States District Court for the District of Arizona. (Doc. # 68 at 4.) According to the Case Management Plan, the deadline for motions to complete and/or supplement the administrative records was January 25, 2016. (Doc. # 68 at 5.)

On January 25, 2016, the Movants filed their joint motion to stay the deadline for motions to complete and/or supplement the administrative records. (Doc. # 69.) The motion states that the Service's SPR Policy Record will not be filed in this case "until the Arizona district court rules on the Center's pending motion to complete the record in that

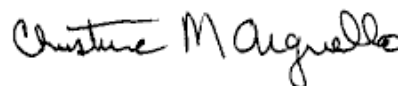
case.” (Doc. # 69.) Once the Arizona district court rules on the Center’s motion and the Service’s SPR Policy Record gets filed in this case, the government and the Center disagree as to whether the Center will be permitted to make additional challenges to the Service’s SPR Policy Record in this case. The Center states that it does not intend to challenge the completeness of the Service’s Listing and Critical Habitat Record (Doc. # 69 at 1) or NOAA’s SPR Policy Record.

In light of these facts and the representations made by the parties at the February 4, 2016 status conference, the Court hereby

GRANTS IN PART the Joint Motion to Stay Deadline for Plaintiffs to Move to Complete and/or Supplement (Doc. # 69). The Court extends the deadline by which the government must file the Service’s SPR Policy Record in this case. The Service’s SPR Policy Record must be filed in this case no later than five (5) days after the Arizona district court enters an order on the Center’s motion to complete the record. The Center and Western Watersheds Project must file a motion to complete and/or supplement the Service’s SPR Policy Record, if any, in this case no later than thirty (30) days after the Arizona district court enters its order. This Order does not affect the deadline to file a motion to complete and/or supplement the Listing and Critical Habitat Record and NOAA’s SPR Policy Record.

DATED: February 4, 2016

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge