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**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

WILDEARTH GUARDIANS and,)	Case No. 2:16-cv-00168-BCW
GRAND CANYON TRUST,)	
)	PLAINTIFFS' MOTION TO STAY
Plaintiffs,)	BRIEFING AND CONSIDERATION
)	OF THE STATE OF UTAH'S MOTION
v.)	TO INTERVENE
)	
S.M.R. JEWELL, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

Plaintiffs WildEarth Guardians and Grand Canyon Trust respectfully request that the Court stay briefing and consideration of the State of Utah's Motion to Intervene. ECF Doc. 19.

Utah filed its Motion to Intervene on February 10, 2016.¹ Plaintiffs file this Motion in response to ensure the State's Motion is subjected to the existing parties' February 2, 2016 Joint Motion for Stay (ECF Doc. 18), while also reserving the opportunity to later oppose Utah's intervention if the stay is ultimately dissolved. In the parties' Joint Motion for Stay, Plaintiffs and Federal Defendants Sally Jewell, U.S. Bureau of Land Management and U.S. Forest Service moved for a stay to provide time for the parties to engage in settlement discussions through at least April 1, 2016. *See* ECF Doc. 18.

This lawsuit was filed on September 11, 2015 in the Federal District of Colorado. The case challenges the decisions of Federal Defendants to lease public lands for coal mining. As set forth in the Amended Complaint (ECF Doc. 13-1), Plaintiffs allege violations of the National Environmental Policy Act (NEPA) in connection with the agencies' approval actions for the Flat Canyon coal lease.

Utah filed its intervention motion on February 10, 2016, after Plaintiffs and Federal Defendants had begun discussing settlement of this and other related pending lawsuit filed elsewhere in the country. The possibility of settlement arose when Secretary of the Interior Jewell issued a Secretarial Order No. 3338 on January 15, 2016, directing the Bureau of Land Management to prepare a Programmatic Environmental Impact Statement that analyzes the federal government's program for leasing coal resources on public lands. In the Order, Secretary Jewell indicated that reforms to the federal coal program would be considered based, in part, on an analysis of climate change impacts resulting from coal mining and coal combustion. Both the

¹ In the midst of briefing the Motion to Intervene, on February 29, 2016, the case was transferred to the District of Utah. The Local Rules for the District of Colorado call for responses to motions 21 days after service; for Utah's Motion to Intervene, that is March 7, 2016. Plaintiffs are filing this Motion in response to the Motion to Intervene as promptly as possible, recognizing that Utah's local rules require responses to be filed 14 days after service.

proposed reforms and analysis could address some of the issues raised by Plaintiffs in this litigation and thus provide a foundation for settlement discussions.

Consequently, after conferring and mapping out a settlement-negotiation plan, Plaintiffs and Federal Defendants jointly moved for a stay in this litigation on February 2, 2016. ECF Doc. 18. The Joint Motion for Stay requested postponing all aspects of the case, including Federal Defendants' Motion to Transfer. ECF Doc. 18 at 1; *see* ECF Docs. 9, 16 (Federal Defendants' Motion to Transfer and Plaintiffs' Response).² Although the Joint Motion for Stay has not yet been ruled upon, the parties are adhering to the schedule set forth in that Motion and are fully engaged in settlement negotiations at this time.

An order staying the proceedings in this case sought in the parties' Joint Motion for Stay should also apply to Utah's Motion to Intervene. It would be inefficient and a possible waste of the parties' and judicial resources to brief Utah's Motion to Intervene while settlement negotiations are ongoing. Should settlement efforts ultimately prove unsuccessful, briefing on Utah's Motion could resume and Plaintiffs can then oppose Utah's Motion, as appropriate.

Plaintiffs' Motion to Stay briefing and consideration of Utah's intervention motion will not prejudice Utah. Utah has been participating in in the existing parties' settlement negotiations. Although Utah is not an intervenor at this time, for the purposes of settlement only, the parties have been treating Utah as a party.

² Despite the Motion for Stay, on February 29, 2016, the District Court for the District of Colorado ruled on the Motion to Transfer.

Dated: March 7, 2016

s/ Jamie G. Pleune

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