

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:11-cv-01534-JLK

WILDERNESS WORKSHOP;
NATURAL RESOURCES DEFENSE COUNCIL;
THE WILDERNESS SOCIETY;
and SIERRA CLUB,

Plaintiffs,

v.

ALLEN CROCKETT, in his official capacity
as a representative of the Bureau of Land Management;
and the BUREAU OF LAND MANAGEMENT,

Federal Defendants,

and

WPX ENERGY ROCKY MOUNTAIN, LLC and
URSA PICEANCE LLC,

Defendant-Intervenors.

STIPULATED SETTLEMENT AGREEMENT

Plaintiffs and Federal Defendants in the above-captioned action hereby enter this Agreement for the purpose of settling this lawsuit without further judicial proceedings.

Federal Defendants Allen Crockett, in his official capacity as representative of the United States Department of the Interior, Bureau of Land Management (“BLM”), and BLM; and Plaintiffs Wilderness Workshop, Natural Resources Defense Council, The Wilderness Society, and Sierra Club, hereby state as follows:

WHEREAS, the BLM issued Decision Notices and Findings of No Significant Impact (“DN/FONSI”) approving the North Castle Springs Master Development Plan (“MDP”) on July 16, 2010, the Spruce Creek MDP on August 6, 2008, and the West Mamm MDP on June 22, 2010 (collectively, “the Projects”);

WHEREAS, the air quality analyses in the Environmental Assessments (“EAs”) for the Projects relied upon the air quality analysis in the Final Environmental Impact Statement (“Final EIS”) for the 2006 Roan Plateau Resource Management Plan Amendment (“2006 Roan Plateau RMPA”);

WHEREAS, Plaintiffs filed a Complaint on June 13, 2011, challenging the Project approvals and BLM’s approval of Applications for Permits to Drill (“APDs”) associated with the Projects;

WHEREAS, on June 22, 2012, the United States District Court for the District of Colorado issued an opinion in *Colorado Environmental Coalition v. Salazar*, 875 F. Supp. 2d 1233 (D. Colo. 2012) (“*CEC*”), which set aside the Record of Decision for the 2006 Roan Plateau RMPA and remanded the decision to BLM for further action based, in part, on deficiencies in the air quality analysis in the Final EIS for the 2006 Roan Plateau RMPA;

WHEREAS, on August 21, 2012, Federal Defendants moved the Court for a voluntary remand of the Project approvals in light of the *CEC* decision and further moved the Court to dismiss Claim Four of Plaintiffs’ Complaint;

WHEREAS, on September 11, 2012, Plaintiffs moved to amend their Complaint to challenge thirty-one additional projects approved by the BLM using EAs that also relied upon the air quality analysis in the Final EIS for the 2006 Roan Plateau RMPA, and approved APDs associated with those projects;

WHEREAS, Plaintiffs and Federal Defendants, through their authorized representatives, and without any admission or adjudication of the issues of fact or law with respect to Plaintiffs' claims, have reached a settlement resolving the claims raised in Plaintiffs' Complaint;

NOW THEREFORE, the Plaintiffs and Federal Defendants jointly stipulate as follows:

SPECIFIC PROVISIONS

1. BLM's Colorado River Valley Field Office ("CRVFO") will not rely on the air quality analysis contained in either the 1999 Glenwood Springs Oil and Gas Leasing and Development Final Supplemental EIS ("1999 SEIS") or the Final EIS for the 2006 Roan Plateau RMPA to approve oil and gas development projects or individual APDs after the effective date of this Agreement. For purposes of this Agreement, "oil and gas development projects" include MDPs, geographic area plans, and single or multiple APDs approved with an EIS, EA, or Categorical Exclusion.

2. After the effective date of this Agreement, the CRVFO will not rely on the air quality analyses contained in the EAs for the oil and gas projects listed in Exhibit 1 to this Agreement as a basis to approve APDs.

3. The CRVFO will prepare an updated or supplemental analysis or analyses pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 et seq., to address air quality impacts corresponding to APDs that are approved after the effective date of this Agreement and that are associated with the oil and gas projects listed in Exhibit 1.

4. The CRVFO will establish and maintain a tracking system (“Tracking System”) for approved federal APDs within the CRVFO boundary. All information from the Tracking System shall be posted on the CRVFO web-site. The Tracking System shall:
 - a. Assume zero (0) APDs approved by the CRVFO beginning January 1, 2007.
 - b. Identify the total number of APDs approved from January 1, 2007 to September 30, 2011.
 - c. Identify the number of APDs approved before October 1, 2011 for those oil and gas projects and associated NEPA analyses listed and attached as Exhibit 1 to this Agreement.
 - d. Track each APD or group of APDs that are approved from October 1, 2011 to the end of the third quarter of fiscal year 2013 (i.e., June 30, 2013), and identify any associated EA, EIS, or Categorical Exclusion.
 - e. The information in subparagraph (d) shall be updated within 30 days after the close of each quarter, beginning with information for the fourth quarter of fiscal year 2013 (i.e., July 1, 2013 to September 30, 2013).
5. The CRVFO shall provide on a bi-weekly basis on the CRVFO web-site, information about APDs submitted after the effective date of this Agreement including:
 - a. The well identification number;
 - b. The date on which an APD was posted;
 - c. Information required to be posted pursuant to 43 C.F.R. § 3162.3-1(g);
 - d. A surface location plat for the well pad associated with each APD or group of APDs for the same pad, if a plat was included in the APD package; and
 - e. The date on which an APD was approved or denied, if an APD was approved or denied.

6. Federal Defendants' obligations as set forth in Paragraphs 4 and 5 of this Agreement shall begin 30 days after the effective date of this Agreement.

7. The CRVFO's obligations as set forth in Paragraphs 4 and 5 of this Agreement shall cease five (5) years and 30 days after the effective date of this Agreement. Federal Defendants may meet the CRVFO's obligations under Paragraph 4 by providing access to the information described in that Paragraph via a visible link on CRVFO's public web-site. Federal Defendants may meet the CRVFO's obligations as set forth in Paragraph 5 by providing access to information described in that Paragraph via a visible link on CRVFO's public web-site.

8. Within ten (10) calendar days of the execution of this Agreement, Plaintiffs and Federal Defendants will file a motion asking the Court to: (1) grant Plaintiffs' September 11, 2012 motion to amend the Complaint to include additional oil and gas projects listed and attached as Exhibit 1 to this Agreement, and (2) dismiss this case with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure. The motion and order of dismissal shall be in the form attached as Exhibit 2, and shall provide that the Court will retain jurisdiction over any action to enforce or interpret this Agreement. See Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 380-82 (1994). The order of dismissal shall also provide that Plaintiffs reserve all rights to challenge future BLM decisions. The order of dismissal shall not extend the Court's jurisdiction to hear any dispute over the adequacy or content of any NEPA analysis or analyses prepared under Paragraph 3, and Plaintiffs shall not assert a claim for breach of contract or for specific performance as a means of challenging any alleged deficiency in the NEPA analysis or analyses prepared pursuant to Paragraph 3. Plaintiffs' sole recourse with respect to any such alleged deficiency is to challenge the corresponding decision in a new administrative proceeding under procedures provided by the Department of the Interior or in a new civil action under the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Plaintiffs retain the right to assert all claims in, and Defendants retain the right to assert all defenses to, any such

administrative proceeding or lawsuit. If the Court does not dismiss the action according to the terms of Exhibit 2, this Agreement is voidable by any Party.

9. Plaintiffs will not seek to prevent the drilling, construction and/or operation of wells or of any equipment or facilities associated with any wells as relief based on alleged deficiencies in BLM's compliance with Paragraphs 4 or 5 of this Agreement.

GENERAL PROVISIONS

10. This Agreement shall constitute a complete and final settlement of all of Plaintiffs' claims alleged in the above-described civil action against Federal Defendants.

11. Except as expressly stated herein, this Agreement shall not (and shall not be construed to) limit or modify the discretion accorded to Federal Defendants by NEPA, the Administrative Procedure Act ("APA"), and/or general principles of administrative law with respect to the procedures to be followed in undertaking the actions required herein, or as to the substance of any final determination. No provision of this Agreement shall be interpreted as, or constitute, a commitment or requirement that Federal Defendants take any action in contravention of NEPA, the APA, and/or any other law or regulation, either substantive or procedural.

12. Except as expressly stated herein, this Agreement in no way affects the rights of the United States as against any person or entity not a party hereto.

13. This Agreement is for the purpose of settling litigation and nothing in this Agreement shall be deemed a precedent or constitute an admission of fact or law by any Party. This Agreement shall not be used or admitted against a Party over the objection of that Party in any proceeding where precluded under Rule 408 of the Federal Rules of Evidence. Nothing in the foregoing shall be construed to prevent any Party from using or admitting this Agreement to address a claim for breach of the Agreement or any of its terms.

14. It is hereby expressly understood and agreed that Plaintiffs and Federal Defendants jointly drafted this Agreement. Accordingly, Plaintiffs and Federal Defendants hereby agree that any and all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Agreement.

15. This Agreement shall be governed by and construed under federal law.

16. This Agreement contains all of the agreements between Plaintiffs and Federal Defendants, and is intended to be and is the final and sole agreement between Plaintiffs and Federal Defendants concerning the complete and final resolution of Plaintiffs' causes of action in this case. Plaintiffs and Federal Defendants agree that any other prior or contemporaneous representations or understanding not explicitly contained in this Agreement, whether written or oral, are of no further legal or equitable force or effect. Any subsequent modifications to this Agreement must be in writing, and must be signed and executed by or on behalf of the affected parties.

17. The provisions of this Agreement shall apply to and be binding upon each of the settling parties.

18. Federal Defendants agree to pay Plaintiffs \$ 98,000 in settlement of claims for attorneys' fees and costs.

SAVINGS PROVISIONS

19. Except as expressly stated herein, nothing in the terms of this Agreement shall be construed to limit, expand or otherwise modify the authority accorded to Federal Defendants under the United States Constitution, any statute or regulation, or by general principles of administrative law.

20. The obligations imposed upon Federal Defendants under this Agreement can only be undertaken using appropriated funds. Nothing in this Agreement shall be interpreted as, or

shall constitute, a requirement that Federal Defendants are obligated to pay any funds exceeding those available, or take any action in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341, or any other appropriations law.

EFFECTIVE DATE, REMEDIES, AND RELEASES

21. This Agreement shall become effective upon entry of an order by the Court as set forth in Exhibit 2.

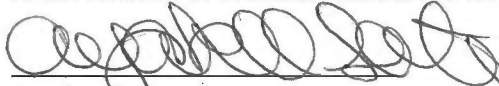
22. In the event of a dispute over compliance with any provision of this Agreement, Plaintiffs will not seek judicial relief until they have provided Federal Defendants with thirty (30) days written notice of the nature of the dispute and a reasonable opportunity to resolve the dispute without litigation.

SIGNATURE OF PARTIES

23. Plaintiffs and Federal Defendants represent that the persons executing the Settlement Agreement on each party's behalf have been duly authorized by all necessary and appropriate action to enter into this Settlement Agreement.

For Federal Defendants:

Robert G. Dreher
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Environment & Natural Resources Division



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EXHIBIT 1

Oil and Gas Development Projects

Project #	Name of Project	Number	Date
1	Castle Springs GAP	CO-140-2005-009-EA	2005
2	Williams Spruce Creek MDP	CO-140-2007-167-EA	2008
3	Orchard II MDP	CO-130-2009-001-EA, CO-140-2008-032-EA	2008
4	Cache Creek Master Development Plan	CO-140-2009-0088-EA	2009
5	West Mamm Master Development Plan	CO-NO40-2010-0008-EA	2010
6	North Castle Springs Master Development Plan	CO-N040-2010-0032-EA	2010
7	Encana Orchard Unit GAP	CO-140-2005-113-EA	2005
8	Encana Gant Gulch GAP	CO-140-2005-134-EA	2005
9	Encana Rulison GAP	CO-140-2006-045-EA	2007
10	South Parachute GAP	CO-140-2006-050-EA	2007
11	Williams Doghead Mt. GAP	CO-140-2007-042-EA	2007
12	Noble Pete and Bill Creek GAP	CO-140-2007-115-EA	2007
13	Helmer Gulch MDP	CO-140-2007-134-EA	2008
14	Noble APD Lower Pete and Bill Creek	CO-140-2008-061 EA	2008
15	SG 34-28 Pad; 4 wells	CO-140-2008-087EA; CO-N040-2010-0033CX	2008; 2010
16	Williams Starkey Gulch GM 214-33 APD	CO-140-2008-130-EA	2008
17	Williams Starkey Gulch GM 343-32 APD	CO-140-2008-146-EA	2009
18	Orion Jolley Mesa 18-3 APD	CO-140-2008-038 EA	2008
19	Orion Jolley Mesa 17-2 APD	CO-140-2008-131 EA	2008
20	Orion Jolley Mesa 1C-17 APD	CO-140-2008-142-EA -	2008
21	Williams APD Pad RMV 120-27	CO-N040-2009-0063-EA	2009
22	Flatiron Mesa Master Development Plan	CO-N040-2010-0002-EA	2009
23	Encana Battlement Mesa 14 APD	CO-140-2008-027 EA	2010
24	Miller 10 Well Pad	CO-N040-2010-0055-EA	2010
25	Honea Rifle Well	CO-N040-2010-0089-EA	2010

Project #	Name of Project	Number	Date
26	Williams Upper Doghead	CO-NO40-2010-0056-EA	2010
27	West of Porcupine Creek	CO-NO40-2010-0062-EA	2010
28	Encana Battlement Mesa 15 APD	CO-N040-2010-0065-EA	2010
29	Bill Barrett Mamm Creek Wells	CO-140-2005-093-EA	2005
30	Bill Barrett Corp., Pads 7F & 7G	CO-140-2006-76	2006
31	Noble Wells/Pipeline Northwest Orchard Area of the Horsethief Field	CO-140-2007-141-EA	2007
32	EnCana Pads 35L, 36L Pads, Battlement Creek	CO-140-2010-0078-EA	2011
33	Noble Helmer Gulch Federal 31-41 Drill Pad	CO-140-2006-84-EA	2006
34	Williams APDs	CO-140-2006-132-EA	2007

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
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WPX ENERGY ROCKY MOUNTAIN, LLC and
URSA PICEANCE LLC,

Defendant-Intervenors.

**UNOPPOSED MOTION TO GRANT MOTION TO AMEND THE COMPLAINT AND
TO DISMISS THE CASE WITH PREJUDICE**

Pursuant to Paragraph 8 of the attached Stipulated Settlement Agreement, Plaintiffs and Federal Defendants respectfully request that the Court: (1) grant Plaintiffs' September 11, 2012 motion to amend the Complaint (Dkt. # 64) to include additional oil and gas projects listed and attached as Exhibit 1 to the Agreement, and (2) dismiss the case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

Plaintiffs and Federal Defendants further request that the Court grant the requested relief by entering the attached Order of Dismissal.

Pursuant to Local Rule 7.1(A), Plaintiffs and Federal Defendants have conferred with counsel for Defendant-Intervenors WPX Energy Rocky Mountain, LLC and Ursa Piceance LLC about this motion. Neither of the Defendant-Intervenors objects to the requested relief.

Respectfully submitted, _____, 2013.

Robert G. Dreher
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s/Ayako Sato

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URSA PICEANCE LLC,

Defendant-Intervenors.

ORDER OF DISMISSAL

The Court hereby approves and enters the parties' Stipulated Settlement Agreement, and incorporates the terms of the Agreement by reference in this Order.

The unopposed motion to grant Plaintiffs' September 11, 2012 motion to amend the Complaint (Dkt. # 64) to include additional oil and gas projects listed and attached as Exhibit 1 to the Agreement is hereby GRANTED.

The unopposed motion to dismiss the case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) is hereby GRANTED. The Court retains jurisdiction over any action to enforce or interpret the terms of the Stipulated Settlement Agreement, subject to the limitations described in Paragraph 8 of the Agreement. Plaintiffs reserve all rights to challenge future BLM decisions, subject to the limitations described in Paragraphs 8 and 9 of the Agreement.

DATED: _____

BY THE COURT:

U.S. Senior District Judge John L. Kane