

GALLATIN COUNTY CLERK  
OF DISTRICT COURT  
GALLATIN COUNTY

2011 APR 12 PM 4 15

FILED

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

DEPUTY

\* \* \* \* \*

WESTERN WATERSHEDS PROJECT, )  
GALLATIN WILDLIFE ASSOCIATION, )  
BUFFALO FIELD CAMPAIGN, and )  
YELLOWSTONE BUFFALO )  
FOUNDATION, )

Petitioners, )

v. )

STATE OF MONTANA and MONTANA )  
DEPARTMENT OF FISH, WILDLIFE & )  
PARKS, an agency of the State of )  
Montana, )

Respondents. )

Cause No. DV-10-317A

**SCHEDULING ORDER**

On Tuesday, April 12, 2011, Law Clerk Marcy Frissell held a Scheduling Conference in this matter. Present for the conference were Summer Nelson, counsel for Plaintiffs, and John F. Lynch, counsel for Defendants.

**IT IS ORDERED** that, pursuant to Rule 16(b), M.R.Civ.P., the parties shall comply with the following schedule for the timely and orderly disposition of this matter.

\* \* \* \* \*

**On or by: May 13, 2011**

File motions to join parties and/or motions to amend pleadings.

**On or by: June 10, 2011**

Exchange and file list of lay witnesses and associated exhibits.

**On or by: July 8, 2011**

Exchange and file list of expert witnesses and associated exhibits together with any Rule 26(b)(4), M.R.Civ.P., disclosures. State the substance of expected expert testimony. Constant supplementation is required.

NOTE: This Court requires simultaneous disclosure of all proposed expert witnesses, together with a comprehensive statement of the proposed expert's opinions/testimony, and a comprehensive statement of grounds/reasons for the expert's opinions/testimony. Failure to comply may result in imposition of sanctions.

**On or by: August 12, 2011**

Exchange and file list of rebuttal expert witnesses and associated exhibits, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under simultaneous expert witness disclosures.

**On or by: September 9, 2011**

Discovery, including depositions, shall be completed. "Completed" means interrogatories, requests for production and requests for admissions shall have been served sufficiently in advance so that required responses are due before this date.

**On or by: October 7, 2011**

File and serve all pretrial motions of every nature, including Motions in Limine and Motions for Summary Judgment. The briefing schedule is controlled by Rule 2 of the Montana Uniform District Court Rules, for motions which are controlled by the rule. Any delay may result in the Court not considering these motions.

LIMITED EXCEPTION FOR MOTIONS IN LIMINE  
FILED AFTER PRETRIAL MOTIONS DEADLINE:

The Court may consider Motions in Limine that legitimately arise after the motions deadline if filed at least ten (10) days before the trial, so that the other party has an opportunity to respond. Thereafter, Motions in Limine will only be considered upon a showing of good cause and with leave of court.

HEARING REQUEST: Hearing on a motion for summary judgment is deemed waived unless a written request for hearing is filed within twenty (20) days of the filing of the motion. Any party that wishes to present testimony or other evidence at the hearing shall file and serve a notice of the name, address, and telephone number of each witness at least ten (10) days prior to the hearing.

**MOTIONS FILED ON THE EVE OF TRIAL ARE  
STRONGLY DISCOURAGED AND WILL NOT BE  
CONSIDERED UNLESS JUSTICE REQUIRES.**

**On or by: November 4, 2011**

The parties shall schedule and participate in a mediation with a mutually agreed upon mediator. Each party shall have a person with ultimate settlement authority attend the mediation **in person** and participate in the mediation in good faith. Following the mediation the parties shall ensure that the mediator files a report advising the Court of the outcome of the mediation.

If the parties fail to convene a mediation or fail to have the mediator file the report prior to pretrial conference they will not receive a trial date and the pretrial conference will be rescheduled. Willful failure of a party to attend the mediation may result in the Court entering that party's default.

The attorneys who will be trying the case shall appear **in person** at the PRETRIAL CONFERENCE set for **Tuesday, December 13, 2011, at 3:00 p.m.** in Room 312, Law and Justice Center, 615 S. 16<sup>th</sup> St., Bozeman, MT.

**If the attorneys present a signed Pretrial Order to the Court and there are no conflicts or disagreements about the terms of the Order, an attorney may appear by telephone upon motion and signed Order of the Court.**

Prior to the Pretrial Conference:

Plaintiff's counsel shall convene a meeting of all parties, sufficiently in advance of the Pretrial Conference, to draft a Pretrial Order. The proposed Pretrial Order shall be presented at the Pretrial Conference. In the event of a dispute regarding the contents of the Order, the parties shall present a draft pretrial order and such dispute shall be discussed at the Pretrial Conference and ultimately resolved by the Court. **Counsel shall prepare the consolidated pretrial order in compliance with Rule 5 Uniform District Court Rules.**

In addition, the parties shall prepare a comprehensive list of their respective pending motions.

If the parties fail to submit a proposed Pretrial Order they **will not receive a trial date**, and the pretrial conference will be rescheduled.

**This Scheduling Order shall not be modified except by leave of the Court upon a showing of good cause. Any requests for extension must be in writing, clearly advising the Court about opposing counsel's position on the request. Failure to comply with the Scheduling Order may result in sanctions, including denial of requests for extension.**

Dated this 12 day of April, 2011.

  
HON. HOLLY BROWN,  
District Judge

cc: Summer Nelson, Esq. *mailed*  
Robert N. Lane, Esq. *mailed*  
John F. Lynch, Esq. *mailed*

4-13-11