

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:19-cv-03603-WJM- NYW

TRANSWEST EXPRESS LLC, a Delaware limited liability company,

Plaintiff,

and

PACIFICORP, an Oregon Corporation,

Plaintiff-Intervenor,

v.

THOMAS VILSACK, Secretary of the United States Department of Agriculture, *et al.*,

Defendants,

and

CROSS MOUNTAIN RANCH LIMITED PARTNERSHIP, a California limited partnership;
and COLORADO CATTLEMEN’S AGRICULTURAL LAND TRUST,

Defendant-Intervenors.

JOINT MOTION FOR ADMINISTRATIVE CLOSURE

Plaintiff TransWest Express, LLC (“TransWest”), Plaintiff-Intervenor PacificCorp,
Defendants Thomas Vilsack, Terry Cosby, and Clint Evans (“Federal Defendants”), and
Defendant-Intervenors Cross Mountain Ranch Limited Partnership (“CMR”) and Colorado
Cattleman’s Agricultural Land Trust (“CCALT”) (collectively, the “Parties”), respectfully move

for administrative closure of this case pursuant to D.C.COLO.LCivR 41.2, subject to reopening for good cause, and state the following grounds in support:

1. Following a mediation with the assistance of the Honorable William F. Downes of JAMS Denver, the Parties have agreed to resolve this complex dispute on the terms and conditions of a settlement agreement, executed on December 22, 2021. However, consummation of the settlement is conditional on certain events which may not occur for some time.
2. Under the settlement, CMR, with the consent of CCALT, will grant TransWest and PacifiCorp easements necessary to construct, operate and maintain transmission lines through the Cross Mountain Ranch Conservation Easement Property. These transmission easements can only be granted if the Natural Resources Conservation Service (“NRCS”) approves applications for subordination of the United States’ interest in the Conservation Easement to the transmission easements. Processing of applications for subordination of a Conservation Easement is governed by the Agricultural Conservation Easement Program statute and NRCS regulations.
3. In accordance with the settlement, TransWest and PacifiCorp are preparing applications to NRCS for subordination of the Conservation Easement. As part of the application process, an environmental assessment is being prepared. The Parties anticipate that the applications will be filed by February 1, 2022.
4. If NRCS does not approve the applications, the settlement will be terminated and this case will be re-opened. If, however, NRCS approves the subordination, there are

certain other contingencies that must then be satisfied before the transmission lines can be constructed.

5. The Parties request that this matter be closed administratively -- rather than stayed or dismissed -- to ensure that all settlement contingencies are resolved before the case is dismissed. The Parties will, however, dismiss the case with prejudice once all contingencies have been resolved and construction of the transmission lines commences on the Conservation Easement Property.
6. The Parties are hopeful that all contingencies will be resolved in 2022 and will promptly advise the Court if that occurs. They request administrative closure until December 31, 2023, to account for possible delays in the process. If the Court requests, the Parties will file status reports on consummation of the settlement at appropriate intervals, e.g., every six months.

Dated: December 23, 2021.

Respectfully submitted,

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s/ John F. Shepherd

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Trust

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2021, I filed the foregoing electronically with the Clerk of the Court using the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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