

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE POLAR BEAR ENDANGERED)
SPECIES ACT LISTING AND § 4(d))
RULE LITIGATION) Misc. No. 08-764 (EGS)
) MDL Docket No. 1993
)
)
This Document Relates To:)
)
Ctr. for Biological Diversity,)
et al. v. Salazar, et al.,)
No. 08-2113; Defenders of)
Wildlife v. U.S. Dep't of the)
Interior, et al., No. 09-153)
)
)

ORDER

On October 17, 2011, this Court issued a Memorandum Opinion and Order granting in part and denying in part the parties' cross-motions for summary judgment. In that Memorandum Opinion and Order, the Court indicated that it would withhold a final Order vacating and remanding the Special Rule for the Polar Bear, 73 Fed. Reg. 76,249 (December 16, 2008) ("Special Rule"), to the U.S. Fish and Wildlife Service ("FWS") pending the resolution of a timetable for the completion of a review process under the National Environmental Policy Act ("NEPA") on remand. The parties jointly filed a proposed schedule for the completion of remand on November 17, 2011. Pursuant to this Court's October 17, 2011 Memorandum Opinion and Order, and upon

consideration of the parties' Joint Report and Proposal, as well as the declaration attached thereto, it is hereby

ORDERED that the final Special Rule for the polar bear is **VACATED**; and it is

FURTHER ORDERED that the Special Rule is remanded to FWS for the preparation of an Environmental Assessment ("EA") and new rulemaking determination as follows:

- (1) By no later than April 13, 2012, FWS shall submit a notice of availability of a draft EA and proposed special rule to the Office of the Federal Register for publication;
- (2) FWS shall hold a 60-day public comment period on the draft EA and proposed special rule;
- (3) By no later than December 6, 2012, FWS shall submit a notice of availability of a final EA and final rulemaking determination to the Office of the Federal Register for publication; and it is

FURTHER ORDERED that the federal defendants may seek leave to modify the schedule set forth above if at any point FWS determines that a full Environmental Impact Statement ("EIS") is required; and it is

FURTHER ORDERED that the Special Rule for the Polar Bear, Interim Final Rule, 73 Fed. Reg. 28,306 (May 15, 2008) ("Interim Final Special Rule") is hereby reinstated, effective as of the

date of this Order. In its October 17, 2011 Memorandum Opinion and Order, the Court indicated that this Interim Final Special Rule would remain in effect "until further Order of the Court." At the request of the federal defendants in view of the rulemaking schedule set forth above, and hearing no objections from other parties, the Court hereby modifies that portion of its October 17, 2011 Memorandum Opinion and Order to provide that the Interim Final Special Rule shall be superseded by the new special rule for the polar bear to be published in the Federal Register, as of the effective date of that new rule; and it is

FURTHER ORDERED that this Court shall retain jurisdiction over the above-captioned cases, which shall remain in open status on the Court's docket until further notice.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
November 18, 2011