

Exhibit 4

Conferral Email 4

Dominic Carollo

From: Carroll, Arwyn (ENRD) <Arwyn.Carroll@usdoj.gov>
Sent: Thursday, August 19, 2021 12:34 PM
To: wmap@igc.org; Dominic Carollo
Cc: 'Laura K. Granier'; tbrooks@westernwatersheds.org; falkwilt@gmail.com; julie@cblawoffices.org; tjlodge50@yahoo.com; kent@winnemuccalaw.com; Doktor, Leilani (ENRD); fermina@cblawoffices.org; 'Rick Eichstaedt'; 'Chris Mixson'
Subject: RE: Bartell Ranch v. McCullough, 3:21-cv-00080 (D. Nev.)

Follow Up Flag Follow up
Flag Status: Completed

Dominic and Roger,

Thanks for your emails concerning the scope of the administrative record. We've forwarded your questions to BLM and will let you know their response.

As you know, Plaintiff-Intervenors' complaints and preliminary injunction motion have injected new issues into the case and have required a significant expenditure of both their and our resources in the short term. BLM is evaluating the scope of the administrative record in connection with those claims, and we anticipate proposing a schedule by early next week, based on when BLM can serve that record.

In the meantime, cognizant of next Friday's existing deadline to meet and confer, and with an interest in keeping this side of the litigation rolling, we'll be happy to discuss the concerns you've raised next week – even were that deadline ultimately extended, we're happy to get the conversation going regarding the concerns already raised. We are also available on the 26th, between 11:00am and 3:00pm ET.

Finally, in response to an earlier question, yes—BLM will be serving redacted versions of the clawed-back documents. We can provide them on a thumb drive when the NHPA-related administrative record is served, or earlier via Box.com.

Thanks,
Arwyn

From: wmap@igc.org <wmap@igc.org>
Sent: Thursday, August 19, 2021 3:09 PM
To: 'Dominic Carollo' <dcarollo@carollolegal.com>; Carroll, Arwyn (ENRD) <Arwyn.Carroll@usdoj.gov>
Cc: 'Laura K. Granier' <LKGranier@hollandhart.com>; tbrooks@westernwatersheds.org; falkwilt@gmail.com; julie@cblawoffices.org; tjlodge50@yahoo.com; kent@winnemuccalaw.com; Doktor, Leilani (ENRD) <Leilani.Doktor@usdoj.gov>; fermina@cblawoffices.org; 'Rick Eichstaedt' <rick@wheatlawoffices.com>; 'Chris Mixson'

<c.mixson@kempjones.com>

Subject: RE: Bartell Ranch v. McCullough, 3:21-cv-00080 (D. Nev.)

Arwyn/Leilani – The WWP plaintiffs share Dominic’s concerns and issues regarding the admin record. We continue to review the record and will be providing further issues/concerns in the coming days.

Roger

From: Dominic Carollo <dcarollo@carollolegal.com>

Sent: Wednesday, August 18, 2021 5:49 PM

To: Carroll, Arwyn (ENRD) <Arwyn.Carroll@usdoj.gov>

Cc: Laura K. Granier <LKGranier@hollandhart.com>; tbrooks@westernwatersheds.org; falkwilt@gmail.com; Dominic Carollo <dcarollo@carollolegal.com>; wmap@igc.org; julie@cblawoffices.org; tjlodge50@yahoo.com; kent@winnemuccalaw.com; Leilani.Doktor@usdoj.gov; fermina@cblawoffices.org

Subject: RE: Bartell Ranch v. McCullough, 3:21-cv-00080 (D. Nev.)

Importance: High

Arwyn:

I’d like a response to my email below, please, concerning the AR and a privilege log, preferably by this Friday. I’m looping the rest of the parties in as well.

To add a bit more context, it seems to me the record is very likely missing substantial intra-agency communications as well as communications with the third-party consultant. In addition, depending on the nature of the relationship of the consultant, it seems to me internal communications of the consultant may also be subject to disclosure in the AR. I am requesting to see the contract under which the third-party consultant provided assistance with the EIS. It is also questionable that there are no higher level Interior communications given the contention that this project is a National priority. This is a non-exclusive list of concerns. For instance, there are also missing communications with my client and the agency. In short, compared to other similar cases I have litigated, the record seems rather, if not very, sparse.

Related to this, under the stipulated schedule we reached prior to consolidation and prior to new plaintiffs intervening, we have a deadline of August 27 to confer on the AR and a deadline of Sept. 10 to file a motion to supplement the AR. Meanwhile, Leilani emailed the parties back on July 29 about reaching an adjusted global schedule, which seems to make sense, if not necessary. I believe everyone responded with willingness and approval except LNC (unless I missed it). Unless we are going to agree to vacate the schedule or to a new schedule, we need to confer by August 27. I am available at any time next week on August 25 or August 26 to confer. However, if the issues above are not addressed, and very quickly, I expect we will be filing a motion challenging the adequacy of the AR and likely prior to Sept. 10.

The government’s prompt attention to these matters would be appreciated. Thanks.

DOMINIC M. CAROLLO

CAROLLO LAW GROUP LLC

PO Box 2456

630 SE Jackson Street

Suite 1

Roseburg, OR 97470

PH: 541-957-5900

FAX: 541-957-5923

dcarollo@carollolegal.com

From: Dominic Carollo
Sent: Monday, July 26, 2021 10:20 AM
To: Carroll, Arwyn (ENRD) <Arwyn.Carroll@usdoj.gov>; Laura Granier (LKGranier@hollandhart.com) <lkgranier@hollandhart.com>
Cc: kent@winnemuccalaw.com
Subject: RE: Bartell Ranch v. McCullough, 3:21-cv-00080 (D. Nev.)

Arwyn:

One question I have about the AR is with respect to the deliberate process privilege.

I don't see very many intra-agency communications, nor or agency communications with outside contractors/consultants, related to development of the DEIS and FEIS. Relatedly, I don't see any claim of the deliberative process privilege for any of the documents listed in the AR index you sent Friday.

Have searches for such documents been performed? Is a separate privilege log forthcoming?

If you need further clarification, please let me know. It may be easier to discuss.

Thanks.

DOMINIC M. CAROLLO

CAROLLO LAW GROUP LLC
PO Box 2456
630 SE Jackson Street
Suite 1
Roseburg, OR 97470
PH: 541-957-5900
FAX: 541-957-5923
dcarlo@carollolegal.com

From: Carroll, Arwyn (ENRD) <Arwyn.Carroll@usdoj.gov>
Sent: Friday, July 23, 2021 5:36 PM
To: Dominic Carollo <dcarlo@carollolegal.com>; Laura Granier (LKGranier@hollandhart.com) <lkgranier@hollandhart.com>
Cc: kent@winnemuccalaw.com
Subject: Bartell Ranch v. McCullough, 3:21-cv-00080 (D. Nev.)

Dominic and Laura,

Pursuant to Paragraph A of the approved scheduling order in this case, please find attached a copy of the draft administrative record index.

Relatedly, several documents in the administrative record contain confidential information, such as information about the location of cultural resources identified through the NHPA process, golden eagle nesting sites, etc. I discussed briefly with Laura and WWP's counsel at the PI hearing, but BLM would like to produce these with a protective order in place. Dominic, would you be amenable to a protective order in this case? I'll circulate a draft PO based on the standard form in the District of Nevada and a proposed motion early next week.

Finally, BLM anticipates send out the administrative record on USB drives. I know that some folks aren't working from the office these days – can you confirm for me that the address on the docket is the one BLM should send the record to, or if there's another address we should use?

Thanks,

Arwyn Carroll
Natural Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
202-305-0465 (desk)
202-598-3315 (mobile)
arwyn.carroll@usdoj.gov