

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

Civil Action No. 1:13-cv-518-RBJ

WILDEARTH GUARDIANS,

Plaintiff,

v.

UNITED STATES OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT,
DAVID BERRY,¹ in his official capacity as Western Regional Director of the Office of Surface
Mining Reclamation and Enforcement, Denver, Colorado, and S.M.R. JEWELL, in her official
capacity as Secretary of the United States Department of the Interior,

Federal Defendants,

COLOWYO COAL CO. L.L.P., and TRAPPER MINING INC.,

Defendant-Intervenors.

FEDERAL DEFENDANTS' STATUS REPORT

Federal Defendants file this status report to apprise the Court and parties of their progress in complying with the Court's May 8, 2015 order, Doc. No. 78, concerning the Colowyo Mine. The Court found several NEPA violations, but deferred an order of vacatur as to the Colowyo Mine for a period of 120 days, stating its expectation that the Office of Surface Mining Reclamation and Enforcement ("OSMRE") would, during this period, "take a hard look at the direct and indirect environmental effects of the Colowyo mining plan revision" and "provide public notice and an opportunity for public involvement before reaching its decisions." Order at 31. The undersigned has been advised of the facts set out below by two officials of the Western

¹ Pursuant to Federal Rule of Civil Procedure 25(d), David Berry is automatically substituted for Ervin Barchenger as Western Regional Director of the **Error! Main Document Only**. Office of Surface Mining Reclamation and Enforcement, Denver, Colorado.

Regional Office of the Office of Surface Mining Reclamation and Enforcement (“OSMRE”), Mr. Bob Postle, Manager, Program Support Division, and Mr. Marcelo Calle, Manager, Field Operations Branch.

In response to the May 8 order, OSMRE has achieved a number of milestones. It has retained a consultant, with whom agency personnel are presently working to complete an Environmental Assessment (EA). The EA will analyze the direct, indirect, and cumulative effects of the 2007 mining plan approval at issue in this case. OSMRE has prepared a project schedule that anticipates completion of the effort by September 5, 2015 which OSMRE calculates as the 120th day from the Court’s May 8, 2015 order.

To ensure appropriate public participation, OSMRE published public notices in the *Craig Daily Press* and *Rio Blanco Herald Times* on May 21 and 22, 2015, and again on June 4 and 5, 2015. The notices announced OSMRE’s intent to prepare an EA, advised of the initiation of a public comment period, and advised of a “public outreach” meeting to be held in Craig, Colorado, on June 10, 2015. OSMRE held the meeting as scheduled, and 632 people attended—most of whom expressed concerns about a possible shutdown at the mine and impacts to the community. At the meeting, the agency received a total of 447 comment forms. By the close of the public comment period on June 15, 2015, the agency had received a total of 1,183 comments. In addition, OSMRE has developed and entered into Memoranda of Understanding with three cooperating agencies: the Bureau of Land Management, the Colorado Department of Natural Resources, and Moffat County.

Currently, OSMRE is working with the consultant to review the comments received and review preliminary drafts of the EA with the cooperating agencies. Under the schedule, OSMRE expects to release the EA for public review and comment on or about July 27, 2015.

Respectfully submitted on behalf of Federal Defendants this 26th day of June, 2015,

JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s/ John S. Most
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Counsel for Federal Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing is being filed with the Clerk of the Court using the CM/ECF system, thereby serving it on all parties of record, this 26th day of June, 2015.

/s/ John S. Most
JOHN S. MOST