

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

Civil Action No. 1:14-cv-01452-REB

WILDEARTH GUARDIANS,

Plaintiff,

v.

UNITED STATES BUREAU OF LAND MANAGEMENT, an agency within the U.S.
Department of the Interior;

UNITED STATES OFFICE OF SURFACE MINING RECLAMATION AND
ENFORCEMENT, an agency within the U.S. Department of the Interior;

S.M.R. JEWELL, in her official capacity as U.S. Secretary of the Interior;

Federal Defendants,

BLUE MOUNTAIN ENERGY, INC.,

Intervenor-Defendant.

STIPULATION OF DISMISSAL

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), Plaintiff WildEarth Guardians (“Guardians”), Defendant the United States Bureau of Land Management, the United States Office of Surface Mining, Reclamation and Enforcement, and Sally Jewel in her official capacity as Secretary of the Interior, and Intervenor-Defendant Blue Mountain Energy, Inc., agree and stipulate to dismiss this case with prejudice. All parties will bear their own attorneys’ fees and costs associated with this case. In support of this stipulation, the parties state as follows:

1. This case involves a challenge by Guardians to certain approvals issued by Federal Defendants involving a coal mine owned and operated by Intervenor-Defendant. Guardians challenges the sufficiency of the environmental analyses underlying those approvals under the National Environmental Policy Act, 42 U.S.C. § 4331 *et. seq.*

2. Guardians has been involved in settlement discussions in appeal numbers CAA-1501 and CAA-1502 before the Environmental Appeals Board (“EAB”) relating to U.S. Environmental Protection Agency’s (“EPA’s”) issuance of a Clean Air Act Title V permit to the operator of the Bonanza Power Plant, the plant at issue in all four counts in this action. The parties were hopeful that resolution of the EAB appeals might pave the way to a settlement in this case. To facilitate settlement negotiations in the EAB appeals, without the distraction of ongoing litigation in *this* case, the Court stayed this case on April 7, 2015 and directed the parties to file status reports every 60 days. Dkt. 26.

3. On October 8, 2015 this Court administratively closed this case, subject to reopening for good cause. Dkt. 31.

4. As part of the EAB settlement agreement, Guardians agreed to dismiss this case within 10 days after fulfillment of a specific condition in the EAB settlement agreement. That condition has been fulfilled, therefore dismissal of this case is now appropriate.

Respectfully submitted this 25th day of March 2016.

/s/ Samantha Ruscavage-Barz
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Counsel for Intervenor-Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing STIPULATION OF DISMISSAL was filed in the Court's ECF system on this 25th day of March 2016, and was served on all counsel of record.

/s/ Samantha Ruscavage-Barz