

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

Civil Action No. 1:19-cv-1920

WILDEARTH GUARDIANS, HIGH COUNTRY CONSERVATION ADVOCATES,
CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB, and WILDERNESS
WORKSHOP,

Petitioners,

v.

DAVID L. BERNHARDT, Secretary, United States Department of the Interior, UNITED STATES OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, JOSEPH R. BALASH, Assistant Secretary, Land and Minerals Management, United States Department of the Interior, GLENDA H. OWENS, Acting Director of the United States Office of Surface Mining Reclamation and Enforcement, DAVID BERRY, Regional Director, Western Region Office of the Office of Surface Mining Reclamation and Enforcement,

Federal Respondents,

and

MOUNTAIN COAL COMPANY, LLC,

Intervenor-Respondents.

FEDERAL RESPONDENTS' MOTION FOR VOLUNTARY REMAND

Federal Respondents hereby move for voluntary remand – without vacatur or injunction and without a ruling on the merits – of the decision of the Assistant Secretary of the Interior for Land and Minerals challenged in this case. That decision approved a mining plan modification at the West Elk Mine, as more fully explained in the accompanying memorandum of law. Federal Respondents propose, during remand, to

prepare an environmental assessment under the National Environmental Policy Act (“NEPA”) that examines a new, post-decisional proposal for methane flaring recently submitted by Intervenor Mountain Coal to the Mine Safety and Health Administration, and that reconsiders certain aspects of the Assistant Secretary’s decision in regard to (i) cumulative impacts of the mining plan modification on global climate, and (ii) impacts to water resources. Federal Respondents commit to filing status reports on the progress of this environmental analysis every 30 days from entry of an order granting this motion until the NEPA process is completed.

Respectfully submitted this 30th day of October, 2019.

JEAN E. WILLIAMS
Deputy Assistant Attorney General
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Environment and Natural Resources Div.

/s/ Corinne Snow
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Counsel for Federal Respondents

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2019, a copy of the foregoing notice was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ John S. Most

JOHN S. MOST