

**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, 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.

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**FEDERAL DEFENDANTS' NOTICE OF COMPLIANCE  
WITH THE COURT-APPROVED JOINT PROPOSED REMEDY**

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Federal Defendants hereby give notice of their compliance with the terms of the Joint Proposed Remedy filed with the U.S. District Court for the District of Colorado on September 10, 2015, and approved by that court on September 14, 2015. ECF Nos. 108 and 109 (“Joint Remedy”).

In the Joint Remedy, the Office of Surface Mining Reclamation and Enforcement (“OSMRE”) agreed to conduct a new National Environmental Policy Act (“NEPA”) analysis consistent with the Court’s May 8, 2015 Order (ECF No.78) for Trapper’s 2009 mine plan modification covering two Federal Leases (Nos. C-079641 and C-07519). ECF No. 108 at ¶1. By the terms of the Joint Remedy, this NEPA analysis would be prospective and would “analyze the reasonably foreseeable environmental impacts of currently proposed and future mining activities within Federal Coal Leases C- 079641 and C-07519, as well as the past, present, and reasonably foreseeable impacts of any other actions or activities as may be appropriate or required by NEPA.” *Id.* at ¶2. In addition, the analysis would take the form of an environmental assessment (“EA”) and would be completed on or before April 30, 2016. *Id.* at ¶4. OSMRE also agreed to provide monthly written status reports to the parties of its progress in completing the EA. *Id.* at ¶12.

Now Federal Defendants advise the Court and the parties that, in accord with the terms set forth in the Joint Remedy, OSMRE completed an EA for the Trapper Mine on April 29, 2016. Based on this analysis, aided by ample public participation,<sup>1</sup> the agency signed a Finding of No Significant Impact (“FONSI”) on April 29, 2016. The FONSI concludes that mining operations

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<sup>1</sup> OSMRE published numerous notices in local newspapers announcing the preparation of the EA, held a public scoping meeting, and took public comments on the scope of the EA. The agency received over 4,600 comments during the scoping period. The agency also released the EA and unsigned FONSI for public comment for 39 days. During this period, OSMRE received 1,148 comment letters and emails. For more information about the public participation in this process, please see Chapter 1 and Appendix E of the EA.

under the Trapper mining plan are not expected to have any significant environmental effect and that, as a result, there would be no need for the agency to prepare an environmental impact statement. The EA, FONSI, and related materials will be posted shortly on the following website: <http://www.wrcc.osmre.gov/initiatives/trapperMine.shtm>

Based on these and other documents and analyses, OSMRE recommended that the Assistant Secretary for Lands and Minerals Management approve the mining plan modification. On April 29, 2016, the Assistant Secretary did so. The signed approval decision will be posted shortly on the following website: <http://www.wrcc.osmre.gov/initiatives/trapperMine.shtm>

OSMRE also provided the required monthly status reports to the parties on October 30, 2015; November 30, 2015; December 31, 2015; January 29, 2016; February 29, 2016; March 31, 2016; and today.

Accordingly, Federal Defendants have now complied with the Court-approved Joint Remedy.

Respectfully submitted this 29th day of April, 2016,

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

/s/ John S. Most  
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**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 29th day of April, 2016.

*/s/ John S. Most*

JOHN S. MOST