



THE SECRETARY OF THE INTERIOR
WASHINGTON

JUL 15 2015

The Honorable Scott Tipton
House of Representatives
Washington, DC 20515

Dear Representative Tipton:

Thank you for your letters dated May 21 and June 16, 2015, regarding the potential closure of the Colowyo mine and your letter dated July 9, 2015, cosigned by Senator Gardner and Representative Tipton, regarding our decision not to appeal the Court's recent ruling in the matter of *WildEarth Guardians v. Office of Surface Mining*, but rather to immediately address the National Environmental Policy Act (NEPA) deficiencies identified by the Court. As explained below, we believe this will prove to be the most direct and effective path to address the legal vulnerabilities already identified by the Court while providing the mines at issue certainty and the ability to continue to operate. We are very mindful of the urgency of this matter and are committed to promptly addressing the issues identified by the Court.

The Office of Surface Mining Reclamation and Enforcement (OSMRE) completed its NEPA review of mining plans for the Colowyo and Trapper coal mines in 2007 and 2009, respectively. While coal has been mined under these plans since then, the U.S. District Court in Colorado ruled recently that the OSMRE's NEPA was deficient. The Court granted OSMRE 120 days to revisit its NEPA analysis regarding the Colowyo mine, including its description of the indirect effects of coal combustion. We fully appreciate that it is necessary to comply with this timeline to avoid disruptions to operations at this mine.

While most states with active coal mining now have primacy under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), OSMRE performs the role of making recommendations regarding proposed mining plans under the Mineral Leasing Act (MLA), as amended, before Federal coal can be mined. In this role, OSMRE is obligated to consider the natural resources for future generations. To that end, the most efficient and effective response to the Court's May 8, 2015 order is to conduct the NEPA analysis required by the Court. The wisdom of this approach is bolstered by the fact that on June 29, 2015, the U.S. Court of Appeals for the Tenth Circuit issued an order identifying a "potential jurisdictional defect" in the notices of appeal pending before it. While the Department of the Interior is on schedule to complete the process on time, in the remedy portion of the Court's May 8, 2015 order, paragraph 4, it allowed for the possibility of extending the 120-day deadline upon a showing of very good cause.

The OSMRE is addressing the outstanding NEPA deficiencies for the Colowyo mine and working to meet the timeline issued by the Court. Addressing these issues enables us to ensure that moving forward, we are able to provide the regulatory certainty that is needed by the

operator and the community while upholding our obligations under SMCRA, MLA, NEPA, and other applicable Federal laws.

To that end, we have already held the public outreach meeting and concluded the public outreach comment period which closed June 22, 2015. During the last week of July, we expect to release the preliminary environmental assessment for public comment. The public comment period is expected to close on August 14, 2015. Thereafter, we will review the public comments and make appropriate changes. With this timeline, we remain on schedule to complete the environmental assessment for the Colowyo mine on September 5, 2015.

Finally, this issue highlights the severe resource constraints facing OSMRE, which since 2000, has experienced a 29 percent reduction in staff due to budget cuts. These severe fiscal cuts hamper OSMRE's ability to robustly uphold its many obligations upon which states and local communities rely, and to effectively administer its legal responsibilities. We welcome the opportunity to continue to work together to address all of these concerns.

Sincerely,



Sally Jewell