



Reynolds, Wendy <wreynolds@blm.gov>

Fwd: from today's energywire

1 message

Wilson, Timothy <tjwilson@blm.gov>

To: Wendy Reynolds <wreynolds@blm.gov>

Wed, Jun 3, 2015 at 1:28 PM

----- Forwarded message -----

From: **Maiolo, Jennifer** <jmaiolo@blm.gov>

Date: Wed, Jun 3, 2015 at 11:29 AM

Subject: from today's energywire

To: Kyle Free <kfree@blm.gov>, Kathryn McKinstry <kmckinst@blm.gov>, Timothy Wilson <tjwilson@blm.gov>, Christina Reed <creed@blm.gov>, Kristen Guerriero <kristen.guerriero@sol.doi.gov>, Chad Meister <cmeister@blm.gov>, Sharon Sales <ssales@blm.gov>, Reneta Kawcak <rkawcak@blm.gov>

COAL:**Industry appeals Colo. climate ruling**

Manuel Quiñones, E&E reporter

Published: Wednesday, June 3, 2015

Mining company Colowyo Coal Company LP is appealing a federal court ruling that could have a significant impact on strip mine permitting on federal land, including how regulators analyze a project's greenhouse gas footprint.

Last month, Colorado U.S. District Judge R. Brooke Jackson said the federal Office of Surface Mining, Reclamation and Enforcement failed to properly study or publicize 2007 mine plan approvals for Colowyo operations.

Jackson decided against halting mining operations and gave OSMRE 120 days to conduct further scrutiny. His ruling also left the door open for timeline extensions if necessary.

However, Colowyo and state leaders worry about the process eventually shutting down mining. The industry and states are worried about the broader repercussions (*Greenwire*, May 19).

States usually approve strip mining permits with limited OSMRE oversight. However, the Surface Mining Control and Reclamation Act requires the federal agency to review mine plans on federal land. Those have occurred with relatively little public scrutiny.

Colowyo is not only appealing to the 10th U.S. Circuit Court of Appeals but asking Jackson to halt his opinion pending the appeals process. Company attorneys with Dorsey & Whitney LLP say the ruling flouted OSMRE regulatory discretion. They also say WildEarth Guardians waited too long to file its lawsuit.

"These errors cause a significant threat of irreparable harm to Colowyo, and both the balance of harms and public interest favor issuance of a stay," said a filing last week.

Similar cases by WildEarth Guardians against OSMRE mine plan approvals are pending in Montana and New Mexico. Also, last year, Jackson scrapped coal mine lease modification, citing improper scrutiny of potential climate impacts.

 --
 Jennifer Maiolo

Ph. 970-826-5077

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
COLORADO STATE OFFICE
2850 YOUNGFIELD STREET
LAKEWOOD, COLORADO 80215-7076

February 3, 1997

Pre-Nepa
did not do Nepa
on grazing permit
renewals

In Reply Refer To:
4100 (CO-933) P

EMS Transmission 02/03/97
Instruction Memorandum No. CO-97-025
Expires: 12/31/97

To: District Managers

From: State Director, Colorado

Subject: Public Rangelands Improvement Act Review Procedures

Instruction Memorandum CO-90-238, dated May 8, 1990, which provided the mechanism and procedures for implementing the subject under Section 8 of the Public Rangeland Improvement Act (PRIA) expired this past year. This instruction memorandum renews the Memorandum of Understanding (MOU) between the Bureau of Land Management and the Colorado Commissioner of Agriculture, and the procedures that will be used in Colorado implementing the process to comply with Section 8 of PRIA.

The MOU commits BLM to advise each and every permittee, lessee, and other involved landowner of the Commissioner's interest in providing assistance and of the opportunity for the same parties to request assistance. Therefore, each office shall mail to each permittee, lessee, and other involved landowners by March 15, 1997, a copy of the MOU along with the Colorado Procedures for Implementation.

If you have any questions, please call Johnny Riel at 303/239-3717.

Signed by
Robert V. Abbey
Acting State Director

Authenticated by
Don Snow
EMS Operator

Attachments

- 1 - Memorandum of Understanding
- 2 - Procedures for Implementation

MEMORANDUM OF UNDERSTANDING

between

THE COLORADO DEPARTMENT OF AGRICULTURE

and

THE BUREAU OF LAND MANAGEMENT

It is the purpose and intent of this Memorandum of Understanding (MOU), to provide for careful and considered consultation, cooperation and coordination between all parties, including signatory, lessees, permittees, and involved landowners in all matters relating to development, review, revision, or termination of allotment management plans (AMPs) on public lands of the United States administered by the Bureau of Land Management (BLM) in the State of Colorado.

This MOU is in furtherance of the policies of the signatories hereto, including: The policies and Laws of the United States, as expressed by Congress in the Federal Land Policy Management Act of 1976 (43 U.S.C. Section 1701 et.seq.); the Public Rangelands Improvement Act of 1978 (P.L. 95-514; 92 Stat, 1803; the regulations of the BLM expressed at 43 CFR 4120.2; and the policies and powers of the Colorado Department of Agriculture as expressed in 35-1-104, C.R.S. Section 8 (d) of P.L. 95-514 provides, among other things, for consultation, cooperation, and coordination by the BLM in the development, review, revision, evaluation, or termination of AMPs with lessees, permittees, and involved landowners, and any state or states having lands within the area to be covered by such AMPs.

It is in the interest of the parties hereto to work cooperatively to promote efficient multiple-use management of the range resources of the BLM within the State of Colorado to benefit the overall public interest, thereby producing healthy, useful ranges, while encouraging a strong land ethic and apply current scientific rangeland management principles.

The purpose of the parties hereto is to work toward; developing AMPs which best meet the objectives of the lessees, permittees, and involved landowners; the direction in achieving objectives of the appropriate BLM resource management plans (RMP); and recognize the benefits and costs associated with multiple use management of the allotment. This MOU provides for the full participation of the lessees, permittees, other involved landowners, the Colorado Department of Agriculture (CDA), appropriate technical personnel, and the ELM.

I The BLM shall:

- A. Advise individual lessees, permittees, and other involved landowners in writing of the CDA interest in providing assistance, and of the opportunity to request such assistance when the BLM begins work on the development, review, revision, or termination of an AMP.
- B. Inform the CDA in a timely manner of the meetings and activities related to the development, review, revision, evaluation, or termination of AMP s that are likely to be controversial in nature.
- C. Be responsive to requests from the CDA, livestock industry, or others for their involvement and participation in such meetings and activities related to the development, revision, evaluation, or termination of AMPs if the lessees, permittees, or involved landowners have asked for their involvement.

II The CDA shall:

- A. Be designated as the lead state contact agency under the terms of this agreement, with responsibility for the collection and dissemination of information from the various sources.

Participate in, and respond to, the requests for advice and consultation in development, review, revision, or termination of AMPs.

- C. Provide upon request available inventory, statistical and research data to the BLM on rangeland management, including but not limited to, data relating to domestilivestock.

- III Any BLM lessee, permittee, or involved landowner in the State of Colorado may request in writing to either party of this MOU the participation of the CDA in the development, revision, review, evaluation, or termination of an AMP, including preplanning, allotment inventory or ecological studies, and rangeland monitoring. Upon receipt of a request for assistance, the parties hereto shall determine the appropriate action needed and the reasonable time frame necessary for implementation of that action with the intent being to provide a timely opportunity for a joint on-site review of the allotment in question by the parties hereto, to facilitate the planning process should the lessee, permittee, or involved landowner request it.

IV It is the express intent of this MOU to foster and encourage dialogue among the BLM, permittees, lessees, and involved landowners. Dialogue and communication is also encouraged with Resource Advisory Councils (RAC), liaison committees of the Colorado Cattlemen's Association (CCA) and the Colorado Wool Growers association (CWGA), state commissioned District

Board of Grazing Advisors, and other local Coordinated Resource Management Planning (CRMP), Ecosystem Partnerships, and Habitat Partnership (HPP) groups using collaborative efforts that commit to an honest attempt in working positively towards solutions to conflicts and problems. The parties to this MOU agree that problems and disputes pertaining to development, revision, review, evaluation, or termination of AMP s are best resolved at the local level. Furthermore, the parties agree that on-going communication among permittees and the BLM will eliminate many disagreements and misunderstandings involving not only AMPS, but all Federal actions regarding grazing management as well.

V Nothing in this MOU shall be construed as limiting or affecting in any way the authority or legal responsibility of the CDA and the BLM; or binding either the CDA or BLM to perform beyond the respective authority of each. Each provision of the MOU is subject to the laws and regulations of the State of Colorado and the laws of the United States.

VI Nothing in this MOU shall be construed as precluding individual permittees, lessees, or involved landowners from: 1) requesting additional participation by the State, other interested parties, or other groups and committees in Section IV above; and/or, 2) immediately invoking other available remedies for review or relief from agency action.

VII Amendments to the MOU may be proposed by either signatory party hereto and shall become effective upon approval by both parties. Signed amendments will be incorporated into and become part of the original agreement.

VIII This MOU shall become effective upon signature by both parties hereto and shall continue in force until terminated by mutual consent; or, by one party to the other giving 60 days written notice of intent to terminate. Additionally, the MOU will be mutually reviewed every 5 years for adequacy, effectiveness, and continuing need, and terminated when no longer required.

IN WITNESS WHEREOF, the parties **have** hereto affixed their signatures this 22nd day of January, 1997.

STATE OF COLORADO
Colorado Department of Agriculture

BY: THOMAS A. KOURLIS
Commissioner of Agriculture

BUREAU OF LAND MANAGEMENT
Colorado State Office

BY: ROBERT V. ABBEY
Acting State Director

PROCEDURE FOR THE IMPLEMENTATION OF
SECTION 8, PUBLIC RANGELANDS IMPROVEMENT ACT OF 1978

Section 8 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514) requires consultation, coordination, and cooperation in the development and execution of allotment management incorporated into grazing permits and leases issued by the Bureau of Land Management (BLM). The Commissioner of Agriculture, on behalf of the Department of Agriculture (CDA), State of Colorado, has entered into agreement with the BLM to carry out the provision of Section 8 of the federal law.

Under the provisions of the agreement, the Commissioner of Agriculture or designee, will act as the facilitator for consultation when it is determined that a dispute pertaining to an allotment management plan cannot be resolved at the local level. At that time, a request for Section 8 consultation may be issued by the BLM office preparing the allotment management plan or by the affected permittees, lessees, and involved landowners. The request must be issued in writing to the local office of the BLM or directly to the CDA, Office of the Commissioner.

It is the stated intent of the signatories to the above mentioned agreement that the best method to resolve problems and disputes regarding allotment management plans is at the local level. It is the intent to foster and encourage dialogue among the BLM, permittees, lessees, and involved landowners. Dialogue and communication is also encouraged with Resource Advisory Councils (RAC), Colorado Cattlemen's Association (CCA) and Colorado Wool Growers Association (CWGA) - Liaison Committees, state sanctioned District Board of Grazing Advisors, local Coordinated Resource Management Planning (CRMP), Ecosystem Partnership, and Habitat Partnership Program (HPP) committees and groups that commit to an honest attempt in working positively towards solutions to conflicts and problems. Furthermore, both parties agree that on-going communication among permittees, lessees, and involved landowners, and the BLM will eliminate many disagreements and misunderstandings involving not only the contents of allotment management plans, but all Federal actions regarding grazing management as well.

HOW TO BEGIN THE PROCESS

1. There should be a preliminary effort to resolve the dispute at the local level. Before seeking action by the Commissioner of Agriculture or designee through the Section 8 process, the permittee, lessee, or involved landowner is requested to;
 - a. consult with the local BLM range conservationist, the Resource Area Manager, and the District Manager;
 - b. consult with a member on the appropriate BLM Resource Advisory Council;
 - c. consult with the local District Board of Grazing Advisors (commissioned by the Colorado Commissioner of Agriculture under the Murphy Act);

d. consult with the appropriate liaison committee established by the CCA or CWGA, and other locally formed and recognized collaborative planning groups such as CRMP, Ecosystem Partnership, Habitat Partnership Program committees;

2. If the dispute has not been resolved through consultations identified in 1 a, b, and c above, the permittee, lessee, or involved landowner is entitled to contact the State Director of BLM, however such action is voluntary.

If it is determined that the dispute cannot be resolved at the local level through consultation with the appropriate BLM staff and managers, or through the local resource management collaboration councils, committees and organizations, the party to the dispute (permittee, lessee, involved landowner or federal agency) has the right to request a formal consultation and recommendation from an objective review team through the Section 8 process. The Section 8 process follows these steps:

a. either the federal agency administering the allotment management plan or the affected party may submit a Section 8 consultation request in writing to either of the following locations: local or state office of the BLM, or the CDA, Office of the Commissioner. The request must ultimately be received by the Office of the Commissioner of Agriculture;

b. the Commissioner of Agriculture will evaluate the request to determine the necessary resources and technical experts to facilitate an on-site visit by an objective review team;

c. an on-site consultation will occur, with an attempt to resolve the dispute at this point; (NOTE: expenses resulting from a Section 8 consultation will be handled on a case-by-case basis. Signatories to the MOU are not obligated to stand costs for the consultation);

d. if the dispute cannot be resolved during the on-site visit, the review team will draft a report and recommendation, forwarding it to the Commissioner of Agriculture, the permittee/lessee/involved landowner, the authorized officer of the local BLM office, and the BLM State Director; the authorized officer of the local office involved with the dispute will review the recommendation and make the final decision.

e. the authorized officer of the local office involved with the dispute will review the recommendation and make the final decision.