

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SOUTHERN UTAH WILDERNESS)	
ALLIANCE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
DIRK KEMPTHORNE, et al.)	Civil Action No. 08-0411 (LFO)
)	
Defendants,)	
)	
and)	
)	
ENDURING RESOURCES, LLC,)	
)	
Defendant-Intervenor.)	

ORDER

Pending are the parties’ cross-motions for summary judgment. The procedural and substantive challenges the Plaintiffs make to the Defendant’s Environmental Assessment are without merit, with one exception: the challenge to the Environmental Assessment’s treatment of the cumulative impacts on ozone pollution. The Environmental Assessment indicates that the Bureau concluded that any examination of the cumulative impacts on ozone pollution would be too costly and time-consuming. However, neither the Assessment itself nor the underlying record provides a rationale for this conclusion. Thus, the Court cannot determine, based on the existing Environmental Assessment, whether the decision not to assess cumulative impacts on ozone pollution was rational. Accordingly, and for the reasons set forth in a memorandum to be filed, it is this 1st day of December, 2008, hereby

ORDERED: that the Defendants’ Cross Motion for Summary Judgment [dkt #36] and the

Defendant-Intervenor's Cross Motion for Summary Judgment [dkt #37] are DENIED; it is further

ORDERED: that this case is REMANDED to the Bureau of Land Management for preparation of a new Environmental Assessment either assessing the cumulative impacts on ozone pollution or providing a reasoned explanation for its decision not to analyze those impacts; it is further

ORDERED: that the Plaintiffs' Motion for Summary Judgment is DENIED AS MOOT [dkt #25]; and it is further

ORDERED: that the Plaintiffs' Motion for Leave to File Documents to Supplement the Record [dkt. #23] and the Defendant-Intervenor's Motion to Supplement the Record [dkt. #29] are GRANTED.

/s/

Louis F. Oberdorfer
UNITED STATES DISTRICT JUDGE