

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 12-cv-0265-WJM

RAGS OVER THE ARKANSAS RIVER, INC.,

Petitioner,

v.

BUREAU OF LAND MANAGEMENT, an agency of the United States,
THE DEPARTMENT OF THE INTERIOR, an agency of the United States,
KEITH E. BERGER, in his official capacity as Field Manager for the Royal Gorge Field
Office of the Bureau of Land Management,
THOMAS HEINLEIN, in his official capacity as District Manager for the Front Range
District of the Bureau of Land Management,
RUTH WELCH, in her official capacity as Colorado State Director of the Bureau of Land
Management,* and
KEVIN "JACK" HAUGRUD, in his official capacity as the Acting Secretary of the
Interior,*

Respondents,

and

OVER THE RIVER CORPORATION,

Intervenor-Respondent.

ORDER DISMISSING ACTION AND VACATING DECISION IN PART

Pursuant to the Order (ECF No. 75) and Mandate (ECF No. 76) of the United States Court of Appeals for the Tenth Circuit, both dated February 6, 2017, and the Joint Status Report of the parties, dated February 21, 2017 (ECF No. 80), the Court hereby **ORDERS** as follows:

1. Given Over the River Corporation's decision not to pursue the project at issue, and the dismissal of the pending appeal as moot, this action is hereby DISMISSED. The Clerk is DIRECTED to terminate this case.
2. Only the portion of the Court's previous Order Affirming Agency Decision, dated January 2, 2015 (ECF No. 68), *Rags Over the Arkansas River, Inc. v. Bureau of Land Management, et al.*, 77 F. Supp. 3d 1038 (D. Colo. 2015), regarding Plaintiff's claims brought under the Federal Land Policy and Management Act of 1976 ("FLPMA") is hereby VACATED, as directed by the Court of Appeals. (See ECF No. 75.)
3. The portion of the same Order regarding Plaintiff's claims brought under the National Environmental Policy Act ("NEPA") is not vacated, since the Court's decision regarding those NEPA claims was not appealed. (See ECF Nos. 75, 80.)
4. Each of the parties shall bear its own costs and attorneys' fees.

Dated this 23rd day of February, 2016.

BY THE COURT:



William J. Martinez
United States District Judge

* Ms. Welch and Mr. Haugrud are automatically substituted as parties, as successors to their respective predecessors in office, previously named as parties to this action, Ms. Hankins and Ms. Jewell. Fed. R. Civ. P. 25(d).