

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

Civil Action No. 12-cv-0589-WJM-KLM

JAMES SWAGGERTY, Derivatively on Behalf of MOLYCORP, INC.,

Plaintiff,

v.

MARK A. SMITH,  
JOHN L. BURBA,  
JOHN F. ASHBURN, JR.,  
JAMES S. ALLEN,  
ROSS R. BHAPPU,  
BRIAN T. DOLAN,  
ALEC MACHIELS,  
MARK S. KRISTOFF,  
CHARLES R. HENRY,  
JACK E. THOMPSON,  
RUSSELL D. BALL,  
RCF MANAGEMENT, LLC.,  
PEGASUS CAPITAL ADVISORS, L.P., and  
MOLYCORP, INC, a Delaware corporation actually named as a Nominal Defendant,

Defendants.

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**ORDER REOPENING CASE AND DIRECTING STATUS REPORT**

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On May 16, 2012, the Court granted Defendants' Motion to Proceed in One Jurisdiction and dismissed the above-captioned action without prejudice and with leave for Plaintiffs to re-file this action in the Delaware Court of Chancery. (ECF No. 42.) Plaintiff appealed. (ECF No. 43.) While the appeal was pending, it appears that the Delaware Court of Chancery granted a stay of the litigation before it. The Tenth Circuit vacated the Court's May 16, 2012 Order and remanded the case to this Court "with

instructions to consider arguments from the parties (including permitted new briefs and oral arguments) concerning the effects, if any, on this litigation of the stay granted by the Delaware Court of Chancery on May 15, 2013 in the action captioned *In re Molycorp, Inc. Shareholder Derivative Litigation*, C.A. No. 7282-VCN.” (ECF No. 48 at 1-2.)

As the Order dismissing this case has been vacated, the Court hereby ORDERS that this action be REOPENED. To assist the Court with determining how to proceed, the parties are ORDERED to file a joint status report that addresses the following:

1. The procedural history of the (apparently now stayed) action pending before the Delaware Court of Chancery;
2. How the parties envision this action proceeding, including the following:
  - a. Does the Defendant anticipate re-filing a motion to dismiss or any other dispositive motion?
  - b. Given the intervening actions of the Delaware court, what venue do the parties believe is the most appropriate?
  - c. What steps should the Court take to resolve this case?

This status report must be filed by September 24, 2013 and shall not exceed 8 pages in length, exclusive of signature blocks and certificates of service.

Dated this 10<sup>th</sup> day of September, 2013.

BY THE COURT:



William J. Martinez  
United States District Judge