

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

ROCK CREEK ALLIANCE; CLARK)	
FORK COALITION; CABINET)	
RESOURCE GROUP; MONTANA)	CV 05-107-M-DWM
WILDERNESS ASSOCIATION;)	CV 08-028-M-DWM
EARTHWORKS; and ALLIANCE)	(consolidated)
FOR THE WILD ROCKIES,)	
)	
Plaintiffs,)	
)	ORDER
)	
vs.)	
)	
UNITED STATES FOREST SERVICE;)	
U.S. DEPARTMENT OF)	
AGRICULTURE; TOM TIDWELL, in his)	
official capacity as Regional Forester for)	
the Northern Region; PAUL BRADFORD,)	
in his official capacity as Forest Supervisor)	
of the Kootenai National Forest; and)	
ED SCHAFER, in his official capacity as)	
Secretary of the U.S. Department of)	
Agriculture,)	

Defendants,)
)
 and,)
)
 REVETT SILVER COMPANY,)
)
 Defendant-Intervenor.)
)
)
 _____)
)
 ROCK CREEK ALLIANCE, CABINET)
 RESOURCE GROUP, SIERRA CLUB,)
 EARTHWORKS, ALLIANCE FOR THE)
 WILD ROCKIES, NATURAL)
 RESOURCES DEFENSE COUNCIL,)
 TROUT UNLIMITED, IDAHO COUNCIL)
 OF TROUT UNLIMITED, PACIFIC)
 RIVERS COUNCIL, and GREAT OLD)
 BROADS FOR WILDERNESS,)
)
 Plaintiffs,)
)
 vs.)
)
 UNITED STATES FISH & WILDLIFE)
 SERVICE,)
)
 Defendant,)
)
 and,)
)
 REVETT SILVER COMPANY,)
)
 Defendant-Intervenor.)
 _____)

The Court hereby issues the following order resolving the pending motions in this matter, with a full opinion to follow:

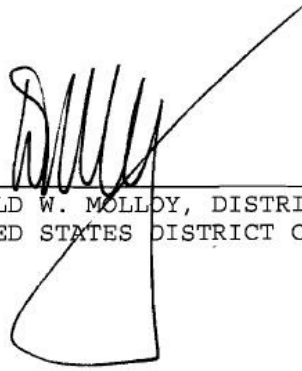
- (1) Plaintiffs' motion for reconsideration (Doc. No. 196) is GRANTED. The docket should reflect that the Olimb Declaration (Doc. No. 86-3) will be considered by the Court.
- (2) Plaintiffs' Clean Water Act claim (Count IV, CV 05-107-M-DWM) is DISMISSED for lack of subject matter jurisdiction.
- (3) The parties' motions for summary judgment (Doc. Nos. 75, 78, 81, 83, and 89) are GRANTED in part and DENIED in part as follows: Plaintiffs' motion (Doc. No. 89) is GRANTED, and the motions filed by Revett (Doc. No. 78) and the Federal Defendants (Doc. No. 75) are DENIED as to the NEPA claim (Count III, CV 05-107-M-DWM) and the Organic Act claim (Count IV, CV 05-107-M-DWM). As to all other claims, the motions filed by Revett (Doc. Nos. 78 and 83) and the Federal Defendants (Doc. No. 75) are GRANTED, and Plaintiffs motions (Doc. Nos. 81 and 89) are DENIED.¹
- (4) Plaintiffs' motion for preliminary injunction (Doc. No. 205) is DENIED as

¹As to Count VI (NFMA) of the lead case (CV 05-107-M-DWM), summary judgment for the Defendants and against Plaintiffs is granted only with respect to the claims based on Fish Strategy standards MM-1 and MM-2. As to MM-3, the claim is DISMISSED subject to renewal upon the Forest Service's inclusion on remand of information sufficient to allow the Court to decide the NFMA claim with respect to standard MM-3.

moot.

- (5) The Forest Service's decision to approve the Rock Creek Mine Project is vacated, and the 2003 Record of Decision and 2001 Final Environmental Impact Statement are set aside and remanded to the Forest Service for further action consistent with the Court's forthcoming opinion.
- (6) Upon filing of the opinion in this case, the Clerk of Court is directed to enter judgment in accordance with this Order and close the case file.

Dated this 29th day of March, 2010.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT