

From: [Burgess, Angela](#)
To: [Runge, Jeff](#)
Cc: [DeBerry, Drue](#)
Subject: Fw: [EXTERNAL] FW: OCTA v. Walsh case (D. Colo.) | Judge Martinez merits decision
Date: Monday, June 22, 2020 12:02:55 PM

Another FYI on R-line. Email includes info from NPPD's attorney on potential next steps. Sounds like we'll try to get our call with DOJ/solicitors on the books before touching base with NPPD.

If they reach out directly to you, could you pass that along to me as well?

Thanks,
Angela

Angela Burgess

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For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: [HQ Briefing Paper Templates](#); Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: [Regional Correspondence Fishnet Site](#)

From: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Sent: Monday, June 22, 2020 10:31 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: FW: [EXTERNAL] FW: OCTA v. Walsh case (D. Colo.) | Judge Martinez merits decision

FYI.

From: McNeil, Bridget (ENRD) <Bridget.McNeil@usdoj.gov>
Sent: Monday, June 22, 2020 10:07 AM
To: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Cc: Izfar, Sarah (ENRD) <Sarah.Izfar@usdoj.gov>
Subject: [EXTERNAL] FW: OCTA v. Walsh case (D. Colo.) | Judge Martinez merits decision

Good morning,

(b) (5)



Thanks!

From: Murray Feldman <MFeldman@hollandhart.com>

Sent: Monday, June 22, 2020 10:04 AM

To: McNeil, Bridget (ENRD) <BMcNeil@ENRD.USDOJ.GOV>; Izfar, Sarah (ENRD) <SIzfar@ENRD.USDOJ.GOV>

Subject: OCTA v. Walsh case (D. Colo.) | Judge Martinez merits decision

Bridget and Sarah:

Now that it's been a few days since the district court's merits decision last week, I wanted to reach out on behalf of NPPD to see if there might be an opportunity to discuss the Federal Defendants' initial thoughts on the decision and any plans or possibilities for next steps, and what the timing and process of those next steps might look like.

I was planning on reaching out to you even before receiving Bill Eubanks' emails of Friday afternoon and this morning. If you are able and interested, it may make sense to have an initial conversation (by phone or even email if brief) before we jointly have the conference call with Petitioners' counsel.

In regard to Mr. Eubanks' email of this morning, I am working on an initial response for NPPD to Mr. Eubanks. Suffice it to say I don't think that the article forwarded by Bill says what his clients may be suggesting, and at any rate a journalist's understanding or attempt to convey what has been learned from an NPPD representative is not necessarily an accurate representation of either NPPD's statements or its intentions. I'm not aware of any NPPD plans to do anything other than safely secure (from an environmental and site security standpoint) any of the non-major or other stipulated construction-related or preparatory activity that occurred during the term of the parties' Stipulation or otherwise. The two main areas here would be securing the substation work so it can be stabilized and suspended, and securing the storage yard sites. I'm unaware of any going-forward plans by NPPD for any further on-the-ground activity at this time (beyond securing those locations where work *had* [past tense] occurred). Also as I currently understand it NPPD is presently developing a list of steps/items that may be needed to secure these sites, but is not actively undertaking those actual steps at this time. I should have more information on these points later today.

In any event, as contemplated by the Stipulation, NPPD may wish to discuss those issues with the parties at some point going forward to see if any further agreement might be reached along the lines of the prior Stipulation. I will copy you on the response to Mr. Eubanks' email of this morning once I have a response to send. As to NPPD's ultimate position and direction following the court's order, a lot there likely depends on FWS's view and thoughts on the next steps too, hence NPPD is waiting to have the chance to confer with FWS, first through counsel here, before making any decisions or commitments about next steps—other than immediately complying with the effect of the court's decision.

Thank you for your consideration and please let me know if there might be an

opportunity to discuss the current status of the situation following the court's decision. I will otherwise hold off on responding to Mr. Eubanks concerning a conference call amongst all the parties' counsel until I hear back from you about any possible initial conversations among counsel for the Federal Defendants and Defendant-Intervenor NPPD here.

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