

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 17-cv-3025-PAB

HIGH COUNTRY CONSERVATION ADVOCATES, et al.,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, et al.,

Federal Defendants, and

MOUNTAIN COAL COMPANY, LLC,

Defendant-Intervenor.

**PLAINTIFFS' MOTION TO EXPEDITE CONSIDERATION OF PLAINTIFFS'
EMERGENCY MOTION TO ENFORCE REMEDY**

Plaintiffs High Country Conservation Advocates et al. (Conservation Groups) respectfully request this Court to expedite consideration of Plaintiffs' Emergency Motion to Enforce Remedy, filed on June 12, 2020, ECF No. 77, and immediately order Mountain Coal Company to cease any additional surface disturbance in the Sunset Roadless Area. This Court may expedite the resolution of a matter if "good cause therefor is shown." 28 U.S.C. § 1657(a). On June 19, Conservation Groups promptly informed the Court that a Cessation Order issued by the Colorado Division of Reclamation, Mining and Safety (DRMS) on June 18 had mitigated the emergency in this case because the order prohibited Mountain Coal Company (Mountain Coal) from engaging in further surface disturbing activities. ECF No. 79. Those mitigating circumstances have changed.

On September 17, DRMS partially modified the Cessation Order with respect to the road that Mountain Coal illegally constructed in the roadless area after the Tenth Circuit mandate but before this Court's order vacating the Roadless Rule Exception. Modification of Cessation Order, attached as Ex. 1. DRMS took this action in response to a letter that MCC requested from the Forest Service confirming the Forest Service's position that use of and construction related to the already constructed road is permitted. As a result of the modification of the Cessation Order, Mountain Coal may immediately utilize the illegally constructed road, cut trees for additional drill pad construction, and drill methane ventilation boreholes on illegally constructed drill pads. Mountain Coal previously bulldozed the entire illegal road (nearly 4,000 feet) within two days and constructed a total of one acre of drill pads within four days, and therefore immediate action by this Court is necessary to prevent further irreparable harm. *See* Decl. of Weston Norris ¶¶ 6–7, ECF No. 84.1; Decl. of Sally Jane Pargiter ¶¶ 5–6, ECF No. 77.3; Decl. of Brett A. Henderson ¶¶ 7–11, ECF No. 89.4; Decl. of Matt Reed ¶¶ 8–10, ECF No. 89.5. This imminent destruction establishes good cause to expedite a ruling on Plaintiffs' Emergency Motion to Enforce Remedy.

Counsel for Conservation Groups conferred with counsel for Federal Defendants and Mountain Coal. Federal Defendants take no position on the motion to expedite, but reserve the option to file a response upon reviewing the pleadings. Mountain Coal takes no position on the motion, but will file a short response to provide updated permitting and construction information. Mountain Coal will not undertake any new surface disturbance prior to the submission of its response.

Respectfully submitted September 18, 2020,

/s/ Robin Cooley

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Attorneys for Plaintiffs High Country Conservation Advocates, et al.

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2020, I filed the foregoing **PLAINTIFFS' MOTION TO EXPEDITE CONSIDERATION OF PLAINTIFFS' EMERGENCY MOTION TO ENFORCE REMEDY** with the Court's electronic filing system, thereby generating service upon the following parties of record:

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