

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SOUTHERN UTAH WILDERNESS

ALLIANCE, *et al.*,

Plaintiffs,

v.

DAVID BERNHARDT, *et al.*,

Defendants.

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Civil Action No.: 20-3654 (RC)

Re Document Nos.: 9, 17

ORDER

This matter comes before the Court on Plaintiffs’ motion for temporary restraining order, ECF No. 9. Upon consideration of the parties’ briefing and arguments made during today’s hearing, the Court will temporarily enjoin ground disturbing work to preserve its jurisdiction and the parties’ interests. The Court agrees with Defendants’ and Intervening Defendant Pure Helium, LLC’s (“Pure Helium”)¹ argument that Plaintiffs’ motion addresses an agency decision that has not yet occurred and, as such, there has not yet been final agency action subject to judicial review. *See* Pure Helium’s Mem. Opp’n to Mot. TRO at 10–11, ECF No. 19; Defs.’ Mem. Opp’n to Mot. TRO at 14–16, ECF No. 20. Nevertheless, pursuant to the All Writs Act, 28 U.S.C. § 1651, the Court believes it is appropriate to grant temporary relief to preserve the parties’ interests and this Court’s jurisdiction over claims that will become ripe and then moot nearly simultaneously absent a temporary injunction. *See Astrazeneca Pharmaceuticals LP v. Burwell*, 197 F. Supp. 3d 53, 55–60 (D.D.C. 2016) (outlining schedule to preserve parties’ interests under All Writs Act where “the window for [judicial] review is not only small, but more

¹ For the reasons stated on the record, and because no party objects, the Court grants Pure Helium, LLC’s motion to intervene as of right.

or less instantaneous[] with the FDA’s issuance of its decision” (internal quotation marks omitted)); *Trump v. Committee on Ways and Means*, 415 F. Supp. 3d 38, 50 (D.D.C. 2019) (“[T]he Court believes it is appropriate to fashion limited relief under the All Writs Act that will prevent Mr. Trump’s claims from becoming ripe and then moot almost instantaneously without notice to him or the Court.”). Defendants and Pure Helium indicated that after the Bureau of Land Management (“BLM”) issues its decision on the Twin Bridges Bowknot Helium Project, which is expected to happen on December 23, 2020, ground disturbing work would begin almost immediately. Pure Helium stated that the initial roadwork would be completed within a week. As such, the Court has crafted an expedited schedule to allow for Plaintiffs to file a supplemental complaint, a renewed motion for injunctive relief, and for a further hearing once BLM issues its decision. This expedited schedule will preserve the Court’s jurisdiction and allow the parties to litigate all the disputed issues. Accordingly, pursuant to the Court’s authority under the All Writs Act, is it hereby:

ORDERED that after BLM issues its decision on the Twin Bridges Bowknot Helium Project on December 23, 2020, Defendants shall file the authorization papers on the docket; and it is

FURTHER ORDERED that Plaintiffs shall be granted leave to file a supplemental complaint and renewed motion for temporary restraining order or motion for preliminary injunction on or before December 30, 2020; and it is

FURTHER ORDERED that Defendants and Pure Helium shall file their responses on or before January 4, 2021; and it is

FURTHER ORDERED that the parties shall appear before the Court by video for oral argument on January 6, 2021 at 2:00 P.M., instructions for joining the video conference will be sent by email; and it is

FURTHER ORDERED that Defendants and Pure Helium are **ENJOINED** from performing any ground disturbing activity with respect to the Twin Bridges Bowknot Helium Project pursuant to any authorization issued by BLM pending the hearing on January 6, 2021 and this Court's subsequent decision.

It is **FURTHER ORDERED** that Pure Helium's motion to intervene (ECF No. 17) is **GRANTED**.

SO ORDERED.

Dated: December 22, 2020

RUDOLPH CONTRERAS
United States District Judge