

1 GREGORY C. LOARIE (CA Bar No. 215859)
2 gloarie@earthjustice.org
3 KATRINA A. TOMAS (CA Bar No. 329803)
4 ktomas@earthjustice.org
5 EARTHJUSTICE
6 1 Sansome Street, Suite 1700
7 San Francisco, California 94104
8 T: (415) 217-2000 • F: (415) 217-2040

9 GABRIEL F. GREIF (CA Bar No. 341537)
10 ggreif@earthjustice.org
11 EARTHJUSTICE
12 707 Wilshire Blvd., Ste. 4300
13 Los Angeles, CA 90017
14 T: (415) 217-2000 • F: (415) 217-2040

15 *Counsel for Plaintiff*

16 **IN THE UNITED STATES DISTRICT COURT FOR THE**
17 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

18 NATIONAL PARKS CONSERVATION)
19 ASSOCIATION,)
20)
21 Plaintiff,)
22)
23 v.)
24 U.S. DEPARTMENT OF THE INTERIOR,)
25 *et al.*,)
26)
27 Defendants.)
28)

No.: 2:26-cv-4002-CAS-AS

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION**

Date: July 27, 2026

Time: 10:00 AM

Judge: Hon. Christina A. Snyder

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28

1 **INTRODUCTION**

2 Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiff National Parks
3 Conservation Association (NPCA) moves for a preliminary injunction to maintain the
4 status quo and prevent irreparable harm to Mojave National Preserve while this case is
5 adjudicated. Specifically, NPCA asks the Court to enjoin the federal defendants
6 (collectively, the Park Service) (1) to set aside their April 2025 determination that
7 allowed new mining operations to proceed at the Colosseum Mine in Mojave National
8 Preserve, (2) to halt and prohibit further operations at Colosseum pending the
9 resolution of this case, and (3) to monitor and enforce public access rights along
10 Colosseum Road leading to and past Colosseum Mine.

11 A preliminary injunction is warranted. First, NPCA is likely to succeed on the
12 merits. While the Park Service has yet to lodge the administrative record, documents
13 produced by the Park Service under the Freedom of Information Act or otherwise
14 made available to the public establish that the Park Service’s decision to reverse
15 course and green-light operations at Colosseum Mine violated the Mining in the Parks
16 Act, 54 U.S.C. §§ 100731–100737, and is arbitrary and capricious. Second, a
17 preliminary injunction is necessary to prevent further irreparable harm to the
18 environment and the public, as the mine operator has recently begun significant road
19 widening, bulldozing of vegetation, grading and development at Colosseum and has
20 obstructed public access within Mojave National Preserve. Third, the equities tip
21 sharply in favor of a preliminary injunction to maintain the status quo and preserve the
22 Court’s ability to craft an appropriate remedy after full briefing and consideration of
23 the merits.

24 **BACKGROUND**

25 NPCA filed this action on April 15, 2026, challenging the Park Service’s
26 decision to allow new mining at Colosseum Mine within Mojave National Preserve in
27 southeastern California. Pl.’s Compl. for Declaratory and Injunctive Relief (Compl.),
28 Dkt. No. 1. For purposes of this motion, the relevant facts leading up to the decision at

1 issue are set forth in official government documents and are beyond reasonable
2 dispute. In 1985, the U.S. Bureau of Land Management (BLM) approved a “plan of
3 operations” for the Colosseum Mine (1985 Plan) pursuant to the Federal Land Policy
4 and Management Act and the National Environmental Policy Act. Decl. of Chance
5 Wilcox (Wilcox Decl.), Ex. A at 179–185. BLM’s 1985 Plan permitted Colosseum’s
6 then-owner, Amselco Exploration, Inc., to construct an open-pit gold mining operation
7 on what was then federal public land under BLM’s jurisdiction. Wilcox Decl., Ex. A.
8 at 179, 205. The 1985 Plan specified the life of the project would be 11 to 12 years,
9 with two years for construction, nine years for gold mining, and one year for
10 “reclamation” of land disturbed by mining activities to stable and environmentally
11 safe conditions. Wilcox Decl., Ex. A at 179.; *see also* 43 C.F.R. § 3809.5 (2000)
12 (BLM regulations defining reclamation). Following reclamation, the 1985 Plan
13 anticipated the Colosseum Mine site would be used for recreation and wildlife habitat.
14 Wilcox Decl., Ex. A at 47–49, 184.

15 As contemplated by BLM’s 1985 Plan, mining operations at Colosseum ended
16 in 1993, and the mine went into reclamation. Wilcox Decl., Ex. B at 225. One year
17 later, Congress enacted the California Desert Protection Act of 1994 (CDPA), Pub. L.
18 No. 103-433, 108 Stat. 4471 (1994) (codified at 16 U.S.C. §§ 410aaa–410aaa-91),
19 which fundamentally changed the legal landscape at Colosseum Mine. Declaring that
20 “the federally owned desert lands of southern California constitute a public wildland
21 resource of extraordinary and inestimable value,” the CDPA established Mojave
22 National Preserve and transferred management of the federal public land where
23 Colosseum Mine is located from BLM to the National Park Service. Pub. L. No. 103-
24 433, § 2(a)(1), 108 Stat. 4471 (1994); 16 U.S.C. § 410aaa-43. Subject to valid existing
25 rights, the CDPA prohibits new mining within Mojave National Preserve. *Id.*
26 § 410aaa-47. The CDPA also confirms that any mining within the Preserve is subject
27 to the Mining in the Parks Act. *Id.* § 410aaa-48. As a result, preexisting mines within
28 the Preserve are subject to regulations promulgated by the Park Service under the

1 Mining in the Parks Act, which provide that “[n]o operations shall be conducted
2 within any [National Park System] unit until a plan of operations has been submitted
3 by the operator to the Superintendent and approved by the Regional Director.” 36
4 C.F.R. § 9.9(a) (1977).

5 Following the transfer of jurisdiction over Colosseum’s land from BLM to the
6 National Park Service, on July 14, 1995, the Park Service issued a letter granting a
7 “temporary approval” to the then-owners of Colosseum Mine to complete reclamation
8 activities in accordance with BLM’s 1985 Plan. Wilcox Decl., Ex. C at 238–239. The
9 1995 letter limited the temporary authorization to only the reclamation phase of
10 operations, which the Park Service confirmed was “nearing . . . completion,” and
11 required submission of a new proposed plan of operations before initiating the final,
12 post-reclamation monitoring phase. Wilcox Decl., Ex. C at 238.

13 In 2021, Dateline Resources Ltd (Dateline), an Australian mining enterprise
14 operating through its subsidiary Colosseum Rare Metals, Inc., acquired Colosseum
15 Mine. *See* Wilcox Decl., Ex. D at 241. In 2022, Mojave National Preserve rangers
16 discovered that Dateline had brought diamond core drilling equipment onto the site.
17 Wilcox Decl., Ex. D at 241. Preserve rangers warned Dateline’s contractors that “no
18 activities could be conducted on Mojave National Preserve” without Park Service
19 authorization. Wilcox Decl., Ex. D at 241. Despite these warnings, on May 13, 2022,
20 Park Service discovered active, unpermitted maintenance along six miles of Park
21 Service and BLM land, including off-road use of heavy earthmoving equipment that
22 caused extensive vegetation damage. Wilcox Decl., Ex. D at 242.

23 In a June 6, 2022 letter following these events, the then-Superintendent of
24 Mojave National Preserve ordered Dateline to “cease and desist activities in [the
25 Preserve] until . . . [a] plan of operations has been approved by the [Park Service].”
26 Wilcox Decl., Ex. D at 242. The Superintendent also directed Dateline to obtain a
27 special use permit for limited access needed to meet reclamation obligations. Wilcox
28 Decl., Ex. D at 242. Dateline’s violations continued, however, and on February 8,

1 2023, the Park Service rescinded the temporary authorization it had granted in 1995 to
2 complete reclamation. Wilcox Decl., Ex. E at 246. Again, the Park Service ordered
3 Dateline to “immediately cease and desist any other activities within the boundaries of
4 Mojave National Preserve” pending approval of a plan of operations. Wilcox Decl.,
5 Ex. E at 246.

6 Dateline did not cease operations at Colosseum, prompting the Park Service to
7 send Dateline another letter on June 9, 2023, detailing the federal laws and regulations
8 governing mining in Mojave National Preserve and directing Dateline to submit a plan
9 of operations covering any proposed new operations at Colosseum. Wilcox Decl., Ex.
10 C at 230–235. Pending compliance with the law, the Park Service again ordered
11 Dateline to “cease its current operations and remove its equipment from [the
12 Preserve],” warning that continued unapproved operations would constitute
13 “trespass.” Wilcox Decl., Ex. C at 234.

14 In April 2025, shortly after the change in presidential administrations, the Park
15 Service abruptly reversed course and announced the decision at issue in this case.
16 Wilcox Decl., Exs. F, G, H. On April 3, 2025, the Park Service sent a letter to
17 Dateline that purports to recognize Dateline’s “valid existing rights” and states that the
18 Park Service would only require a new plan of operations “for a new mining operation
19 not encompassed within the existing, approved plan [of operations].” Wilcox Decl.,
20 Ex. F. The Park Service’s April 3, 2025 letter states that it “supersedes and replaces
21 any other letter or communication” regarding Colosseum Mine and renders any
22 contrary Park Service communications “invalid and of no force or effect.” Wilcox
23 Decl., Ex. F. BLM followed suit, issuing a press release on April 8, 2025, stating that
24 the “Department of Interior today recognized the Colosseum Mine in California can
25 continue mining operations under its existing mine plan of operations with the Bureau
26 of Land Management.” Wilcox Decl., Ex. G at 250. The Superintendent of Mojave
27 National Preserve also reiterated this new decision in a letter to Dateline on April 14,
28

1 2025, affirming that “the plan of operations approved by BLM remains in effect.”
2 Wilcox Decl., Ex. H.

3 Following the April 2025 Decision, Dateline undertook relatively limited
4 activities at Colosseum, and it was unclear whether Dateline had the financial backing
5 to reopen the mine. Wilcox Decl. ¶¶ 16–17. In July 2025, NPCA employees visited
6 Colosseum Mine and confirmed limited activities and impacts to Mojave National
7 Preserve. Wilcox Decl. ¶ 16. Specifically, NPCA employees did not notice any new
8 road or construction work at the site as compared to prior visits before the April 2025
9 Decision. Wilcox Decl. ¶ 16.

10 In March 2026, NPCA employees visited Colosseum again and discovered that
11 Dateline had begun grading and widening the access road significantly. Wilcox Decl.
12 ¶¶ 19–20. Dateline had erected a berm along the side of the road, with piles of earth
13 and vegetation approximately six feet high. Wilcox Decl. ¶ 19. New, smaller roads
14 had also been carved into the mountain, and NPCA employees observed a large,
15 flattened area of earth along the road where there once was dense vegetation. Wilcox
16 Decl. ¶ 19.

17 NPCA filed this lawsuit in April 2026, challenging the Park Service’s
18 authorization of renewed mining operations at Colosseum under the Mining in the
19 Parks Act, the California Desert Protection Act, and the National Environmental
20 Policy Act. Compl. ¶¶ 75–96, Dkt. No. 1. In May 2026, NPCA employees visited
21 Colosseum yet again hoping to continue monitoring activity at the mine and damage
22 to Preserve lands. Wilcox Decl. ¶¶ 21–22. This time, however, the public access road
23 through Mojave National Preserve to Colosseum had been blocked. Wilcox Decl.
24 ¶¶ 21–22. Two large, concrete barricades flanked the road, featuring a red STOP sign,
25 as well as a sign requiring personal protective equipment to be worn on-site and
26 another sign stating “DANGER-NO ENTRY.” Wilcox Decl. ¶¶ 21–22.

1 **LEGAL STANDARD**

2 NPCA requests that this Court issue a preliminary injunction to prohibit
3 implementation of challenged approvals of mining operations at Colosseum until
4 NPCA’s claims can be adjudicated. The purpose of a preliminary injunction is to
5 preserve the status quo of the parties and prevent irreparable loss before judgment can
6 issue. *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1234 (9th Cir. 1999). To obtain a
7 preliminary injunction, a plaintiff must demonstrate (1) a likelihood of success on the
8 merits; (2) that it is likely to suffer irreparable harm in the absence of injunctive relief;
9 (3) that the balance of equities favors an injunction; and (4) that the injunction is in the
10 public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). NPCA
11 meets all these requirements.

12 **ARGUMENT**

13 **I. NPCA Is Likely to Succeed on the Merits of Its Claim that the Park**
14 **Service’s April 2025 Decision to Approve Colosseum Violated the Mining**
15 **in the Parks Act and Is Arbitrary and Capricious.**

16 A plaintiff need only show a likelihood of success on one claim for the
17 preliminary injunction to be awarded. *See S. Fork Band Council of W. Shoshone of*
18 *Nev. v. U.S. Dep’t of Interior*, 588 F.3d 718, 728 (9th Cir. 2009). Here, NPCA is
19 likely to succeed on its first cause of action that the Park Service has violated the
20 Mining in the Parks Act. Compl. ¶¶ 75–84, Dkt. No. 1. Specifically, the Park Service
21 reversed course and authorized Dateline to proceed with operations at Colosseum
22 without a valid plan of operations and without any rational explanation.

23 **A. NPCA Has Standing, and This Court Has Jurisdiction to Review the**
24 **Park Service’s April 2025 Decision Under the Administrative**
25 **Procedure Act.**

26 As an initial matter, this Court has jurisdiction to review the Park Service’s
27 April 2025 Decision to reverse course and approve new mining at Colosseum.
28 Declarations filed in support of this motion demonstrate that NPCA’s members satisfy

1 Article III’s injury, causation, and redressability requirements. *See* Wilcox Decl. ¶¶
2 10–13, 23–25; Decl. of James André (André Decl.) ¶¶ 11–13, 19; *Massachusetts v.*
3 *Env’t. Prot. Agency*, 549 U.S. 497, 517 (2007) (describing the elements of Article III
4 standing). Further, the interests at stake are germane to NPCA’s purposes as a
5 conservation organization dedicated to protecting Mojave National Preserve and
6 neighboring public lands. Wilcox Decl. ¶¶ 2–9. Therefore, participation of NPCA’s
7 individual members is not necessary, and NPCA has Article III standing to bring this
8 suit. *See Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977).

9 Moreover, the Park Service’s April 2025 Decision authorizing Dateline to
10 proceed with renewed operations at Colosseum Mine constitutes “final agency action
11 for which there is no other adequate remedy in a court[.]” making it subject to judicial
12 review by this Court under the Administrative Procedure Act (APA). 5 U.S.C. § 704.

13 First, the Park Service’s decision qualifies as “agency action” for purposes of
14 the APA. The APA defines the term “agency action” to include “the whole or a part of
15 an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or
16 failure to act[.]” 5 U.S.C. § 551(13). The term “relief” is further defined to include
17 “recognition of a claim, right, immunity, privilege, exemption, or exception[.]” *Id.*
18 § 551(11)(B). And “rule” encompasses “the whole or a part of an agency statement of
19 general or particular applicability and future effect designed to implement, interpret,
20 or prescribe law or policy or describing the organization, procedure, or practice
21 requirements of an agency[.]” *Id.* § 551(4). Here, the April 2025 Decision constitutes
22 both the “recognition of a . . . right,” and a “statement of . . . particular applicability
23 and future effect,” because it recognizes Dateline’s “valid existing rights” and
24 confirms that the “plan of operations approved by BLM remains in effect.” *Id.* §§
25 551(4), (11)(B); Wilcox Decl., Exs. F, G, H.

26 The April 2025 Decision is also a “final” agency action reviewable under the
27 APA. In *Bennett v. Spear*, the Supreme Court clarified two conditions that must be
28 satisfied for agency action to be considered “final” for purposes of the APA: “First,

1 the action must mark the ‘consummation’ of the agency’s decisionmaking process—it
2 must not be of a merely tentative or interlocutory nature. And second, the action must
3 be one by which ‘rights or obligations have been determined’ or from which ‘legal
4 consequences will flow[.]’” 520 U.S. 154, 177–78 (1997) (citations omitted). In this
5 analysis, “courts consider whether the practical effects of an agency’s decision make it
6 a final agency action, regardless of how it is labeled.” *Columbia Riverkeeper v. U.S.*
7 *Coast Guard*, 761 F.3d 1084, 1094–95 (9th Cir. 2014).

8 The Park Service’s April 2025 Decision satisfies *Bennett*. It reverses decades of
9 prior agency positioning and asserts that Dateline may begin operations without
10 further permits or deliberation, thereby marking the consummation of the Park
11 Service’s decision-making process. *See S.F. Herring Ass’n v. Dep’t of the Interior*,
12 946 F.3d 564, 578 (9th Cir. 2019) (finding agency decision met first *Bennett*
13 requirement where agency arrived at a definitive position regarding its jurisdiction).
14 The April 2025 Decision employs unequivocal language, stating explicitly that the
15 Park Service “does not require . . . further approval of exploration.” Wilcox Decl.,
16 Ex. F. This April 2025 Decision amounts to the agency’s final word as to renewed
17 mining operations at Colosseum. *Id.* (“Any statement or communication from . . . the
18 NPS to the contrary . . . are invalid and of no force or effect.”). As further
19 confirmation, in May 2025 President Trump highlighted the Decision in his official
20 Truth Social weekly update stating: “The Colosseum Mine . . . has been approved
21 after years of stalled permitting.” Wilcox Decl., Ex. I.

22 The April 2025 Decision also transmits a decision from which legal
23 consequences flow and rights are determined. “Courts have consistently interpreted
24 *Bennett* to provide several avenues for meeting the second finality requirement.” *Or.*
25 *Nat. Desert Ass’n v. U.S. Forest Serv.*, 465 F.3d 977, 986 (9th Cir. 2006). According
26 to the Ninth Circuit, “the general rule is that administrative orders are not final and
27 reviewable ‘unless and until they impose an obligation, deny a right, or fix *some* legal
28 relationship as a consummation of the administrative process.’” *Id.* at 986–87

1 (alteration and emphasis in original) (citation omitted). Here, the Park Service’s April
2 2025 Decision fixed a legal relationship between the Park Service and Dateline by
3 confirming the Park Service’s official position that BLM’s 1985 Plan is valid and
4 legally sufficient. The April 2025 Decision had the further legal consequence of
5 suspending the Park Service’s determinations between 1995 and 2023 in which the
6 Park Service found that it must approve a new plan of operations before any further
7 operations at Colosseum may legally commence. *See* Wilcox Decl., Ex. C. Following
8 the April 2025 Decision, Dateline now has all the legal assurances necessary to begin
9 operations at Colosseum without being liable for trespass on Park Service land and
10 without adhering to the procedural requirements of the Mining in the Parks Act, the
11 California Desert Protection Act, or the National Environmental Policy Act. The Park
12 Service’s determination is therefore “one by which rights . . . have been determined”
13 and “from which legal consequences will flow[.]” *Bennett*, 520 U.S. at 178 (citation
14 and internal quotation marks omitted).

15 In short, this Court has jurisdiction to review the Park Service’s April 2025
16 Decision in accordance with the APA.

17 **B. The Park Service’s April 2025 Decision Wrongly Concludes that**
18 **New Operations at Colosseum May Proceed Under BLM’s 1985 Plan**
19 **of Operations.**

20 The APA provides that courts must “hold unlawful and set aside agency action,
21 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion,
22 or otherwise not in accordance with law[.]” 5 U.S.C. § 706(2)(A). Here, the Park
23 Service’s April 2025 Decision authorizing Dateline to proceed with operations at
24 Colosseum Mine is not in accordance with the Mining in the Parks Act.

25 Exercising its delegated authority under the Mining in the Parks Act, 54 U.S.C.
26 § 100732, the Park Service has promulgated regulations that make clear “[n]o
27 operations shall be conducted within any [National Park System] unit until a plan of
28 operations has been submitted by the operator to the Superintendent and approved by

1 the Regional Director.” 36 C.F.R. § 9.9(a) (1977). The regulations also confirm “[a]ll
2 operations within any [National Park System] unit shall be conducted in accordance
3 with an approved plan of operations[,]” *id.*, and they contain no exemption for prior
4 approvals issued by other agencies or for plans of operations approved decades earlier
5 for materially different activities. The regulations define “operations” to include
6 exploration, surveying, development, extraction work, and construction or use of
7 roads on National Park System lands. *Id.* § 9.2(b) (1977).

8 In this case, the Park Service has never received or approved a plan of
9 operations for extraction or exploration at Colosseum Mine, in violation of 36 C.F.R.
10 section 9.9. As discussed previously, BLM approved a 12-year plan of operations for
11 Colosseum in 1985 consistent with BLM’s authority and responsibilities under the
12 Federal Land Policy and Management Act. 43 C.F.R. § 3809.11(a) (1980). But by
13 1994, when the California Desert Protection Act established Mojave National
14 Preserve and transferred management authority over Colosseum to the Park Service,
15 mining under BLM’s 1985 Plan had ended and Colosseum was in the final stages of
16 reclamation. Wilcox Decl., Exs. B, C. The 1985 Plan did not encompass or
17 contemplate further mining at Colosseum. Indeed, the terms of the 1985 Plan specified
18 that it would remain effective for, at most, 12 years from commencement of mining
19 operations, which began in 1987. Wilcox Decl., Ex. A at 179. BLM’s 1985 Plan also
20 acknowledged that an additional amendment would be required to pursue underground
21 mining operations after pit mining concluded, and that “no extended periods of
22 nonoperation are contemplated” within the scope of the plan. Wilcox Decl., Ex. A at
23 49, 99, 127. When Dateline acquired the mine in 2021, pit mining had concluded and
24 extraction operations at Colosseum had not occurred for nearly 30 years. Wilcox
25 Decl., Ex. B at 225 (2023 inspection noting the status of mine operations as “[c]losed
26 with no intent to resume” since June 30, 1993). In short, the Park Service cannot rely
27 on BLM’s 1985 Plan to satisfy its obligations under the Mining in the Parks Act.
28

1 Nor can the Park Service legally rely on the temporary authorization to
2 complete reclamation at Colosseum that the Park Service granted in 1995 before
3 rescinding in 2022. *See Wilcox Decl.*, Ex. E at 246. The Park Service’s 1995
4 temporary authorization was expressly limited to reclamation, and the Park Service
5 made clear in its temporary authorization that the authorization did not permit any
6 mining operations. *Wilcox Decl.*, Ex. C at 238–239. Rather, it explicitly stated that the
7 agency “will require a new proposed plan of operations” before initiating the
8 monitoring phase of operations. *Wilcox Decl.*, Ex. C at 239. The Park Service
9 confirmed this understanding in a June 2023 letter to Dateline, explaining that
10 temporary authorization did not authorize production or exploratory work under the
11 1985 Plan; it did not make the BLM-approved plan valid in perpetuity, authorize
12 operations beyond reclamation, or allow Dateline to bypass Park Service laws and
13 regulations. *Wilcox Decl.*, Ex. C at 230–235. The Park Service made clear that a new
14 plan of operations would be required for any further activity beyond the scope of the
15 original reclamation plan. *Wilcox Decl.*, Ex. C at 230. The Park Service’s 1995
16 temporary authorization is therefore consistent with the Mining in the Parks Act
17 implementing regulations, which allow the Park Service, “[p]ending approval of the
18 plan of operations,” to authorize the temporary continuation of existing operations
19 solely to enable compliance with applicable laws and regulations. 36 C.F.R. § 9.10(g)
20 (1977).

21 A temporary authorization under section 9.10(g) cannot substitute for, or
22 eliminate, the requirement to submit and obtain approval of a plan of operations under
23 36 C.F.R. section 9.9. *See N. Alaska Env’t Ctr. v. Hodel*, 803 F.2d 466, 470 (9th Cir.
24 1986) (concluding that the Park Service cannot use the temporary authorization
25 provision to approve a plan of operations). The Park Service acknowledged as much
26 in a February 2023 letter to Dateline, where the agency revoked the 1995 temporary
27 authorization due to unpermitted exploratory underground drilling, grading, and
28 roadwork on Mojave National Preserve lands. *Wilcox Decl.*, Ex. E at 245. After

1 February 2023, there was neither temporary authorization to continue reclamation at
2 Colosseum, nor a valid plan of operations for any further mining operations.

3 The Park Service’s newfound conclusion in April 2025 that Dateline may
4 resume mining operations at Colosseum without a new plan of operations is also
5 arbitrary and capricious in violation of the APA, because it reverses prior Park Service
6 findings without a reasoned explanation. Between 1995 and 2023, the Park Service
7 found repeatedly that neither its 1995 temporary authorization nor the BLM-approved
8 1985 Plan would encompass renewed mining at Colosseum and that the Park Service
9 could not authorize operations at Colosseum without a new plan of operations. *See,*
10 *e.g., Wilcox Decl., Exs. C, D, E.* In April 2025, shortly after the change in presidential
11 administrations, the Park Service arbitrarily reversed course without explanation,
12 authorizing the reopening of Colosseum without a valid plan of operations or
13 necessary permits and approvals. *Wilcox Decl., Exs. F, G, H.*

14 Against this backdrop, the Park Service’s unexplained reversal of position
15 violates the APA. Agency action is arbitrary and capricious where the agency fails to
16 “examine the relevant data and articulate a satisfactory explanation for its action
17 including a rational connection between the facts found and the choice made.” *Motor*
18 *Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)
19 (citation and internal quotation marks omitted). In addition, “the APA requires an
20 agency to provide more substantial justification when its new policy rests upon factual
21 findings that contradict those which underlay its prior policy[.]” *Perez v. Mortg.*
22 *Bankers Ass’n*, 575 U.S. 92, 106 (2015) (citation and internal quotation marks
23 omitted). In other words, an agency may not simply disregard or contradict its earlier
24 factual determinations without acknowledging and explaining that change.

25 Here, the Park Service’s April 2025 Decision does not grapple with its prior
26 findings that Dateline’s mining operations fell outside the scope of the Park Service’s
27 approvals or the prior 1985 Plan for Colosseum. The Park Service’s April 2025
28 Decision also does not explain why its prior conclusions of law and fact were

1 incorrect, nor does it provide a reasoned basis for resuscitating an expired
2 authorization granted by BLM long before Mojave National Preserve existed. By
3 failing to articulate a satisfactory explanation for their new position, the Park Service
4 has violated the APA. *See Nat'l Cable & Telecomms. Ass'n v. Brand X Internet*
5 *Servs.*, 545 U.S. 967, 981 (2005) (“Unexplained inconsistency [between agency
6 actions] is . . . a reason for holding an interpretation to be an arbitrary and capricious
7 change[.]”). Indeed, the Ninth Circuit has invalidated similar post-election policy
8 reversals where the agency discarded prior factual findings without a reasoned
9 explanation. *See, e.g., Organized Village of Kake v. U.S. Dep't of Agric.*, 795 F.3d
10 956, 968 (9th Cir. 2015) (finding agency’s contradictory policy change, absent
11 justification or explanation, was arbitrary and capricious).

12 In short, NPCA is likely to succeed on the merits of its first cause of action
13 because the Park Service’s decision in April 2025 to reverse course and approve new
14 mining at Colosseum violated the Mining in the Parks Act and is arbitrary and
15 capricious.

16 **II. Injunctive Relief Is Necessary to Prevent Irreparable Harm.**

17 Mojave National Preserve, NPCA, and the public generally will suffer
18 irreparable harm in the absence of a preliminary injunction preventing further mining
19 operations at Colosseum.

20 Relying on the Park Service’s April 2025 Decision, Dateline has already graded
21 acres of sensitive Preserve habitat through roadwork, leveling, transportation of
22 equipment, and exploratory drilling. Wilcox Decl. ¶¶ 19–20. Between September
23 2025 and March 2026, Dateline significantly widened the Colosseum access road
24 leading up to Colosseum through heavy grading, clearing dense vegetation along the
25 side of the road in the process. Wilcox Decl. ¶¶ 18–20. Indeed, Dateline has erected an
26 earthen berm along the side of the road, with piles of earth and vegetation
27 approximately six feet high. Wilcox Decl. ¶ 19. New, smaller roads have also been
28 carved into the mountain to facilitate increased industrial traffic and movement of

1 large equipment at the site, such as drills, machinery, trucks, and infrastructure.
2 Wilcox Decl. ¶ 19. More recently, Dateline has blocked public access to Colosseum
3 Road in Mojave National Preserve, posting no entry signs and limiting access to the
4 National Park Service lands. Wilcox Decl. ¶ 21. The Park Service has declined to stop
5 this activity. *See, e.g.*, Wilcox Decl., Ex. G. These latest developments indicate that
6 Dateline will imminently proceed beyond mere exploratory drilling and into full-scale
7 extraction outside of public view. *See S. Fork Band Council*, 588 F.3d at 728
8 (enjoining mining activity because of the “likelihood of irreparable environmental
9 injury without adequate study of the adverse effects and possible mitigation”).

10 The resumption of mining operations at Colosseum Mine has caused, and will
11 continue to cause, irreparable harm to a fragile desert environment that Congress
12 chose to preserve because it “constitute[s] a public wildland resource of extraordinary
13 and inestimable value[.]” Pub. L. No. 103-433, § 2(a)(1), 108 Stat. 4471 (1994); *see*
14 *also* 43 U.S.C. § 1781(a)(2) (finding California’s deserts are “extremely fragile, easily
15 scarred, and slowly healed”). Courts have long recognized that “environmental injury,
16 by its nature, can seldom be adequately remedied by money damages and is often
17 permanent or at least of long duration, *i.e.*, irreparable.” *Sierra Club v. Bosworth*, 510
18 F.3d 1016, 1033 (9th Cir. 2007) (alteration in original) (internal quotation marks
19 omitted) (citing *Amoco Prod. Co. v. Village of Gambell*, 480 U.S. 531, 545 (1987));
20 *League of Wilderness Defs./Blue Mountains Biodiversity Project v. Connaughton*, 752
21 F.3d 755, 764 (9th Cir. 2014) (same). And in the absence of a preliminary injunction,
22 further irreparable harm is imminent here.

23 New road development and the presence of additional machinery indicate a
24 quick shift from exploration to full-scale extraction operations at Colosseum, which
25 will lead to further irreparable damage to Mojave National Preserve. *See* Wilcox Decl.
26 ¶¶ 14–22 (chronicling change in operations at Colosseum from January 2025 to May
27 2026). Imminent construction activity at Colosseum would pave the way for round-the
28 clock drilling and increased traffic on scenic public roads, which will damage the

1 undisturbed qualities of the Preserve. *See* Wilcox Decl. ¶¶ 23–25; André Decl. ¶¶ 13–
2 19.

3 Dr. James André, a botanist with expertise on the flora of Mojave National
4 Preserve and the Director of the University of California’s Sweeney Granite
5 Mountains Desert Research Center—a research institute located within the Preserve—
6 describes the myriad ecological impacts associated with further activity at the
7 Colosseum Mine. André Decl. ¶¶ 1–5; 10–19. Heavy machinery and dust will
8 irreparably damage the Preserve’s fragile ecosystem. André Decl. ¶ 15. The Clark
9 Mountains contain an unusually high concentration of rare and endemic plants, many
10 of which depend on fragile limestone cliffs, calcareous soils, and biological soil crusts
11 that take hundreds of years to develop. André Decl. ¶¶ 7–9, 13–15. Grading,
12 bulldozing, drilling, industrial vehicles, and repeated disturbance would irreparably
13 destroy desert habitat and soil systems. André Decl. ¶ 16–17; *see also* Wilcox Decl. ¶
14 24. Dust from construction and other operations will coat plant leaves and interfere
15 with photosynthesis. André Decl. ¶ 15. Noise and activity will also disrupt
16 pollinators, seed dispersers, and other wildlife that sustain the desert ecosystem. André
17 Decl. ¶ 15. Because desert ecosystems are slow-growing and highly sensitive to
18 disturbance, these harms are not easily repaired once they occur. André Decl. ¶ 13; *see*
19 *also* Wilcox Decl. ¶ 24. In fact, damaged soils, crusts, plant communities, and
20 ecological connections may not recover on any meaningful timeframe. André Decl.
21 ¶¶ 13–14; *see League of Wilderness Defs.*, 752 F.3d at 764 (granting injunction in part
22 because money damages or planting seedlings cannot remedy loss of slow growing,
23 mature trees).

24 Additionally, blocking the public road makes it impossible for NPCA and its
25 members to monitor the extent of harm to public land resources near the mine site and
26 diminishes the ability of NPCA’s staff and members to use and enjoy the Preserve.
27 Wilcox Decl. ¶¶ 12–13; André Decl. ¶ 18. Courts have enjoined mining operations
28 and found that blocking public access to federal lands through the postage of no

1 trespassing signs constitutes irreparable harm, particularly where there is active
2 degradation of the land. *See Bales v. Ruch*, 522 F. Supp. 150, 156-57 (E.D. Cal. 1981).
3 A preliminary injunction is similarly appropriate here where blocking the main access
4 road and future imminent environmental degradation will prevent public access to the
5 Preserve and prevent NPCA and its members from documenting ongoing damage.
6 Wilcox Decl. ¶¶ 21–22; André Decl. ¶ 18.

7 A preliminary injunction is the only available recourse to ensure that no further
8 irreparable harm will occur to Mojave National Preserve lands. Absent an injunction
9 at this stage, harm to the Preserve could progress to such an extent that once this case
10 reaches adjudication, any remedy would be incapable of redressing the injuries that
11 would have already occurred. *See Barahona-Gomez*, 167 F.3d at 1234 (finding goal of
12 a preliminary injunction is to preserve the status quo and prevent irreparable loss
13 before judgment can issue).

14 **III. The Equities Tip Sharply in Favor of Temporarily Enjoining Further** 15 **Operations at Colosseum Pending the Resolution of This Case.**

16 The balance of equities and public interest also support preliminary injunctive
17 relief. *See Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)
18 (“Where the government is a party to a case in which a preliminary injunction is
19 sought, the balance of the equities and public interest factors merge.”).

20 When, as here, environmental injury is “sufficiently likely, . . . the balance of
21 harms will usually favor the issuance of an injunction to protect the environment.”
22 *Amoco Prod. Co.*, 480 U.S. at 545; *All. for the Wild Rockies v. Cottrell*, 632 F.3d
23 1127, 1138 (9th Cir. 2011) (finding that there is “well-established public interest in
24 preserving nature and avoiding irreparable environmental injury.”) As described
25 above, NPCA has demonstrated that it is likely to succeed on the merits of its
26 underlying claims and has also explained the irreparable injuries to public lands and
27 natural resources from the resumed mining operations at Colosseum. NPCA’s
28 members will suffer permanent environmental harms from damage to Preserve lands,

1 plants, and natural resources near Colosseum and from the loss of the Preserve’s quiet,
2 undisturbed qualities and impaired recreational and aesthetic interests. Wilcox Decl.
3 ¶¶ 23–25; André Decl. ¶¶ 13–19. Such damage would be difficult, if not impossible,
4 to undo. *See League of Wilderness Defs.*, 752 F.3d at 764 (finding harm to
5 environment is not easily reparable through money or similar damages).

6 By contrast, the Park Service will not be harmed by returning to the orderly and
7 legally compliant process required by the law, including the processes for lawful
8 mining approvals required in the Mining in the Parks Act, California Desert Protection
9 Act, and the Park Service’s own regulations. *Env’t Prot. Info. Ctr. v. Carlson*, 968
10 F.3d 985, 992 (9th Cir. 2020) (“The public interest is served by requiring the Forest
11 Service to comply with the law.”). Indeed, the government “cannot suffer harm from
12 an injunction that merely ends an unlawful practice[.]” *Rodriguez v. Robbins*, 715
13 F.3d 1127, 1145 (9th Cir. 2013); *see also League of Women Voters of U.S. v. Newby*,
14 838 F.3d 1, 12 (D.C. Cir. 2016) (“There is generally no public interest in the
15 perpetuation of unlawful agency action.”) (citations omitted).

16 Moreover, any economic harm to Dateline would be temporary. *See League of*
17 *Wilderness Defs.*, 752 F.3d at 765–66 (granting injunction to prevent permanent
18 environmental harm where intervenor’s harm only amounted to temporary delay).
19 Potential economic harm caused by a short-term, temporary delay in mining
20 operations during the preliminary injunction does not override the need to ensure that
21 the Park Service follows the law and that environmental and public resources are
22 protected in the meantime. Where, as here, the hardships are “principally in economic
23 terms” that “may for the most part be temporary[,] . . . the balance of hardships favors
24 the [plaintiff].” *S. Fork Band Council*, 588 F.3d at 728 (issuing injunction against
25 mining project); *see also Se. Alaska Conservation Council v. U.S. Army Corps*, 472
26 F.3d 1097, 1101 (9th Cir. 2006) (finding that “the public interest strongly favor[ed]
27 preventing environmental harm” despite a countervailing public “economic interest in
28

1 the mine” because delay would not “reduce significantly any future economic benefit
2 that may result from the mine’s operation”).

3 Ultimately, the public interest weighs in favor of “careful consideration of
4 environmental impacts” and suspending further operations until that consideration
5 occurs “comports with the public interest.” *All. for the Wild Rockies*, 632 F.3d at 1138
6 (*quoting S. Fork Band Council*, 588 F.3d at 728).

7 **IV. The Court Should Impose No Bond or Only a Nominal Bond.**

8 In issuing the requested injunctive relief, the Court should exercise its broad
9 discretion to require no or only a nominal bond. *See Johnson v. Couturier*, 572 F.3d
10 1067, 1086 (9th Cir. 2009) (“Rule 65(c) invests the district court with discretion as to
11 the amount of security required, if any.”) (citation, emphasis, and internal quotation
12 marks omitted). Where, as here, plaintiff is a nonprofit organization seeking to
13 vindicate an established public interest in environmental protection, courts routinely
14 waive the bond requirement or impose a nominal bond. *See, e.g., California ex rel.*
15 *Van De Kamp v. Tahoe Reg’l Plan. Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985) (no
16 bond). This Court should do likewise.

17 **CONCLUSION**

18 For the foregoing reasons, NPCA requests that this Court enter a preliminary
19 injunction until it has decided NPCA’s claims, enjoining Defendants (1) to set aside
20 their April 2025 Decision that renewed mining operations may proceed at Colosseum
21 Mine in Mojave National Preserve, (2) to halt and prohibit further operations at
22 Colosseum pending the resolution of this case, and (3) to monitor and enforce public
23 access rights along Colosseum Road leading to and past Colosseum Mine.

24
25 Dated: June 23, 2026

Respectfully submitted,

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27 GREGORY C. LOARIE (CA Bar No. 215859)
28 gloarie@earthjustice.org

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/s/ Katrina A. Tomas
KATRINA A. TOMAS (CA Bar No. 329803)
ktomas@earthjustice.org
EARTHJUSTICE
1 Sansome Street, Suite 1700
San Francisco, California 94104
T: (415) 217-2000 • F: (415) 217-2040

GABRIEL F. GREIF (CA Bar No. 341537)
ggreif@earthjustice.org
EARTHJUSTICE
707 Wilshire Blvd., Ste. 4300
Los Angeles, CA 90017
T: (415) 217-2000 • F: (415) 217-2040

Counsel for Plaintiff

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff National Parks Conservation Association, certifies that this brief contains 6,029 words, which:

X complies with the word limit of L.R. 11-6.1.

Dated: June 23, 2026

/s/ Katrina A. Tomas
KATRINA A. TOMAS (CA Bar No. 329803)

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