

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

STEWARDS OF THE POTOMAC HIGHLANDS	)	
and VIRGINIA WILDERNESS COMMITTEE,	)	CA No. 2:26-cv-21
	)	(Kleeh)
Plaintiffs,	)	
	)	
v.	)	
	)	
SEAN DUFFY, SECRETARY	)	
U.S. DEPARTMENT OF TRANSPORTATION .	)	
<i>Et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

PLAINTIFFS’
MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Plaintiffs Stewards of the Potomac Highlands and Virginia Wilderness Committee request a preliminary injunction to halt plans by West Virginia Department of Transportation (“WVDOT”) to construct a 6.8-mile four-lane divided highway from Wardensville, West Virginia to the Virginia state line, the eastern-most segment of a controversial, 100-mile highway called Appalachian Corridor H. The lawsuit alleges that the failure of Defendant Federal Highway Administration (“FHWA”) to evaluate the less destructive and vastly less expensive alternative of making spot improvements to existing roads violates the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370(d) ¹ FHWA’s failure to

¹ Individual Defendants are Sean Duffy, Secretary of the U.S. Department of Transportation, Sean McMaster, Administrator of the Federal Highway Administration, John Rogers, Acting Administrator of FHWA, West Virginia Division, and Stephen Todd Rumbaugh, Secretary, WVDOT. The FHWA is funding the project, which will be constructed and managed by WVDOT.

evaluate this prudent and feasible alternative that would minimize harm to the Tuscarora Trail also violates Section 4(f) of the Department of Transportation Act ("Section 4(f)", 49 U.S.C. § 303; 23 U.S.C. § 138.

In accordance with the parties' case management report (ECF Document 17), Plaintiffs have conferred with counsel for Defendants, who have advised that WVDOT has not yet provided the FHWA with notice of its intent to proceed with construction. Defendants have agreed to notify Plaintiffs once WVDOT issues its notice of intent to proceed. Defendants have represented that construction of the project is expected to begin sometime in September 2026, and that certain pre-construction activities will commence at the end of August. Based on this information, the resources and interests that Plaintiffs are seeking to protect through enforcement of federal environmental laws are threatened with imminent irreparable injury, and meaningful compliance with the law will be foreclosed if construction is allowed to proceed during the pendency of this case. Plaintiffs are filing this motion now in order to provide for an orderly schedule for briefing this motion before construction begins. If, however, WVDOT provides notice of its intent to proceed before this motion is resolved, Plaintiffs intend to also right to file an application for a temporary restraining order to preserve the status quo while this motion is being considered.

As explained in greater detail in the memorandum in support of this motion, Plaintiffs are likely to succeed on the merits of their claims, and the remaining factors— irreparable harm, balance of the equities, and the public interest—all weigh heavily in the Plaintiffs' favor. As further explained in the supporting memorandum (p. 25, n. 16) no bond or only a nominal bond is warranted due to the public interest nature of this case.

Respectfully submitted

/s/ Andrea Ferster
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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing motion with the Clerk of the Court for the United States District Court for the Northern District of West Virginia using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Date: August 28, 2026

/s/Bradley Stephens

Bradley Stephens