

<b>DISTRICT COURT, WELD COUNTY, COLORADO</b> 901 9th Avenue Greeley, CO 80631 (970) 475-2400	DATE FILED: March 9, 2018 3:49 PM FILING ID: 1A9126D86E201 CASE NUMBER: 2018CV30214  <b>▲ COURT USE ONLY ▲</b>
<b>PLAINTIFFS:</b> Extraction Oil & Gas, Inc. and 7N, LLC,  <b>v.</b>  <b>DEFENDANTS:</b> Cullen Lobe; John and Jane Does 1-20.	Case No. 2018CV____  Division/Courtroom:
<b>COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF</b>	

Plaintiffs Extraction Oil & Gas, Inc. (“Extraction”) and 7N, LLC (“7N”) (collectively “Plaintiffs”), through undersigned counsel, Polsinelli PC, complains and seeks injunctive relief against Defendants, as follows.

**I. PARTIES AND JURISDICTION**

1. Plaintiff Extraction Oil & Gas, Inc. is a Delaware Corporation authorized to conduct business in the State of Colorado.

2. Plaintiff 7N, LLC is a Delaware limited liability corporation authorized to conduct business in the state of Colorado. 7N is a wholly owned subsidiary of Extraction.

3. Plaintiffs' property (the "Property") is located in the NW¼ of Section 15, Township 5 North, Range 65 West, of 6th P.M., Weld County, Colorado.

4. Defendants Cullen Lobe and John and Jane Does 1-20, are, on information and belief, residents of Colorado who are subject to the jurisdiction of this Court because they reside in Colorado; or if they are not residents of Colorado are subject to the jurisdiction of this Court because they have conducted business in and/or committing tortious acts in Colorado. C.R.S. § 13-1-124.

5. Venue is proper in this Court under C.R.C.P. 98(a) and (c) because this action seeks remedies for trespass to property located in Weld County.

## **II. FACTS**

6. On March 8, 2018, Defendants, who are presumed to be members of an unincorporated organization styling itself the Suede Light Brigade, entered upon real property in Weld County, Colorado, where Extraction is developing oil and gas operations on the Vetting 15-H Well Pad and facilities.

7. Plaintiffs are developing oil and gas resources on this Property pursuant to Colorado law, law fully with approved local and state permits, among other law, and including (but not limited to) the Weld County government and the Colorado Oil and Gas Conservation Commission.

8. Defendants entered upon Plaintiffs' Property for the apparent purpose of staging a protest and disrupting Plaintiffs' operations.

9. Some of the Defendants chained themselves to equipment on the Property being used for Extraction's operations.

10. Defendants were met by officers of the Weld County Sheriff's Department and were asked to leave Plaintiffs' Property.

11. Some Defendants were arrested and charged with criminal trespass and criminal tampering.

12. Defendants took pictures and recorded video of their trespass which they posted to a Facebook page, [www.facebook.com/suedelightbrigade/](http://www.facebook.com/suedelightbrigade/) on March 8, 2018.

13. Defendants' Facebook postings include pictures and videos showing one or more of them chained to a bulldozer on Plaintiffs' Property.

14. Defendants' Facebook postings include videos showing them encountering officers of the Weld County Sheriffs' Department who directed Defendants to leave Plaintiffs' Property.

15. Captions to these Facebook pictures and videos state that Defendants received citations from the Weld County "sherries" [*sic* Sheriff's] Department for first degree criminal tampering and second degree criminal trespass.

16. Defendants also maintain a GoFundMe page at [www.gofundme.com/58t3148](http://www.gofundme.com/58t3148).

17. A picture on this GoFundMe page shows a young man chained to a Caterpillar bulldozer, with the caption explaining that Defendants staged a demonstration to stop Extraction's operations, and that "Cullen was arrested and taken to the Greeley County Jail and a number of others on site we're [*sic* were] given citations for tampering and for trespassing."

18. The Suede Light Brigade maintains a website at <http://suedelightbrigade.com/>, which contains further information regarding its activities opposing oil and gas development

in Colorado.

**COUNT 1  
TRESPASS**

19. Plaintiffs incorporate all prior paragraphs.

20. Plaintiffs are the owners of the Property.

21. Defendants intentionally entered upon Plaintiffs' Property, without permission or consent.

22. Defendants entered Plaintiffs' Property for the admitted purpose of disrupting Plaintiffs' operations.

23. Defendants' own social media postings, including the above Facebook and GoFundMe pages, document and thereby admit Defendants' intentional efforts to disrupt Plaintiffs' operations via unlawful trespass.

24. Defendants' own social media postings, including the above Facebook and GoFundMe pages, document and thereby admit that Defendants' actions provided Weld County law enforcement with probable cause to arrest them for criminal trespass and criminal tampering.

25. Plaintiffs will establish their damages for this trespass at trial, and are entitled to at least nominal damages.

**COUNT 2  
INTENTIONAL INTERFERENCE WITH CONTRACT**

26. Plaintiffs incorporate all prior paragraphs.

27. Extraction has oil and gas leases and plans to develop mineral interests from the Property, among other things.

28. As evidenced by their own social media postings, Defendants knew that Extraction is operating on the Property pursuant to oil and gas leases, local and state permits, and other law.

29. As evidenced by their own social media postings (including the pictures and videos showing some Defendants chaining themselves to a bulldozer), Defendants, by their conduct, are interfering with or are attempting to interfere with Extraction's performance of its oil and gas contracts and interests.

30. Defendants' conduct was improper.

31. Plaintiffs will establish their damages at trial, and are entitled to at least nominal damages.

#### **REQUEST FOR INJUNCTIVE RELIEF**

32. Plaintiffs incorporate all prior paragraphs.

33. Plaintiffs are entitled to preliminary and permanent injunctive relief.

34. A permanent injunction barring Defendants from trespassing upon the Property, or any property owned by or in possession of Extraction, 7N, or their affiliates, should be included in the Court's judgment against Defendants.

35. A permanent injunction is warranted because Defendants, through their own admissions in their social media postings, have confirmed their intent to continue trespassing upon Plaintiffs' Property for purposes of interfering with Plaintiffs' operations, and confirmed their willingness and capacity to engage in such tortious conduct.

36. Plaintiffs are also entitled to preliminary injunctive relief, including as warranted a Temporary Restraining Order (TRO) and/or preliminary injunction pursuant to

C.R.C.P. 65.

37. A court should enter a TRO or preliminary injunction upon a showing of: (1) a reasonable probability of success on the merits; (2) a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief; (3) that there is no plain, speedy, and adequate remedy at law; (4) that the granting of a preliminary injunction will not disserve the public interest; (5) that the balance of equities favors the injunction; and (6) that the injunction will preserve the status quo pending a trial on the merits. C.R.C.P. 65; *Rathke v. MacFarlane*, 648 P.2d 648, 653–54 (Colo. 1982); *Briscoe v. Sebelius*, 927 F. Supp. 2d 1109, 1114 (D.Colo. 2013) (noting that the requirements for issuing a temporary restraining order mirror the requirements for issuing a preliminary injunction).

38. In this case, Plaintiffs satisfy the *Rathke* factors based entirely on Defendants' own admissions through their social media postings, in which Defendants have (1) explained their mission of opposing Plaintiffs' operations by committing tortious and criminal conduct; and (2) documented themselves committing such tortious and criminal conduct.

39. **Reasonable probability of success on the merits.** Defendants have admitted to committing the civil torts of trespass and intentional interference with contract. These admissions provide Plaintiffs with more than a reasonable probability of obtaining a judgment against Defendants for these torts. Even if Defendants' conduct has not (yet) caused Plaintiffs substantial damages, Plaintiffs will be entitled to recover nominal damages. Accordingly, Plaintiffs' likelihood of success on the merits more than reasonably probable.

40. **Danger of real, immediate, and irreparable injury which may be prevented by injunctive relief.** The Weld County Sheriff's Department promptly removed

Defendants, and arrested some of them as warranted, for their tortious and criminal conduct on March 8, 2018, as detailed above. If Plaintiffs could be assured that the Weld County Sheriff's Department will always be able to immediately respond and achieve such results in the event of similar conduct in the future, then injunctive relief might arguably not be necessary. However, Defendants have demonstrated by their conduct that they are not deterred by the prospect of criminal charges or arrest. Defendants have also indicated their intent to continue trespassing Plaintiffs' Property and interfering with its operations. Defendants' conduct includes acts which may cause Plaintiffs real, immediate and irreparable injury. For example, chaining oneself to a bulldozer may result not only in interference with Plaintiffs' operations, but exposes both the protester and Plaintiffs' personnel to very real risk of severe physical injury. Only by issuing a TRO or preliminary injunction prohibiting Defendants from engaging in such acts can the Court obtain the ability to restrain such dangerous conduct.

41. **No plain, speedy, and adequate remedy at law.** Given Defendants' admitted intent to trespass and interfere with Plaintiffs' operations, and their demonstrated willingness and capacity to do so, Plaintiffs do not have the luxury of waiting until they obtain a final judgment against Defendants for permanent injunctive relief. Plaintiffs are entitled to a TRO and/or preliminary injunction to stop Defendants' conduct now, in order to maintain their lawful operations and prevent physical injury to Defendants and others.

42. **Public interest.** Plaintiffs appreciate that Defendants style themselves as protesters engaging in civil disobedience to oppose oil and gas development projects, and Defendants will argue that the public interest is served by shutting down the project on

Plaintiffs' Property. Plaintiffs need not and will not engage Defendants in this debate at this preliminary stage. Plaintiffs do not seek any type of injunctive relief that impacts Defendants' speech – only relief to prevent Defendants' physical trespassing and interference with Plaintiffs' operations. Accordingly, at this stage, it is enough to note that Extraction is operating in full compliance with Colorado law, and pursuant to permits issued by state and local officials including (but not limited to) the Weld County government and the Colorado Oil and Gas Conservation Commission. As a result, the public policy of Colorado that is ascertainable at this preliminary stage squarely and exclusively supports Plaintiffs.

43. **Balance of equities.** Balancing equities here requires the Court to balance Plaintiffs' interest in unimpeded operations with Defendants' political and environmental activism. Critically, Defendants have ample avenues for engaging in their political and environmental activism, as evidenced by their website and the many activities it records and announces, their Facebook page, their GoFundMe page, etc. Plaintiffs do not seek to enjoin Defendants' speech. But Defendants have deliberately broken the law to further their point. Balancing equities does not require a court to weigh the value of illegal or criminal conduct because Defendants consider such criminal conduct valuable in the pursuit of their mission. The equities thus favor Plaintiffs.

44. **Preservation of the status quo.** For purposes of an injunction, the status quo is “the last uncontested status between the parties which preceded the controversy.”

*Dominion Video Satellite Inc. v. Echostar Satellite Corp.*, 269 F.3d 1149, 1155 (10<sup>th</sup> Cir. 2001). Defendants obviously have no legal right to trespass upon Plaintiffs' Property, and Plaintiffs contest their trespass. The status quo that is properly preserved by a preliminary

injunction is the one where Defendants are not trespassing on Plaintiffs' Property and chained to Plaintiffs' heavy machinery.

45. **Bond.** Because Defendants have no right to commit physical trespass or interference, they will not and indeed cannot be damaged by a preliminary injunction prohibiting them from committing these illegal acts. A bond is therefore unnecessary. To the extent the Court views some bond as required by Rule 65, Plaintiffs are willing to post a nominal bond.

### **PRAYER FOR RELIEF**

WHEREFORE, Extraction and 7N request:

- 1) that the Court award Plaintiffs judgment against Defendants for all available damages, fees and costs, including at least nominal damages; and
- 2) that the Court enter preliminary and permanent injunctive relief against Defendants and in favor of Plaintiffs to enjoin Defendants' trespass and interference with Plaintiffs' operations; and
- 3) such further relief as the Court deems proper.

DATED: March 9, 2018.

Respectfully submitted,

By: s/Ghislaine G. Torres Bruner  
Ghislaine G. Torres Bruner

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