

1 Case No. CV0023487  
2 Dept. No. II

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TIMOTHY SPENO  
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6 **IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
7 **IN AND FOR THE COUNTY OF HUMBOLDT**

8 LITHIUM NEVADA CORPORATION,  
9 Plaintiff,

**COMPLAINT**

10 v.

11 PROTECT THACKER PASS, MAX  
12 WILBERT, WILL FALK, PAUL  
13 CIENFUEGOS, BETHANY SAM, DORECE  
14 SAM, DEAN BARLESE, BC ZAHN-  
15 NAHTZU,  
16 Defendants.

17 1. This action involves Defendants' systematic campaign to intentionally and  
18 unlawfully obstruct Plaintiff Lithium Nevada Corporation's ("Lithium Nevada")  
19 development of its lithium mining project at Thacker Pass in Humboldt County, Nevada  
(the "Project").

20 2. Having failed in their efforts to block the Project in court, Defendants have  
21 resorted to blatantly unlawful conduct.

22 3. Over the last several weeks, Defendants have, on multiple occasions,  
23 interfered with the operations of Lithium Nevada and its contractors through a wide range  
24 of unlawful and dangerous actions, including blocking public road access to the Project  
25 site, climbing onto equipment, vandalizing and stealing equipment, erecting structures in  
26 unauthorized areas, and flying drones dangerously close to Project personnel.  
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1           4.       Despite multiple warnings from law enforcement not to block public roads,  
2 Defendants have continued to do so. Indeed, Defendants have proudly broadcasted their  
3 defiance of law enforcement on social media.

4  
5           5.       Defendants' unlawful actions pose a danger to the safety of Lithium  
6 Nevada's employees and contractors, as well as others.

7           6.       Defendants' unlawful actions have caused, and continue to cause, damages  
8 to Lithium Nevada.

#### 9 10   **PARTIES**

11           7.       Lithium Nevada is a corporation incorporated under the laws of the State of  
12 Nevada and authorized to do business in the State of Nevada.

13           8.       Defendant Protect Thacker Pass is an unincorporated association dedicated  
14 to advocacy against the Project and operating in Nevada.

15           9.       Upon information and belief, Defendant Max Wilbert ("Wilbert") is a  
16 resident of Oregon and is a founder and/or leader of Protect Thacker Pass.

17  
18           10.      Upon information and belief, Defendant Will Falk ("Falk") is a resident of  
19 Colorado and a founder and/or leader of Protect Thacker Pass.

20           11.      Upon information and belief, Defendant Paul Cienfuegos ("Cienfuegos") is  
21 a resident of Oregon.

22           12.      Upon information and belief, Defendant Bethany Sam is a resident of  
23 Nevada.

24           13.      Upon information and belief, Defendant Dean Barlese is a resident of  
25 Nevada.



1 People of the Red Mountain filed suit and a motion for preliminary injunction of the  
2 Project in the Federal District Court in Nevada. Defendant Falk was and is lead counsel  
3 for RSIC, and he also represented the People of Red Mountain.  
4

5 22. The Federal District Court dismissed the People of Red Mountain for their  
6 lack of standing based, in part, on their improper efforts to usurp the sovereign authority  
7 of the Fort McDermitt Tribe, which did not challenge the Project, and has demonstrated  
8 support for the Project. The Federal District Court also denied the motion for preliminary  
9 injunction.  
10

11 23. The Federal District Court subsequently granted BLM and Lithium Nevada  
12 summary judgment, and construction of the Project began in February 2023.  
13

14 24. Defendant Falk subsequently filed a new lawsuit and sought an emergency  
15 temporary restraining order, which was denied, and then a preliminary injunction in the  
16 Federal District Court in Nevada trying to halt the Project. The Federal District Court  
17 again denied this motion.  
18

19 25. Legal efforts to stop the Project have failed, and Lithium Nevada is fully  
20 authorized to proceed with construction of the Project.  
21

## 22 **II. Defendants' Interference with Lithium Nevada's Development of the Project**

### 23 **A. April 25, 2023 Interference**

24 26. On April 25, 2023, a group of approximately 20 protesters, including  
25 Defendants, arrived at the Project site and began to unlawfully block Lithium Nevada's  
26 employees' and contractors' travel along a public road leading to the Project site.  
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1           27. Defendants' blockade of the access road required vehicles attempting to  
2 access the Project Site, including tractor trailers, to reverse half a mile before being able  
3 to turn around.

4  
5           28. When Project personnel approached a group of protesters and asked to  
6 proceed on the public road that the protesters were blocking, Falk responded to the  
7 request, "I don't think so."

8  
9           29. As part of the protest and blockade on April 25, 2023, Defendants gained  
10 unauthorized access to a secure area within the Project site, forcing Lithium Nevada's  
11 employees and contractors to halt work out of safety concerns.

12           30. Defendants continued protesting in front of and on top of Lithium Nevada's  
13 and its contractors' heavy equipment, preventing the operation of such equipment due to  
14 such interference and again out of safety concerns.

15  
16           31. Wilbert climbed onto an excavator, from which he proceeded to post  
17 messages on social media while sitting on top of the excavator boom approximately 20  
18 feet above the ground.

19  
20           32. When Wilbert was asked to come down to ensure his personal safety and  
21 the safety of other persons, he began shouting vulgarities and making obscene gestures.

22           33. After Lithium Nevada's contractor reported this incident to its insurance  
23 carrier, the carrier advised the contractor to remove the equipment from the Project site  
24 due to security and safety risks.  
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1           34.   Protect Thacker Pass has a website, Facebook page, Twitter page, and  
2 YouTube channel (collectively, “Social Media”), which it uses to advocate its cause and  
3 solicit donations.  
4

5           35.   During the April 25, 2023 protest at the Project site, Protect Thacker Pass  
6 made numerous posts to Social Media using Defendants’ unlawful actions as the basis to  
7 solicit donations. Several of these posts included videos or photographs of Wilbert on  
8 top of the excavator boom.  
9

10          36.   On April 25, 2023, Protect Thacker Pass posted the following to social  
11 media: “BREAKING: Native elders and supporters seeking to protect land that is sacred  
12 to them have blocked construction of the controversial Thacker Pass lithium mine in  
13 Northern Nevada this morning. The action is ongoing.” *See*  
14 <https://www.facebook.com/ProtectThackerPass> (last accessed May 24, 2023)).  
15

16          37.   Also, on April 25, 2023, Protect Thacker Pass posted the following to  
17 Social Media alongside a photograph of Wilbert on top of the excavator boom:  
18 “#DefendTheLand – Block those machines!”  
19

20          38.   Also, on April 25, 2023, Protect Thacker Pass posted the following to  
21 Social Media alongside a photograph of Wilbert on top of the excavator boom: “Blocking  
22 construction at Thacker Pass. Stay strong! Stay safe!” *See*  
23 <https://www.facebook.com/ProtectThackerPass> (last accessed May 24, 2023)).  
24

25          39.   Also, on April 25, 2023, Protect Thacker Pass posted the following to  
26 Social Media: “We have and will continue to have mounting legal bills for the ongoing  
27  
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1 lawsuit and legal defense for those blocking the mine construction. Please donate if you  
2 can. Thank you!!!”

3  
4 40. Also, on April 25, 2023, Protect Thacker Pass posted the following to  
5 Social Media: “Share share share!!! The more people we have sharing the more people  
6 we have to help us block construction and #DefendTheLand”

7  
8 **B. Ongoing Interference Beginning May 11, 2023**

9 41. On May 11, 2023, a group of approximately 15 people, including  
10 Defendants and led by Wilbert and Cienfuegos, returned to the Project site and again  
11 began blocking Lithium Nevada’s employees’ and contractors’ access via a public road.

12 42. Defendants forced several vehicles associated with the Project to turn  
13 around.

14 43. Defendants’ unlawful blockade poses a safety risk in that it threatens to  
15 delay response time in the event of an emergency at the Project site.

16 44. Defendants flew a drone at approximately eye level and in close proximity  
17 to a Lithium Nevada contractor. The drone was so close to the contractor that he could  
18 feel the air generated by the drone’s rotating blades. The contractor felt that the drone  
19 was intentionally flown close to him in an effort to harass and intimidate, and he  
20 reasonably feared bodily contact with the drone.

21 45. Defendants erected a teepee and tents in a construction area designated,  
22 with plain signage, for authorized personnel only. Defendants are not authorized  
23 personnel.  
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1           46.    Lithium Nevada contacted the Humboldt County Sheriff's Office to report  
2 Defendants' unlawful actions. Sheriff's deputies were dispatched to the Project site,  
3 where they informed Defendants that it is a criminal misdemeanor to block a public road.  
4

5           47.    After Defendants continued to block the public access road and force  
6 Project-affiliated vehicles to turn around, Sheriff's deputies returned and issued a second  
7 warning to Defendants.  
8

9           48.    Despite these clear and repeated warnings, Defendants continued to block  
10 the public access road.

11          49.    On the morning of May 12, 2023, a contractor for Lithium Nevada reported  
12 that a fire extinguisher and diesel fuel had been stolen from the Project site the night  
13 before.  
14

15          50.    From May 12, 2023, and continuing to the present, Defendants have  
16 continued unlawfully blocking access to the Project site.

17          51.    Upon information and belief, some of the Defendants have been camping  
18 overnight in the Teepee and tents that were erected in a construction area designated for  
19 authorized personnel only. The Teepee and tents remain standing presently.  
20

21          52.    Upon information and belief, a second Teepee has been erected near  
22 Sentinel Peak within the bounds of an authorized work area.

23          53.    Lithium Nevada employees and contractors fear a physical altercation if  
24 they do not submit to the unlawful demands of Defendants.  
25

26          54.    As with the April 25, 2023 protest, Protect Thacker Pass used the unlawful  
27 actions at the ongoing May 2023 protest to solicit donations.  
28



1           55.    On May 11, 2023, Protect Thacker Pass posted the following message to  
2 Social Media: “Prayers ongoing at Thacker Pass this morning, with the intention to block  
3 construction a second time in just a few weeks. . . . Thank you supporters! Donations are  
4 matched right now so your donations for legal defense and protest support are  
5 DOUBLED!”

6  
7           56.    Also, on May 11, 2023, Protect Thacker Pass posted the following message  
8 to Social Media: “Lithium Nevada requests that we stop blocking the road. WE SAY  
9 NO.”

10  
11          57.    Also, on May 11, 2023, Protect Thacker Pass posted the following message  
12 to Social Media: “The County Sheriff returns to reiterate their dislike of native elders  
13 blocking the road to #DefendTheLand. But they are totally fine with obliterating Thacker  
14 Pass for a mine. We respectfully and peacefully disagree with their priorities.”

15  
16          58.    Also, on May 11, 2023, Protect Thacker Pass posted the following message  
17 to Social Media: “A teepee is going up blocking construction of the mine and supporters  
18 have begun to gather on-site. We ask you to please share this live stream, support the  
19 grassroots effort, and get involved. Thank you.”

20  
21          59.    Also, on May 11, 2023, Protect Thacker Pass posted the following message  
22 to Social Media: “A good time for a quick reminder: your donations are DOUBLED right  
23 now thanks to a generous donor. We use every single penny of what you donate, thank  
24 you so much and please continue to help if you can! Legal work is expensive!”

1           60.    On or about May 11, 2023, Zahn-Nahtzu posted the following message to  
2 Facebook: “6:15 am and **we already made 3 trucks drive backwards from us.**”  
3  
4 (emphasis added).

5           61.    On or about May 11, 2023, Zahn-Nahtzu posted the following message to  
6 Facebook: “Soooo sleepy! I want to take a nap, hopefully someone will wake me up if a  
7 truck comes. We wait...then run to stand in the road when a truck comes.”

8           62.    On May 14, 2023, Wilbert circulated an email stating that “Ceremony has  
9 been ongoing for three days and three nights blocking the construction of a water pipeline  
10 for Lithium Nevada’s open-pit lithium mine.”

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12 **III.   Lithium Nevada’s Continuing Harm as a Result of Defendants’ Interference**

13           63.    Upon information and belief, Defendants and other protesters intend to  
14 continue to disrupt Lithium Nevada’s construction activities, threaten the safety of  
15 Lithium Nevada employees and contractors, and interfere with Lithium Nevada’s lawful  
16 exercise of its rights to construct the Project.

17  
18           64.    Defendants’ actions have created and will continue to create a risk of bodily  
19 injury and harm to Lithium Nevada employees and contractors, as well as to Defendants  
20 and others.

21  
22           65.    Defendants’ actions have interfered with and will continue to interfere with  
23 Lithium Nevada’s rights to construct the Project.

24           66.    Defendants’ actions have caused and will continue to cause delays and  
25 costs for Lithium Nevada and its contractors. Damages include standby wages for  
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1 employees and contractors who are unable to complete their tasks, delays in delivery,  
2 delays in the completion of tasks, and other expenses.

3  
4 **CAUSES OF ACTION**

5 **Count I—Civil Conspiracy**

6 67. Lithium Nevada hereby incorporates the allegations from all preceding  
7 paragraphs.

8 68. Civil conspiracy consists of a combination of two or more persons who, by  
9 some concerted action, intend to accomplish an unlawful objective for the purpose of  
10 harming another, and damage results from the act or acts.

11 69. Defendants' actions to interfere with Lithium Nevada's construction of the  
12 Project constitutes concerted action to unlawfully harm Lithium Nevada in its efforts to  
13 construct the Project.  
14

15 70. Defendants' concerted actions have resulted in damages to Lithium Nevada  
16 in the form of costs, delays, damaged or stolen equipment, and safety risks.  
17

18 71. As an additional result of Defendants' actions, they are guilty of  
19 oppression, fraud, and malice, and in addition to actual and compensatory damages,  
20 Lithium Nevada is entitled to recover punitive damages.  
21

22 **Count II—Nuisance**

23 72. Lithium Nevada hereby incorporates the allegations from all preceding  
24 paragraphs.  
25

26 73. A person is liable for the tort of nuisance if he or she substantially and  
27 unreasonably interferes with another's use and enjoyment of land.  
28

1           74. Defendants have no lawful authority to block public roads leading to the  
2 Project site, to climb onto the equipment of Lithium Nevada and its contractors, to  
3 vandalize and steal such equipment, to fly drones in close proximity to Project personnel,  
4 or to otherwise interfere with Lithium Nevada's development of the Project.  
5

6           75. Defendants' actions constitute a substantial and unreasonable interference  
7 with Lithium Nevada's and its contractors' use of and enjoyment of public roads,  
8 permitted construction areas, and equipment.  
9

10           76. As an additional result of Defendants' actions, they are guilty of  
11 oppression, fraud, and malice, and in addition to actual and compensatory damages,  
12 Lithium Nevada is entitled to recover punitive damages.  
13

14                           **Count III—Trespass**

15           77. Lithium Nevada hereby incorporates the allegations from all preceding  
16 paragraphs.  
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18           78. A person is liable for civil trespass when he or she invades the real property  
19 rights of another.

20           79. Defendants have accessed secure work areas at the Project site that are off  
21 limits to unauthorized personnel.

22           80. Defendants' activities at these unauthorized sites, including blocking  
23 access, climbing on equipment, vandalizing and stealing equipment, and erecting a teepee  
24 and tents, interfere with Lithium Nevada's lawful right to use these areas to develop the  
25 Project.  
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1           81. As an additional result of Defendants' actions, they are guilty of  
2 oppression, fraud, and malice, and in addition to actual and compensatory damages,  
3 Lithium Nevada is entitled to recover punitive damages.  
4

5                           **Count IV—Tortious Interference with Contractual Relations**

6           82. Lithium Nevada hereby incorporates the allegations from all preceding  
7 paragraphs.  
8

9           83. The tort of intentional interference with contractual relations consists of (1)  
10 a valid and existing contract; (2) the defendant's knowledge of the contract; (3)  
11 intentional acts intended or designed to disrupt the contractual relationship; (4) actual  
12 disruption of the contract; and (5) resulting damage.  
13

14           84. Lithium Nevada possesses all necessary permits and authorizations to  
15 proceed with development of the Project. Lithium Nevada also has contractual relations  
16 with various contractors to perform work for the Project.  
17

18           85. Defendants are aware of Lithium Nevada's rights and its contractual  
19 relations with its contractors.  
20

21           86. Defendants have intentionally interfered with Lithium Nevada's rights and  
22 contractual relations by unlawfully thwarting the work of Lithium Nevada and its  
23 contractors.  
24

25           87. Defendants' interference with the Project has resulted in costs, delays, and  
26 safety risks to Lithium Nevada and its contractors.  
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1           88.    As an additional result of Defendants' actions, they are guilty of  
2 oppression, fraud, and malice, and in addition to actual and compensatory damages,  
3 Lithium Nevada is entitled to recover punitive damages.  
4

5           **Count V—Tortious Interference with Prospective Economic Advantage**

6           89.    Lithium Nevada hereby incorporates the allegations from all preceding  
7 paragraphs.  
8

9           90.    The tort of intentional interference with prospective economic advantage  
10 consists of (1) the existence of a prospective contractual relationship with a third party;  
11 (2) defendant's knowledge of this prospective relationship; (3) the intent to harm plaintiff  
12 by interfering with the relationship; (4) the absence of privilege or justification; and (5)  
13 actual harm to plaintiff.  
14

15           91.    Lithium Nevada has prospective contractual relationships with third parties  
16 regarding the production of lithium from the Project.

17           92.    Defendants are aware of Lithium Nevada's prospective contractual  
18 relations, and Defendants' goal is to thwart such relations by interfering with the Project  
19 without authorization.  
20

21           93.    Defendants' interference with the Project has resulted in costs, delays, and  
22 safety risks to Lithium Nevada and its contractors.  
23

24           94.    As an additional result of Defendants' actions, they are guilty of  
25 oppression, fraud, and malice, and in addition to actual and compensatory damages,  
26 Lithium Nevada is entitled to recover punitive damages.  
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1 **Count VI—Unjust Enrichment**

2 95. Lithium Nevada hereby incorporates the allegations from all preceding  
3 paragraphs.  
4

5 96. Unjust enrichment exists when the plaintiff confers a benefit on the  
6 defendant, the defendant appreciates such benefit, and circumstances are such that it  
7 would be inequitable for defendant to retain the benefit without payment of the value  
8 thereof.  
9

10 97. Protect Thacker Pass has used Defendants’ unlawful interference with  
11 Lithium Nevada’s activities as part of a public outreach campaign to boost donations.

12 98. In so doing, Protect Thacker Pass has benefited from its unlawful  
13 interference with Lithium Nevada’s operations through the receipt of ill-gotten donations.  
14

15 99. Lithium Nevada is entitled to disgorgement of all donations and other  
16 proceeds received by Protect Thacker Pass pursuant to Defendants’ unlawful actions at  
17 the Project Site.  
18

19 **REQUEST FOR RELIEF**

20 WHEREFORE, Lithium Nevada prays for relief against Defendants as follows:

21 a. A preliminary and permanent injunction enjoining Defendants from  
22 interfering with Lithium Nevada’s development of the Project, including, but not limited  
23 to, an order that the unauthorized teepee and tents in the construction area be dismantled,  
24 that the public road not be obstructed, and that Defendants refrain from blocking the  
25 movement of any Project personnel or equipment at or near the Project;  
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- 1           b.     A judgment awarding Lithium Nevada actual and compensatory damages  
2 against Defendants, jointly and severally, in an amount to be determined at trial;  
3  
4           c.     A judgment awarding Lithium Nevada punitive damages against  
5 Defendants, jointly and severally, in an amount to be determined at trial;  
6  
7           d.     A judgment for pre-judgment interest in all amounts claimed;  
8  
9           e.     A judgment awarding Lithium Nevada its costs and attorneys' fees; and  
10  
11           f.     Such further relief as the Court deems proper.

12 Dated this 27<sup>th</sup> day of May, 2023.

13   
14 \_\_\_\_\_

15 Laura K. Granier, Esq.

16 NSB 7357

17 Holland & Hart, LLP

18 5441 Kietzke Lane, Second Floor

19 Reno, NV 89511

20 (775)327-3000

21 [lkgranier@hollandhart.com](mailto:lkgranier@hollandhart.com)

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