



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

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BY ELECTRONIC MAIL

Hon. Sarah E. Pitlyk  
United States District Court  
Eastern District of Missouri  
111 South 10th Street  
St. Louis, MO 63102

Re: *In the Matter of Federal Trade Commission v. Peabody Energy Corporation and Arch Coal, Inc.; Civil Action No. 4:20-cv-00317-SEP*

Dear Judge Pitlyk:

I write to address my reference during the February 28, 2020 Status Conference to the protective order governing the administrative proceeding before Administrative Judge Chappell. *See* Memorandum and Order Modifying Protective Order (April 1, 2020), ECF 102 at 3 n. 4. Any suggestion I made that FTC counsel was under an obligation to seek the approval of the Administrative Law Judge prior to this Court's modification of the Protective Order governing this action was unintentional and erroneous. My statement during the February 28, 2020 Status Conference was intended to express a concern regarding the possibility that the parties might have difficulty resolving any inconsistent obligations imposed by the Protective Order governing this action and the protective order governing the administrative proceeding. This concern appears minimal in light of the similarity of the orders entered and Defendants' position that they will not contest an administrative proceeding in the event that the FTC prevails in this proceeding, thus I did not believe this concern constituted an appropriate basis on which to delay or oppose Defendants' Motion to Modify the Protective Order, ECF 52.

To be clear, the Administrative Proceeding Protective Order has not been modified, and FTC counsel does not believe that any modification is required at this time. The protective order in the administrative proceeding does not impact discovery in this matter or the conduct of the preliminary injunction hearing before this Court, and the Administrative Law Judge does not have the ability to enforce or alter the Protective Order that this Court has entered.

I apologize for any confusion, and would welcome the opportunity to address any further questions the Court may have.

Respectfully,

/s/ Daniel Matheson

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