

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

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**SEP 29 1999**

**PATRICK FISHER**  
Clerk

ADARAND CONSTRUCTORS, INC., a  
Colorado corporation,

Plaintiff - Appellee,

v.

ROY ROMER, Governor of the State of  
Colorado; GUILLERMO VIDAL, Director  
of the Department of Transportation;  
COLORADO DEPARTMENT OF  
TRANSPORTATION; THE STATE OF  
COLORADO,

Defendants,

No. 97-1285

(D. Colorado)

(D.C. No. 97-K-1351)

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UNITED STATES OF AMERICA, and U.S.  
DEPARTMENT OF TRANSPORTATION,

Applicants in Intervention -  
Appellants.

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**ORDER AND JUDGMENT** \*

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Before **ANDERSON** , **McKAY** , and **HENRY** , Circuit Judges.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

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The United States and the United States Department of Transportation (hereinafter the “Federal Appellants”) appeal the district court’s denial of their motion to intervene in this case, raising multiple grounds and arguments in support of intervention. In the district court, Adarand Constructors, Inc., opposed intervention. However, during the pendency of this appeal, Adarand has advised the court that it no longer opposes intervention by the Federal Appellants and, in fact, thinks that intervention is necessary. Accordingly, we conclude that the Federal Appellants should be permitted to intervene in this case and we REMAND this case to the district court with instructions to permit intervention, and thereafter to consider further the issue of mootness.

ENTERED FOR THE COURT

PER CURIAM