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April 21, 2025

Via Federal Express and Electronic Filing

Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, DC 20543

Re: *Apache Stronghold v. United States*, No. 24-291

Dear Mr. Harris:

The Forest Service's April 17, 2025 notice that it intends to republish the Final Environmental Impact Statement (FEIS) "no earlier than" June 16, 2025 has no bearing on this case's suitability for review.

As discussed, the government first published the FEIS on January 15, 2021. Resolution BIO 8; U.S. BIO 4-5. After the change in administration, the government withdrew the FEIS to more "fully understand" public and tribal concerns. USDA, Project Update (Mar. 1, 2021), https://perma.cc/W348-XUKH. And the government committed to give 60 days' notice before republishing the FEIS—a requirement the district court memorialized by order. *See* D. Ct. Doc. 81, at 2; Resolution BIO 10 & n.11; U.S. BIO 6 n.1. The Forest Service's April 17 notice follows from that previous commitment.

The notice leaves ample time for this Court's deliberative process. This case was first distributed for conference on November 6, 2024. As the notice makes clear, the government will take *no* action on the FEIS until June 16 at the earliest. If the petition remains pending (or is granted) by June 16, the government "may reevaluate how to proceed." Even then, the FEIS is only the next step in the process. The FEIS triggers another 60-day window for the government to actually complete the land exchange. 16 U.S.C. § 539p(c)(10).

Yet without the notice, the government would be bound to wait 60 days before issuing the FEIS, even after a denial of certiorari. That waiting period would only further delay a project that Congress directed the Executive to "expedite" in 2014, 16 U.S.C. § 539p(a), and which President Trump's administration already approved over four years ago.

That delay comes at a time when the Nation's need for domestic copper is greater than ever. As the President recently declared, "Copper is a critical material essential to the national security, economic strength, and industrial resilience of the United States." Exec. Order No. 14220, § 1, 90 Fed. Reg. 11001 (Feb. 28, 2025). Accordingly, "[i]t is the policy of the United States to ensure a reliable, secure, and resilient domestic copper supply chain." *Id.* On Friday April 18, 2025, the White House announced that the Resolution Copper project is one of ten "critical mineral production projects" that the Trump Administration is advancing "to facilitate domestic production of America's vast mineral resources to create jobs, fuel prosperity, and significantly reduce our reliance on foreign nations." The White House, *Trump Administration Advances First Wave of Critical Mineral Production Projects* (Apr. 18, 2025), https://tinyurl.com/35vru2fy. The Forest Service's notice simply avoids further, gratuitous delay to a vitally important project that Congress and three Presidents have defended as necessary to the national interest.

Petitioner's late-breaking citation to *Mahmoud v. Taylor*, No. 24-297, also has no bearing on this case. The question presented in *Mahmoud* is whether a public school burdens religious exercise under the Free Exercise Clause by not allowing parents to opt their children out of being read "'LGBTQ-inclusive' storybooks." *Mahmoud* Pet. Br. i, 1. The *Mahmoud* respondents (the school district) cited *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988), primarily for its gloss on *Wisconsin v. Yoder*, 406 U.S. 205 (1972)—a case, like *Mahmoud*, about the intersection of parental rights over education and the Free Exercise Clause. *E.g.*, *Mahmoud* Resp. Br. 18, 20, 38-39; *see Mahmoud* Pet. Reply Br. 9 (addressing "*Lyng*'s characterization of *Yoder*"). Whatever *Mahmoud* says about that subject will have no bearing on this federal land-use case which is, as the en banc Ninth Circuit correctly recognized, "indistinguishable" from the facts of *Lyng* itself. Pet.App.4a, 32a.

Moreover, *Mahmoud* was granted over three months ago, and the brief discussed in petitioner's letter was filed on April 2. The same organization represents the petitioners in both cases. The fact that petitioner here is only raising *Mahmoud* now, without following this Court's Rule 15.8 for supplemental briefs about "new cases" or "intervening matter," confirms that case's irrelevance.

Sincerely,

Lisa S. Blatt

CC: Luke W. Goodrich, Counsel for Petitioner
D. John Sauer, Counsel for Federal Respondents