Nos. 26-96, 26-109

IN THE

Supreme Court of the United States

DEPARTMENT OF THE INTERIOR, ET AL., *Petitioners,*

v.

SHOSHONE-BANNOCK TRIBES OF THE FORT HALL RESERVATION, ET AL., *Respondents.*

J.R. SIMPLOT COMPANY, LLC, *Petitioner,*

v.

SHOSHONE-BANNOCK TRIBES OF THE FORT HALL RESERVATION, ET AL., *Respondents.*

On Petitions for Writs of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICI CURIAE* THE NATIONAL ASSOCIATION OF MANUFACTURERS AND THE FERTILIZER INSTITUTE SUPPORTING PETITIONERS

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RULE 29.6 DISCLOSURE STATEMENT

Amici The National Association of Manufacturers and The Fertilizer Institute have no parent corporation, and no publicly held company owns 10% or more of the stock of The National Association of Manufacturers or The Fertilizer Institute.

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BRIEF OF *AMICI CURIAE* THE NATIONAL ASSOCIATION OF MANUFACTURERS AND THE FERTILIZER INSTITUTE SUPPORTING PETITIONERS

INTEREST OF *AMICI CURIAE*[1]

The National Association of Manufacturers ("NAM") is the largest manufacturing association in the United States, representing small and large manufacturers in all

[1] Pursuant to this Court's Rule 37.2, *amici* provided timely notice of their intention to file this brief to counsel for all parties. In accordance with this Court's Rule 37.6, no counsel for any party has authored this brief in whole or in part, and no person or entity, other than *amici* or their counsel, has made a monetary contribution to the preparation or submission of this brief.

fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes $3 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation that is vital for this economic ecosystem to thrive. The NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

The Fertilizer Institute ("TFI") represents companies engaged in all aspects of the United States' fertilizer supply chain. The industry is essential to ensuring farmers receive the nutrients needed to enrich soil and grow the crops that feed our nation and the world. Fertilizer is critical to feeding a growing global population, which is expected to surpass 9.5 billion people by 2050. Half of all food grown around the world today is made possible through fertilizer produced in the United States and foreign markets. The U.S. fertilizer sector is comprised of producers, importers, wholesalers, and retailers. The industry supports nearly 500,000 American jobs with annual wages exceeding $36 billion.

The NAM and TFI have a substantial interest in the resolution of this case because it will affect resource development in the United States, especially in the West. The Western United States hosts a wide range of valuable minerals, timber, oil and gas, and other traditional and renewable resources needed to fuel the American economy and supply the manufacturing sector. In particular, federal lands in the West are a critical source of phosphate—the essential mineral used to produce fertilizer that sustains American agriculture and helps feed a growing global population. Ensuring access to the rich diversity of natural resources available on federal lands will strengthen the nation's manufacturing and agricultural sectors and promote economic, energy, and national security for Americans everywhere. This includes securing other uses, like those at issue in this litigation, which are incidental to production of these resources.

To promote resource development in the West, the United States must have a stable and uniform legal regime under the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1701 *et seq.* ("FLPMA"), and other applicable laws. Predictable and consistent application of law is needed to satisfy business expectations and encourage economic development on public lands in the West. The NAM, as the representative of the manufacturing industry, and TFI, as the representative of the fertilizer industry, are uniquely positioned to discuss the broad, real-world implications of this case.

SUMMARY OF ARGUMENT

The petitions present a question of national importance for manufacturers, fertilizer producers, and other industries whose operations depend on predictable access to federal public lands and the infrastructure needed to develop resources responsibly. Federal lands in the West contain minerals, timber, oil and gas, and other resources that support domestic supply chains, manufacturing, agriculture, energy security, and national security. Congress enacted FLPMA to replace a fragmented public-land-law regime with uniform procedures for the disposal, acquisition, and exchange of public lands. As multiple Ninth Circuit judges recognized in dissent, the decision below threatens that uniform regime by allowing a frontier-era statute to disable FLPMA's exchange authority for lands that otherwise fall squarely within FLPMA's coverage.

The consequences are concrete. The Ninth Circuit's decision not only halts a land exchange that would bolster the domestic fertilizer supply chain but also effectively imposes a permanent bar on the ceding of the Idaho public lands at issue—lands that could otherwise provide access to important natural resources. Troublingly, the Ninth Circuit's reasoning is not confined to this exchange. By disabling the uniform, predictable exchange regime Congress enacted, the court of appeals' decision calls into question the government's authority to dispose of millions of acres of public lands still subject to centuries-past statutes. Without the independent source of authority for land exchanges Congress intended, other obscure statutes could freeze sales or exchanges of large portions of public land in the Ninth Circuit and beyond. Review is warranted to prevent that uncertainty from undermining FLPMA's uniform exchange regime and chilling resource-related projects that depend on it.

ARGUMENT

The petitions should be granted because the decision below threatens the stable, uniform FLPMA exchange regime that Congress created for federal public lands and that *amici*'s members rely on when planning resource-development projects in the West.

I. RESOURCE DEVELOPMENT ON FEDERAL PUBLIC LANDS IS ESSENTIAL TO PROMOTING ECONOMIC, ENERGY, AND NATIONAL SECURITY

The Western United States is home to a wide range of valuable minerals, timber, oil and gas, and other traditional and renewable resources needed to fuel the American economy and supply the manufacturing sector. The national interest requires reasonable access to these resources, particularly those located in abundance across vast federal land holdings, so that energy, minerals, natural resources, and technologies are developed domestically. Land access is often inseparable from resource development: without the ability to obtain or exchange the particular lands needed for mines, processing facilities, storage, transportation, mitigation, or other operationally necessary uses, resources located on or near federal lands may remain unavailable as a practical matter. This case illustrates that point. Access here includes mining phosphate—a valuable mineral used to produce fertilizer for feeding the world—and securing land for uses incidental to production, including management of the gypsum by-product at issue here.

With regard to minerals, like gypsum, "the current goal of U.S. mineral policy is to promote an adequate, stable, and reliable supply of materials for U.S. national security, economic well-being, and industrial production. U.S. mineral policy emphasizes developing domestic supplies of critical materials and encourages the domestic private sector to produce and process those materials."[2] "Most minerals listed as critical are locatable on U.S. federal lands."[3] In keeping with rapidly developing technological needs, the list of minerals deemed "critical" for the United States continues to grow—the current list, adopted in 2025, includes 60 critical minerals, which is 10 more than the list compiled in 2022.[4] Quite relevant to this case, the 2025 list adds phosphate—the essential mineral for fertilizer production and food security.[5]

Critical minerals are the indispensable ingredients of the modern global economy. They are essential to most hi-tech products, including smartphones, electric vehicles,

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[2] Congressional Research Service ("CRS"), *Critical Minerals and U.S. Public Policy* at 43 (June 28, 2019), https://www.congress.gov/crs-product/R45810.

[3] *Id.* at 13.

[4] U.S. Geological Survey ("USGS"), *Interior Department Releases Final 2025 List of Critical Minerals* (Nov. 14, 2025), https://www.usgs.gov/news/science-snippet/interior-department-releases-final-2025-list-critical-minerals.

[5] *Ibid.*

satellites, medical devices, solar panels, and practically any product with a battery. Mining and processing critical minerals in the United States is a linchpin of effectively all the nation's major economic, environmental, and national security objectives. In 2025, domestic mineral mining activities, valued at $112 billion, enabled more than $4 trillion in value added to gross domestic product (out of a $30 trillion economy).[6]

Even while demand for critical minerals in the United States continues to skyrocket,[7] our nation remains dangerously dependent upon foreign sources.[8] In fact, of the mineral commodities deemed critical in 2025, the United States is 100% net import reliant for 13 of them, and an additional 20 have a net import reliance greater than 50%.[9] "The U.S. is heavily reliant on imports of many minerals, such as cobalt and lithium, which are essential for manufacturing advanced technologies. Supply chains for many of these minerals are also vulnerable to various risks, such

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[6] USGS, *Mineral Commodity Summaries 2026* at 6-8 (Feb. 6, 2026), https://www.usgs.gov/publications/mineral-commodity-summaries-2026.

[7] See, *e.g.*, Benoît Morenne, *The Surprising New Source of Lithium for Batteries*, Wall St. J. (June 2, 2023), https://www.wsj.com/articles/the-surprising-new-source-of-lithium-for-batteries-744463c4 ("Demand for lithium batteries is projected to shoot up this decade, with U.S. demand expected to increase by nearly six times by 2030 to reach $52 billion, according to a Boston Consulting Group analysis.").

[8] Ana Swanson, *The U.S. Needs Minerals for Electric Cars. Everyone Else Wants Them Too.*, N.Y. Times (May 21, 2023), https://www.nytimes.com/2023/05/21/business/economy/minerals-electric-cars-batteries.html (United States must "manage the risks caused by vulnerable mineral supply chains and build more resilient sources" domestically).

[9] USGS, *Mineral Commodity Summaries 2026* at 8.

as foreign government actions."[10] Foreign countries continue to enact bans, quotas, and controls on exports of minerals to the United States.[11] Particularly troubling, the United States is reliant on China as a major source for 14 of the 33 critical minerals for which the United States most depends on imports.[12] Aware of this serious threat to national security, the Executive Branch has made boosting American mineral production a top priority.[13]

Critical mineral production on federal lands must play a key role in addressing these supply chain vulnerabilities.[14] "The majority of mine operations authorized to produce minerals [from federal lands in 2018] were located in the western United States," including valuable minerals such as gold, silver, copper, phosphate, sodium, coal,

[10] U.S. Government Accountability Office ("GAO"), *Building on Federal Efforts to Advance Recovery and Substitution Could Help Address Supply Risks* at Highlights (June 2022), https://www.gao.gov/assets/gao-22-104824.pdf (citation omitted).

[11] USGS, *Mineral Commodity Summaries 2026* at 9, 16.

[12] USGS, *Value of U.S. Mineral Production Rose Last Year, Driven by Precious Metals Prices* (Feb. 6, 2026), https://www.usgs.gov/news/national-news-release/value-us-mineral-production-rose-last-year-driven-precious-metals-prices.

[13] Exec. Order No. 14241—Immediate Measures to Increase American Mineral Production, 90 Fed. Reg. 13673, 13673 (Mar. 25, 2025) ("Our national and economic security are now acutely threatened by our reliance upon hostile foreign powers' mineral production. It is imperative for our national security that the United States take immediate action to facilitate domestic mineral production to the maximum possible extent.").

[14] USGS, *USGS Study Highlights Potential of Significant Critical Mineral Resources in the Western U.S.* (Oct. 27, 2023), https://www.usgs.gov/news/national-news-release/usgs-study-highlights-potential-significant-critical-mineral-resources.

uranium, gemstones, and many others.[15] Without a stable regime of federal land management, overcoming these supply chain struggles will not be possible.

Federal lands are also critical to timber resources needed for the U.S. manufacturing sector. "Today, wood products make up 47% of all raw materials used in national manufacturing."[16] As the Executive Branch has recognized, "[w]ood products are a key input used by both the civilian construction industry and the military," and "[t]he procurement of these building materials depends on a strong domestic lumber industry and a manufacturing base capable of meeting both military-specific and wider civilian needs."[17] To fill these needs, nearly 3 billion board feet of timber and other forest products were harvested from lands managed by the U.S. Forest Service in 2025 alone.[18] Yet despite the ample timber resources present in the United States, the nation has been a net importer of lumber since 2016.[19]

The United States is the world's leading energy producer, creating an advantage for manufacturers in the

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[15] GAO, *Mining on Federal Lands: More Than 800 Operations Authorized to Mine and Total Mineral Production Is Unknown* at 8 (May 28, 2020), https://www.gao.gov/assets/gao-20-461r.pdf.

[16] Lindsay Warness, *The Enduring Legacy of Forest Products in America*, Forest Resources Association (Oct. 19, 2023), https://forestresources.org/2023/10/19/the-enduring-legacy-of-forest-products-in-america/.

[17] Exec. Order No. 14223—Addressing the Threat to National Security From Imports of Timber, Lumber, and Their Derivative Products, 90 Fed. Reg. 11359, 11359 (Mar. 6, 2025).

[18] U.S. Forest Service, *Cut and Sold Reports, Cumulative FY2025* at 1 (Dec. 8, 2025), https://www.fs.usda.gov/sites/default/files/2025-q4-cut-sold-sw.pdf.

[19] Exec. Order No. 14223—Addressing the Threat to National Security From Imports of Timber, Lumber, and Their Derivative Products, 90 Fed. Reg. at 11359.

global marketplace.[20] As with critical minerals and other resources, federal lands play a vital role in energy security, which helps to power the American manufacturing sector.[21] "Crude oil production from onshore federal lands has increased in recent years as a result of significant growth in drilling activity and operations," with the percentage of crude oil produced from onshore federal lands increasing from 5% in 2015 to 13% in 2024.[22] After years of onshore federal lands accounting for a declining share of U.S. natural gas production, that long-term trend has reversed, and the federal onshore percentage of U.S. natural gas production has grown to 11%.[23] And the Department of the Interior recently estimated that there are over 350 billion short tons of available coal resources on federal lands in the conterminous United States—enough to supply the nation's coal needs for 600 years.[24] For these reasons, current U.S. energy policy seeks to "encourage energy exploration and production on Federal lands * * * in order to meet the needs of our citizens and solidify the United States as a global energy leader long into the

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[20] U.S. Energy Information Administration ("EIA"), *The United States Set Record Energy Production in 2025, Again* (May 11, 2026), https://www.eia.gov/todayinenergy/detail.php?id=67684; U.S. Dep't of Energy, *America's Rise as a Global Energy Leader* (Feb. 23, 2026), https://www.energy.gov/hgeo/articles/americas-rise-global-energy-leader.

[21] CRS, *Federal Lands and Related Resources: Overview and Selected Issues for the 118th Congress* at 17-18 (Feb. 24, 2023), https://crsreports.congress.gov/product/pdf/R/R43429/37.

[22] EIA, *Onshore Crude Oil Production on Federal Lands Has Increased in Recent Years* (July 28, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65804#.

[23] *Ibid.*

[24] U.S. Dep't of the Interior, *Interior Releases Major Update on Coal Potential Beneath Federal Lands* (July 23, 2026), https://www.doi.gov/pressreleases/interior-releases-major-update-coal-potential-beneath-federal-lands.

future" and "to protect the United States's economic and national security and military preparedness by ensuring that an abundant supply of reliable energy is readily accessible in every State and territory of the Nation."[25]

II. The Ninth Circuit's Decision Obstructs Compliant Resource Development By Disrupting FLPMA's Land Exchange Regime

Resource development in the United States, especially in the West, depends upon a stable legal regime—one that affords certainty and uniformity. For this very reason, Congress enacted FLPMA. That statute was Congress's answer to a "chaotic" and fragmented public-land-law regime. See Pet. App. 71a (Collins, J., dissenting from the denial of rehearing en banc) (quoting *Lujan* v. *Nat'l Wildlife Fed'n*, 497 U.S. 871, 876 (1990)).[26] FLPMA "is a comprehensive land-management act." *Bolt* v. *United States*, 944 F.2d 603, 608 (9th Cir. 1991). "Prior to the FLPMA, the BLM and its predecessor agencies managed the public lands under some 3,000 public land laws, *e.g.,* the General Mining Law of 1872, Act of May 10, 1872, ch. 152, 17 Stat. 91 (codified as amended in scattered sections of 30 U.S.C.), and the various homestead laws," *Rocky Mountain Oil & Gas Ass'n* v. *Watt*, 696 F.2d 734, 738 n.2 (10th Cir. 1982), that served "a variety of competing and often conflicting interests," *id.* at 737. "Recognizing the need to provide guidance and a comprehensive statement of congressional policies concerning the management of the public lands, Congress enacted [FLPMA]." *Id.* at 737-738.

In addition to enacting a single, comprehensive land-management policy, Congress also sought to create "uniform procedures for any disposal of public land,

[25] Exec. Order No. 14154—Unleashing American Energy, 90 Fed. Reg. 8353, 8353 (Jan. 29, 2025).

[26] Unless otherwise indicated, citations to "Pet. App." refer to the appendix to the petition filed in No. 26-96.

acquisition of non-Federal land for public purposes, and the exchange of such lands." 43 U.S.C. § 1701(a)(10). To effectuate that goal, Congress did two things. First, it gave FLPMA broad application. Congress expansively defined "public lands" to include "any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership." *Id.* § 1702(e).[27] "So FLPMA governs all public lands no matter how the land came into the possession of the federal government—including cession from Indian tribes." Pet. App. 39a (Bumatay, J., dissenting). And "FLPMA applies to all federally owned lands, regardless of whether existing laws govern the land." *Id.* at 40a.

Second, Congress authorized BLM to acquire and dispose of public lands by exchange. 43 U.S.C. §§ 1715-1716. FLPMA authorizes the federal government to "acquire" public lands "by * * * exchange"—"[n]otwithstanding any other provisions of law." *Id.* § 1715(a). And the government may "dispose[] of" "public land" by an "exchange" if it determines "the public interest will be well served by making that exchange" and "[t]he values of the lands exchanged" are "equal." *Id.* § 1716(a), (b). "In the end, the import of these sections is that the government may exchange land 'under this Act' without regard to 'other provisions of law.'" Pet. App. 40a (Bumatay, J., dissenting) (quoting 43 U.S.C. §§ 1715(a), 1716(a)).[28]

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[27] Congress excepted from this definition "lands located on the Outer Continental Shelf" and "lands held for the benefit of Indians, Aleuts, and Eskimos," which are not at issue here. 43 U.S.C. § 1702(e)(1)-(2).

[28] Because every exchange necessarily involves both acquisition and disposal, 43 U.S.C. § 1715's "notwithstanding" language and 43 U.S.C. § 1716's public-interest and equal-value requirements operate together as FLPMA's integrated exchange authority. See Pet. App. 40a

Congress wanted the government to have a broad, independent authority to conduct land exchanges with respect to any public lands, regardless of what any other statute—such as the 1900 Act—may provide. "In this case, Congress granted the federal government *two* independent ways to dispose of the land involved in the exchange—the 1900 Act and FLPMA. As complementary grants of authority to dispose of land, the Bureau could follow either." Pet. App. 42a (Bumatay, J., dissenting); see *id.* at 86a (Tung, J., dissenting from the denial of rehearing en banc) ("The 1900 Act and the FLPMA serve as related but separate grants of authority to the Bureau to dispose of the Fort Hall lands.").

But the Ninth Circuit's holding disables FLPMA's central function in precisely the circumstances where Congress intended predictability and uniformity. Congress intended for FLPMA to offer an independent source of authority for land exchanges on which parties could rely without resorting to the chaotic system of land management FLPMA replaced. Under the Ninth Circuit's ruling, businesses pursuing land exchanges and resource development in the Western United States cannot expect to rely on FLPMA alone; their ability to exchange public land may turn on whether a parcel remains subject to historical disposal statutes. The panel's decision thus "construe[s] the pre-FLPMA patchwork of laws as *disabling* the operation of the FLPMA when the very purpose of the FLPMA was to provide an alternative to it." Pet. App. 98a (Tung, J., dissenting from the denial of rehearing en banc). Allowing obscure pre-FLPMA statutes to override FLPMA's exchange regime "flip[s] the FLPMA on its head in that way." *Ibid.*

(Bumatay, J., dissenting) (treating the sections as the sources of authority for FLPMA exchanges).

That is not merely a merits error. It is a nationally important threat to the uniform, predictable exchange regime Congress enacted. What is more, the loss of this stable and reliable source of authority will have consequences for resource development in the Western United States. Start with the exchange in this case. "The result is that the plot of Idahoan land must forever remain in the federal government's hands—unless Congress *again* acts to reform public-land laws." Pet. App. 35a (Bumatay, J., dissenting). The Ninth Circuit's decision "*permanently*" bars disposal of the ceded lands because "the federal government does not currently have a viable method for disposing of the ceded lands" through the 1900 Act. *Id.* at 41a (citation and internal quotation marks omitted); *id.* at 73a (Collins, J., dissenting from the denial of rehearing en banc) (panel interpreted FLPMA to "ha[ve] the effect of *contracting* the Government's authority to dispose of those lands"). Beyond this particular exchange, the panel's holding "improperly obstruct[s] the government's administration of its own property" and "severely hamper[s] the federal government's ability to * * * sell or exchange lands to promote economic development or sustain jobs in local communities." *Id.* at 75a, 95a (Tung, J., dissenting from the denial of rehearing en banc). Of particular concern to businesses needing access to the resources on federal lands, there are at least 35 statutes, "phrased similarly to the 1900 Act, that if construed in the way the panel majority would like, would effectively freeze the sale or exchange of large portions of public land throughout this circuit and beyond." *Id.* at 79a, 95a-97a & nn.3-4 (identifying 22 statutes); Gov't Pet. 24-25 & n.4 (identifying 13 additional statutes).

In sum, consistent application of law is needed to meet business expectations and promote economic development in the West. Congress recognized this fact and replaced a patchwork of public-lands laws with a single, comprehensive statute in FLPMA. The Ninth Circuit's decision destabilizes that regime, threatens resource development on federal lands, and creates uncertainty for projects that depend on the availability of FLPMA exchanges. This Court should grant review to preserve FLPMA's uniform exchange framework and prevent the decision below from chilling responsible development of resources important to the nation's economy and security.

CONCLUSION

The Court should grant the petitions for writs of certiorari.

Respectfully submitted.

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