



Defendants Donald J. Trump *et al.* (collectively, “Federal Defendants”) and Plaintiffs Hopi Tribe, Navajo Nation, Ute Indian Tribe, Ute Mountain Ute Tribe, and Zuni Tribe (the “Tribal Plaintiffs”), Utah Dine Bikeyah *et al.*, and Natural Resources Defense Council *et al.*, (collectively, “Plaintiffs”) respectfully move the Court to set a hearing date for oral argument on the Federal Defendants’ motion to dismiss in the above-captioned consolidated cases (ECF No. 49).

These cases challenge the 2017 Proclamation that excluded public land from the Bears Ears National Monument. The Federal Defendants’ motion is now fully briefed, making appropriate an expeditious hearing and resolution of the motion. Because the President’s action on the Bears Ears National Monument raises novel and significant statutory and constitutional issues, oral argument would allow the parties to respond to any questions the Court may have and facilitate the efficient resolution of the case.<sup>1</sup>

Plaintiffs’ counsel have conferred with Intervenor American Farm Bureau Federation, Utah Farm Bureau Federation, the State of Utah, and Brandon Sulser *et al.* about their positions on the request to set a hearing date. No Intervenor opposes the motion.

Because the Court may wish to hear arguments in these cases together with arguments on Federal Defendants’ motion to dismiss in the related consolidated cases involving Bears Ears National Monument, *The Wilderness Society v. Trump*, Case No. 1:17-cv-02587-TSC (ECF No.

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<sup>1</sup> Plaintiffs also note that the Bureau of Land Management (“BLM”) is continuing to prepare monument management plans (MMPs) for the lands that remain in the Bears Ears National Monument. *See* U.S. Dep’t of the Interior, Bureau of Land Mgmt., Bears Ears National Monument: Draft Monument Management Plans and Environmental Impact Statement Executive Summary (August 2018), [https://eplanning.blm.gov/epl-front-office/projects/lup/94490/188907/154290/188907/BENM\\_Draft MMPs-EIS\\_Executive\\_Summary.pdf](https://eplanning.blm.gov/epl-front-office/projects/lup/94490/188907/154290/188907/BENM_Draft_MMPs-EIS_Executive_Summary.pdf) (last visited May 6, 2019). The BLM estimates that later this year it will publish the final MMPs and EIS, and the BLM and the Forest Service subsequently will issue final decisions.

49), counsel have also conferred with counsel for all parties in that case. No parties in *The Wilderness Society* object to the motion. In fact, a joint motion asking the Court to set oral argument is simultaneously being filed in that case.

To facilitate the scheduling of a hearing, Plaintiffs have surveyed counsel for all parties in both sets of consolidated cases for their availability through July 31, 2019, and endeavored to determine the dates that would accommodate the largest number of parties. Based on this survey, the dates that accommodate the largest number of parties are July 16–19 and July 22–26, 2019. Counsel for all parties are available for a hearing on July 22 or 23; however, counsel for some intervenors are unavailable during the other dates in this range.<sup>2</sup> Recognizing that there are challenges in setting a schedule accommodating all of the participants, Movants respectfully seek an expeditious hearing on the motion in order to facilitate a prompt resolution of the motion to dismiss.

A proposed order setting the hearing date is attached.

Respectfully submitted this 9th day of May 2019,

s/nlandreth

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<sup>2</sup> Counsel for Farm Bureau Intervenors are unavailable July 24–26, and counsel for Farm Bureau Intervenors and Brandon Sulser *et al.* Intervenors are unavailable July 16–19.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of May, 2019, I filed the above motion with the Court's CM/ECF system, which provided notice of this filing by e-mail to all counsel of record.

/s/ Romney S. Philpott  
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