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**Admitted pro hac vice*

(Additional counsel listed in signature
block)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

GARFIELD COUNTY, UTAH, *et al.*,)
)
 Plaintiffs,)
)
 ZEBEDIAH GEORGE DALTON, *et al.*,)
)
 Consolidated Pls.,)
)
 v.)
)
 JOSEPH R. BIDEN, JR., *et al.*,)
)
 Defendants,)
)
 HOPI TRIBE, *et al.*,)
)
 Intervenor-Defs.,)
)
 SOUTHERN UTAH WILDERNESS)
 ALLIANCE, *et al.*,)
)
 Intervenor-Defs.)

**SUWA INTERVENORS’
MOTION TO DISMISS
AMENDED COMPLAINTS
AND MEMORANDUM IN SUPPORT**

Lead Case No. 4:22-cv-00059-DN-PK
Member Case No. 4:22-cv-00060-DN-PK

District Judge David Nuffer
Magistrate Judge Paul Kohler

**MOTION TO DISMISS AMENDED COMPLAINTS
AND MEMORANDUM IN SUPPORT**

I. Relief Sought and Grounds for Relief

Pursuant to Federal Rule of Civil Procedure 12(b)(6), SUWA Intervenors move to dismiss the Amended Complaints¹ for failure to state a claim on which relief can be granted.

II. Relevant Facts, Supporting Authority, and Argument

In the interests of judicial economy, SUWA Intervenors will not repeat the recitations of fact, supporting authority, or argument already set forth in the Federal Defendants' and Tribal Nation Intervenors' motions to dismiss the Amended Complaints.² Instead, pursuant to DUCivR 7-1(a)(7), SUWA Intervenors incorporate by reference the following sections of those motions as though fully set forth herein:

- (1) The "Factual Background," "Procedural Background," and "Legal Standard" sections of Federal Defendants' motion to dismiss, pages 3-11;
- (2) Argument Sections III ("Plaintiffs' Claims Should Be Dismissed for Failing to Identify Improperly Designated Lands with Sufficient Particularity") and IV ("Plaintiffs Have Failed to State a Claim for Violation of the Antiquities Act Because Their Claims Fail as a Matter of Law") of Federal Defendants' motion to dismiss, pages 49-60; and
- (3) Argument Section IV(D) ("The Plaintiffs Have Failed to State a Claim") of the Tribal Nation Intervenors' motion to dismiss, pages 30-44.

¹ Am. Compls., Docket Nos. 90, 91.

² Fed. Defs.' Mot. to Dismiss Am. Compls., Docket No. 113; Hopi Tribe, *et al.*'s Mot. to Dismiss, Docket No. 114.

SUWA Intervenors do not seek dismissal under Rule 12(b)(1) based on Plaintiffs' or Consolidated Plaintiffs' lack of standing, but reserve the right to challenge standing at a later stage if these cases proceed. *See generally Utah Ass'n of Cnty. v. Bush*, 455 F.3d 1094, 1100 (10th Cir. 2006) (describing plaintiffs' burden to establish standing at various stages of litigation).

CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiffs' and Consolidated Plaintiffs' amended complaints for failure to state a claim on which relief can be granted.

Respectfully submitted this 30th day of March, 2023,

/s/ Heidi McIntosh

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CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2023, I caused the foregoing document to be filed with the Clerk of the Court using the Court's CM/ECF system, and service was thereby effected electronically to all counsel of record.

March 30, 2023

/s/ Heidi McIntosh
Heidi McIntosh