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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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GARFIELD COUNTY, UTAH, a Utah  
political subdivision; et al.;  
Plaintiffs,

ZEBEDIAH GEORGE DALTON;  
BLUERIBBON COALITION; KYLE  
KIMMERLE; and SUZETTE RANEA  
MORRIS;

Consolidated  
Plaintiffs,

v.

JOSEPH R. BIDEN, JR. in his official  
Capacity as President of the United States; et  
al.;

Defendants,

HOPI TRIBE, NAVAJO NATION, PUEBLO  
OF ZUNI AND UTE MOUNTAIN UTE  
TRIBE;

Intervenor-  
Defendants,

SOUTHERN UTAH WILDERNESS  
ALLIANCE  
et al.

Intervenor-Defendants.

**MEMORANDUM DECISION  
AND ORDER GRANTING**

- **DEFENDANTS' MOTION TO STAY, docket no. 129,**
- **INTERVENOR-DEFENDANTS TRIBAL NATIONS' MOTION TO STAY, docket no. 138, and**
- **SUWA INTERVENOR-DEFENDANTS' MOTION TO STAY, docket no. 142**

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

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**BACKGROUND**

Defendants filed their Motion to Stay Summary Judgment Briefing on March 24, 2023.<sup>1</sup>  
Intervenor-Defendants Tribal Nations filed their Motion to Stay Summary Judgment Briefing on  
March 27, 2023.<sup>2</sup> Finally, SUWA Intervenor-Defendants filed Motion to Stay Summary

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<sup>1</sup> Motion to Stay, [docket no. 129](#), filed Mar. 24, 2023.

<sup>2</sup> Motion to Stay, [docket no. 138](#), filed Mar. 27, 2023.

Judgment Briefing and to Incorporate SUWA Intervenors' Motion to Dismiss into Existing Briefing Schedule on March 30, 2023.<sup>3</sup>

SUWA Intervenor-Defendants make an unopposed request to use the same briefing schedule for their motion to dismiss as established for the other motions to dismiss.<sup>4</sup> The briefing schedule for the other motions to dismiss will apply to the response and reply in the SUWA Intervenor-Defendants' Motion to Dismiss.

### **DISCUSSION**

Threshold legal issues evident on the face of the pleadings must be resolved first before addressing motions involving factual disputes outside the pleadings, such as are raised in declarations attached to the Consolidated Plaintiffs' Amended Complaint.<sup>5</sup> As Defendants point out, their own motion to dismiss raises threshold immunity questions.

Staying briefing on the motion for summary judgment promotes an orderly resolution of the case and avoids significant (and potentially unnecessary) burdens on the court.

The briefing of and decision on the motions to dismiss before considering the motion for summary judgment will allow a thorough examination by – and education of – the court on the complex issues presented in this unique area of the law in which counsel are well informed.

### **ORDER**

IT IS THEREFORE ORDERED that

1. Defendants' Motion to Stay Summary Judgment Briefing is GRANTED;<sup>6</sup>

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<sup>3</sup> Motion to Stay, [docket no. 142](#), filed Mar. 30, 2023.

<sup>4</sup> See Motion to Dismiss, [docket no. 113](#), filed Mar. 2, 2023; Motion to Dismiss, [docket no. 114](#), filed Mar. 2, 2023.

<sup>5</sup> Amended Complaint, [docket no. 90](#), filed Jan. 26, 2023.

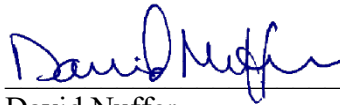
<sup>6</sup> Motion to Stay, [docket no. 129](#), filed Mar. 24, 2023.

2. Intervenor-Defendants Tribal Nations' Motion to Stay Summary Judgment Briefing is GRANTED;<sup>7</sup>
3. SUWA Intervenor-Defendants' Motion to Stay Summary Judgment Briefing and to Incorporate SUWA Intervenor's Motion to Dismiss into Existing Briefing Schedule is GRANTED;<sup>8</sup>
4. Briefing on Consolidated Plaintiffs' Motion for Summary Judgment is STAYED so that responses are not due until 28 days after decision on the motions to dismiss;<sup>9</sup>
5. Any opposition to SUWA Intervenor-Defendants' Motion to Dismiss<sup>10</sup> is due by April 14, 2023; and any reply is due by May 5, 2023.

Briefing on other motions for summary judgment is stayed pending resolution of the three motions to dismiss.

Signed April 3, 2023.

BY THE COURT



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David Nuffer  
United States District Judge

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<sup>7</sup> Motion to Stay, [docket no. 138](#), filed Mar. 27, 2023.

<sup>8</sup> Motion to Stay, [docket no. 142](#), filed Mar. 30, 2023.

<sup>9</sup> Motion for Summary Judgment, [docket no. 117](#), filed Mar. 9, 2023.

<sup>10</sup> Motion to Dismiss, [docket no. 141](#), filed Mar. 30, 2023.