

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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The Wilderness Society, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 1:17-cv-02587 (TSC)
)	
v.)	
)	
Donald J. Trump, <i>et al.</i> ,)	
)	
Defendants.)	
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Grand Staircase Escalante Partners, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 1:17-cv-02591 (TSC)
)	
v.)	
)	
Donald J. Trump, <i>et al.</i> ,)	
)	CONSOLIDATED CASES
Defendants.)	
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**TWS PLAINTIFFS’ AMENDED AND SUPPLEMENTED COMPLAINT
FOR INJUNCTIVE AND DECLARATORY RELIEF**

INTRODUCTION

1. Plaintiffs The Wilderness Society *et al.* file this amended and supplemented complaint challenging President Donald J. Trump’s dismantling of the Grand Staircase-Escalante National Monument (the Monument). *See* Fed. R. Civ. P. 15; Minute Order, Oct. 16, 2019.

2. President Bill Clinton designated the Monument in 1996, conferring needed protection on approximately 1.7 million acres of federal public lands in southern Utah—a dramatic and unspoiled landscape of multihued cliffs and canyons, towering rock formations,

fragile ecological communities, innumerable archaeological sites, and unparalleled paleontological resources. *See* Proclamation No. 6920, Establishment of the Grand Staircase-Escalante National Monument, 61 Fed. Reg. 50,223 (Sept. 18, 1996) (the 1996 Proclamation). Recognizing the need to protect the integrity of this extraordinary landscape, Congress subsequently added roughly 200,000 more acres to the Monument, bringing its total area to 1.9 million acres.

3. The Monument's size matches the vast grandeur of the geologic formations for which it is named: the stair-stepping benches of towering sandstone formations and plateaus that stretch from near the Grand Canyon northwards to Utah's wildlife-rich Paunsaugunt Plateau. According to the Utah Geological Survey, "[t]his staircase is like no other," with layered, 2,000-foot-tall sandstone "risers." This geologic wonder, eons in the making, documents the area's slow evolution from a vast ocean, to a landscape eventually inhabited by dinosaurs and blanketed by tropical vegetation, to the arid, largely rock-bound terrain visible today. The Monument's exposed geological strata have yielded extraordinary paleontological discoveries, including multiple new dinosaur fossils found nowhere else in the world.

4. Historic and cultural resources within the Monument include archaeological sites and artifacts from generations of Indigenous inhabitants beginning thousands of years ago, to the more recent evidence of early explorers like John Wesley Powell and early Mormon pioneers.

5. The Monument was the last place in the continental United States to be mapped, and its remote location contributes to the wild and undeveloped character of the Monument to this day.

6. The Monument provides Plaintiffs and their members, scientists, and the American public with outstanding opportunities to conduct scientific research, observe

archaeological sites, hike in magnificent landscapes, camp, enjoy solitude, view native animal and plant life, and engage in a variety of other quiet recreational activities.

7. Prior to 1996, these resources faced a variety of threats, including a large planned coal mine that would have brought roads, heavy equipment, structures, waste pits, degradation of natural springs, and industrial noise to the Kaiparowits Plateau, which lies in the heart of the Monument. President Clinton's monument designation withdrew the Monument's lands from "entry, location, selection, sale, leasing, or other disposition under the public land laws," among other things, thereby prohibiting new mining claims and mineral leases. After the Monument's designation in 1996, the federal government negotiated the repurchase of the existing coal leases within the Monument; the mine proposal was abandoned; and the landscape and its irreplaceable resources were—until recently—protected from damage.

8. On December 4, 2017, President Trump issued an unlawful proclamation revoking monument status and protections from roughly half of the Monument, replacing the original Monument with three much smaller, fragmented "units" that he named the "Grand Staircase," "Kaiparowits," and "Escalante Canyons" units. *See* Proclamation No. 9682, 82 Fed. Reg. 58,089 (Dec. 4, 2017) (the Trump Proclamation). In total, the President's unlawful action stripped monument protection from nearly 900,000 acres of federal public lands in the Monument and left remarkable fossil, cultural, scenic, and geologic treasures exposed to immediate and ongoing harm.

9. As a result of President Trump's action, federal public lands that had been protected for over twenty years—including vast swaths of the Kaiparowits Plateau, where troves of unique dinosaur fossils have been found—are now open to harmful developments such as hard-rock and coal mining, new roads, motorized vehicle abuse, and oil and gas drilling. These

types of developments will scar the lands; ruin their wild, natural character; compromise vital parts of the paleontological record; and destroy the resources the Monument was created to protect.

10. Indeed, as discussed further below, at least nineteen new hard-rock mining claims have already been located and recorded on lands excised from the Monument since President Trump's Proclamation opened those lands to mineral entry and location.

11. President Trump had no authority under the Antiquities Act to dismantle the Monument. The Act authorizes Presidents to create national monuments. It does not authorize Presidents to abolish them either in whole or in part, as President Trump's Proclamation does. Only Congress—not the President—has the power to rescind or reduce a national monument.

12. President Trump's action even purports to overturn congressional legislation that added lands to the Monument.

13. President Trump acted in the absence of any statutory authority under the Antiquities Act, violated a series of other legislative enactments relating to the Monument, and violated the separation of powers between Congress and the President. Accordingly, this Court should declare President Trump's Proclamation to be unlawful and set it aside. Actions by the Department of the Interior and the Bureau of Land Management (BLM) to implement the President's unlawful proclamation are likewise unlawful and should be enjoined.

JURISDICTION AND VENUE

14. This case arises under the Constitution and the laws of the United States. Jurisdiction is therefore proper pursuant to 28 U.S.C. § 1331 (federal question).

15. The Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-02 and its inherent authority to issue equitable relief. Injunctive relief is also authorized by 5 U.S.C. § 706.

16. The Court has authority to award costs and attorneys' fees under 28 U.S.C. § 2412.

17. Venue is proper in this court pursuant to 28 U.S.C. § 1391(e)(1) because Plaintiffs The Wilderness Society and Defenders of Wildlife reside in this District, and because the Southern Utah Wilderness Alliance, Natural Resources Defense Council, Center for Biological Diversity, and Sierra Club maintain offices in the District.

18. Venue is also proper in this court pursuant to 28 U.S.C. § 1391(b)(1), (b)(2), and (e)(1) because the Defendants reside in this District. Additionally, the events giving rise to the action challenged here—including former Interior Secretary Ryan Zinke's national monument review and transmittal of his recommendations to the President concerning the Monument, as well as Defendant Bernhardt and other Interior officials' actions in response to President Trump's Proclamation—took place in this judicial district.

PLAINTIFFS

19. Plaintiff THE WILDERNESS SOCIETY is a non-profit national organization founded in 1935, with members who reside throughout the nation, including in Utah.

20. The Wilderness Society works to protect America's wilderness lands through public education, scientific analysis, and advocacy. The Wilderness Society's mission is to protect wilderness and inspire Americans to care about our wild places, so that future generations will enjoy the clean air, water, wildlife, beauty, and opportunities for recreation and renewal that

pristine deserts, mountains, forests, and rivers provide. Protecting wilderness-quality and other sensitive lands managed by BLM is vital to achieving The Wilderness Society's mission.

21. Prior to the designation of the Monument, The Wilderness Society had already worked for years to protect BLM wilderness lands and other sensitive lands located within the Monument. The Wilderness Society has initiated and intervened in numerous lawsuits to ensure that the lands within the Monument are protected from roads and off-highway vehicle abuse, including in *Kane County v. Salazar*, 562 F.3d 1077 (10th Cir. 2009), in which it intervened to defend successfully the Monument's motorized travel plan.

22. The Wilderness Society supported the Monument's creation, and since 1996 it has continued to advocate for the protection of all lands within the Monument. It has actively engaged with BLM Monument managers to support protective provisions in the Monument Management Plan, and engaged in related efforts to halt the damage from roads and off-highway vehicle use. The Wilderness Society has been involved in every major action and management decision in the Grand Staircase-Escalante National Monument since its establishment.

23. Many of The Wilderness Society's members, including Ray Bloxham and Phillip Hanceford, visit the Monument, including the areas that have now been stripped of protection, to experience their remote wilderness quality, view wildlife, camp, hike, and enjoy the vivid, natural beauty of the area. Additionally, its members are drawn to Monument lands to view the numerous archaeological and paleontological sites. Its members plan to visit the area regularly in the future, including in 2019 and 2020. Mr. Hanceford represented the environmental community on the Monument Advisory Committee from 2011 until 2017.

24. Plaintiff DEFENDERS OF WILDLIFE (Defenders) is a national, non-profit conservation organization founded in 1947, which is dedicated to the protection of all native

animals and plants in their natural, undeveloped, native habitats. Headquartered in Washington, D.C., Defenders has more than 1.8 million members and supporters throughout the United States, including in Utah.

25. Defenders works to ensure that the diverse wildlife populations and flora in North America are secure and thriving, sustained by a network of healthy lands and waters. Through education, advocacy, litigation, and other efforts, Defenders works to preserve species and the habitats upon which they depend. The Monument is vital to this work due to its outstanding rare, diverse, and sensitive biological resources. The variety of its ecosystems—ranging from low-lying desert to coniferous forest to areas of relict vegetation—combined with its remoteness, allows the Monument to preserve its important ecological values.

26. Defenders has an interest in the preservation and conservation of the Monument and the ecological resources contained therein that will be harmed by the removal of the protections afforded by national monument status. Defenders' members, including Michael Dax, live near and regularly visit the Monument for wildlife observation, recreation, and other uses. These members derive aesthetic, educational, professional, health, and spiritual benefits from their activities within the Monument, including the areas that have now been stripped of protection. Mr. Dax and other Defenders' members have specific intentions to continue using and enjoying these areas frequently and on an ongoing basis in the future, including in 2019 and 2020.

27. Plaintiff NATURAL RESOURCES DEFENSE COUNCIL, INC. (NRDC), is a non-profit environmental membership organization with hundreds of thousands of members nationwide. Part of NRDC's core mission is to preserve the earth's wild places and wildlife, to

safeguard the integrity of undeveloped lands, and to prevent the destructive impacts of extractive industry exploration and development on public lands.

28. NRDC has a longstanding commitment to the protection of federal public lands in Utah, and it actively supported the designation of the Grand Staircase-Escalante National Monument.

29. NRDC has individual members, including Utah residents Ray Bloxham, Susan Harrington, Kevin Walker, and David Delthony, who use and enjoy the Monument lands (including the areas that have now been stripped of protection) for a variety of purposes, including scientific study, hiking and recreation, wildlife viewing, meditation and quiet contemplation, education, and aesthetic appreciation. These NRDC members live in Utah and intend to continue visiting the Monument lands frequently, including in 2020. Mr. Bloxham and Ms. Harrington have plans to return there for backpacking or hiking trips in 2020. Mr. Delthony lives near the Monument's entrance in Escalante and plans on returning there in the near future.

30. Plaintiff SOUTHERN UTAH WILDERNESS ALLIANCE (SUWA) is a non-profit environmental membership organization with members in all fifty states and offices in Washington, D.C., and Utah. It is dedicated to the sensible management of all federal public lands within the State of Utah, the preservation and protection of plant and animal species, the protection of clean air and water found on federal public lands, the preservation and protection of cultural and archaeological resources, and the permanent preservation of Utah's remaining wild lands.

31. SUWA staff and members actively supported President Clinton's exercise of his authority under the Antiquities Act to designate the Grand Staircase-Escalante National

Monument and preserve the objects identified in the 1996 Proclamation for current and future generations of Americans.

32. SUWA staff and members have worked for decades to obtain protection for the Grand Staircase area. SUWA has initiated and intervened in numerous lawsuits to ensure that the lands within the Monument are protected from roads and off-highway vehicle abuse, including in *Utah Association of Counties v. Bush*, 316 F. Supp. 2d 1172 (D. Utah 2004), in which it intervened to defend successfully President Clinton's establishment of the Monument against a broad legal challenge. In the early 1990s, SUWA opposed a large coal mine and associated developments in the heart of the Monument and successfully challenged before the State's Board of Oil, Gas and Mining the State of Utah's decision to grant a permit to the mine operator.

33. Since 1996, SUWA has regularly met with Monument managers to express concerns regarding, and at times opposition to, vegetation treatments, recreation planning, and ongoing issues with off-highway vehicle use. SUWA will continue to advocate for protection of the Monument lands through engagement in land planning and management activities, through public education, and through political outreach.

34. SUWA has individual members, including Ray Bloxham and Kya Marienfeld, who often visit the Monument (including the areas that have now been stripped of protection) for a host of reasons, including spiritual renewal, recreation, photography, and appreciation of the area's significant natural resources, flora and fauna, and geology. For example, both Mr. Bloxham and Ms. Marienfeld have hiked, camped, appreciated archaeological sites, and explored in the excluded portions of Circle Cliffs, Wolverine Bench, Paria River Corridor, and along the Hole-in-the-Rock road, among many other excluded areas, as detailed in their attached

declarations. SUWA members, including Mr. Bloxham and Ms. Marienfeld, plan to visit the area regularly in the future, including in 2019 and 2020.

35. Plaintiff GRAND CANYON TRUST is a non-profit public lands advocacy organization founded in 1985. The Grand Canyon Trust's members and staff live and work throughout the Colorado Plateau, in Utah, Colorado, Arizona, and New Mexico. The Grand Canyon Trust's mission is to safeguard the wonders of the Grand Canyon and the Colorado Plateau, while supporting the rights of its Native peoples. Through its advocacy, the Grand Canyon Trust ensures that the Colorado Plateau remains characterized by vast open spaces, healthy ecosystems, and communities enjoying a sustaining relationship with the natural environment.

36. The Grand Canyon Trust's members and staff supported President Clinton's designation of the Monument and have since advocated for the protection of the nearly 1.9 million acres of federal public lands in the Monument through active participation in the development of the 2000 Monument Management Plan and other management actions related to the Monument.

37. The Grand Canyon Trust's members and staff, including Ellen Heyn, regularly visit areas in the Monument, including the areas that have now been stripped of protection, to recreate, find solitude, practice photography and other creative arts, experience the unique landscape, examine the region's unique geology and paleontology, monitor and study wildlife and plants, and view Native American cultural sites, including ancient structures, pictographs, and petroglyphs. Ms. Heyn and other Grand Canyon Trust members and staff will continue to visit the Monument lands in the future to engage in these activities, including in 2019 and 2020.

38. Plaintiff GREAT OLD BROADS FOR WILDERNESS (Great Old Broads) is a national grassroots non-profit organization, led by elders, that engages in and inspires activism to preserve and protect wilderness and wild lands. Great Old Broads has over 8,000 members and supporters, many of whom reside and/or engage in recreational activities in Utah. It was formed, in part, to protect the interests of senior populations who value roadless areas, enjoy them without mechanized means of transportation, and want to see these areas protected in their natural state for future generations.

39. Protection of wild federal public lands in southern Utah has been an important focus of Great Old Broads since it began in 1989. Great Old Broads has conducted educational, stewardship, documentation, and advocacy activities related to the lands within the Monument. The organization submitted public comments on the Monument Management Plan in 1999 and also requested its members to submit comments. Great Old Broads has also advocated for wilderness designations in areas within the Monument.

40. Great Old Broads has monitored land health and watershed health conditions in multiple field visits over many years, including in 2014 and 2015. In 2009, Great Old Broads submitted comments on the Monument's Rangeland Health Draft Environmental Impact Statement. It also advocated for a grazing management plan for the Monument over many years. Great Old Broads filed a lawsuit in 2009, along with a dozen conservation organizations, against the Department of the Interior, challenging the designation of energy corridors in western states, including within the Monument.

41. Great Old Broads has organized multi-day camping events in or adjacent to the Monument, including five-day education, advocacy, and stewardship events in 1996, 1997, and 1998, and the organization's 20th anniversary "Broadwalk" in 2009. Great Old Broads has

attended Monument Advisory Committee meetings. Great Old Broads has been a member of the Escalante River Watershed Partnership since its inception and has held an annual week-long stewardship project for the last five years to restore the Escalante River, which flows through the Monument, by removing invasive Russian olive trees.

42. Because Great Old Broads is headquartered in Durango, Colorado, many members consider Grand Staircase-Escalante their “backyard.” Members, including Steve Allen, regularly visit the federal public lands in the Monument (including the areas that have now been stripped of protection) to hike, backpack, enjoy the outstanding scenery and fascinating archaeological sites, view native plant and animal life, take photographs, conduct historical research, and experience the remoteness and quiet of the area. Mr. Allen and other members will continue to do so, including in 2019 and 2020.

43. Plaintiff WESTERN WATERSHEDS PROJECT (WWP) is a non-profit conservation organization founded in 1993 with the mission of protecting and restoring western watersheds and wildlife through education, public policy initiatives, and legal advocacy. Headquartered in Hailey, Idaho, Western Watersheds Project has field offices and members throughout the West. WWP has a longstanding interest in the preservation of the Monument because its members place a high value on the wild, undeveloped deserts that are protected from industrial uses. WWP actively seeks to protect and recover the desert ecosystems of the Monument and has for many years advocated for protection of native plants and ecosystem health there from a variety of uses. It has done so both in the context of specific permits and in land-use planning processes.

44. WWP has participated in a biological soil crust study, taken photos of riparian damage and cored trees, addressed the Monument Advisory Council, made presentations on

vegetation treatments to the Monument's managers, submitted numerous public comments regarding management of the Monument, appeared in a TV segment on grazing impacts to the Monument, and conducted field trips in the Monument.

45. WWP staff and members, including Laura Welp and Jonathan Ratner, regularly use lands in the Monument (including the areas that have now been stripped of protection) for hiking, wildlife viewing, nature study, photography, scenery viewing, and viewing of geological and archaeological features. Mr. Ratner, Ms. Welp, and other members and staff make multiple trips to the Monument each year. They have concrete plans to visit the Monument in the future, including in 2019 and 2020.

46. Plaintiff WILDEARTH GUARDIANS (Guardians) is a non-profit organization dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. The protection of the Monument is vital to this work because the Monument preserves large tracts of unrestricted wildlife habitat and migration routes. Thus, Guardians has an interest in the protection of the Monument and the ecological resources contained therein that will be harmed by the removal of the protections afforded by national monument status.

47. Guardians' members and supporters recreate on public lands in Utah and specifically in the Monument. Guardians' staff and members, including Louise Excell and David Pettit, frequently visit the Monument for the purposes of hiking, observing archeological sites, bird watching, observing wildlife, spiritual rejuvenation, landscape photography, and other recreational and professional pursuits. Ms. Excell, Mr. Pettit, and other Guardians' members and staff have firm plans to continue visiting the scenic vistas, wildlife ecosystems, archeological sites, and paleontological treasures in the Monument (including the areas that have now been stripped of protection) in the future, including in 2019 and 2020.

48. Plaintiff SIERRA CLUB was founded in 1892 and is the nation's oldest grass-roots environmental organization. It is a national non-profit organization of over 775,000 members, including a Utah chapter with thousands of members. The Sierra Club's purpose is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Among the Sierra Club's highest priorities is protecting and preserving the nation's national monuments. The Sierra Club's concerns encompass all aspects of national monuments, including the protection of wildlands, wildlife habitat, water resources, air, archaeological sites, public health, and the health of its members, all of which stand to be affected by Defendants' actions as set forth herein.

49. Sierra Club members live, work, and recreate in the Grand Staircase-Escalante area and use and enjoy the Monument on a regular basis for outdoor recreation, nature study, birdwatching, photography, fishing, canoeing, hunting, backpacking, camping, solitude, and a variety of other activities; they will continue to do so in the future.

50. Sierra Club has a longstanding interest in protecting Grand Staircase-Escalante National Monument. In addition to advocacy in support of the designation of the Monument, Sierra Club has been active in ensuring that the resources within the Monument are properly protected. The Utah Chapter of the Sierra Club has engaged in advocacy regarding the management of the Monument. Sierra Club has also taken action in the courts, for example, by filing an *amicus curiae* brief in a case regarding road development within the Monument.

51. Sierra Club members' concerns encompass the exploration, enjoyment, and protection of the Monument for themselves and future generations. For example, Sierra Club

Utah Chapter member Jim Catlin first visited the area that would become the Monument in 1976. For years, he actively supported protection for the Monument through scientific research and public engagement. He attended the ceremony when President Clinton designated the Monument. He also wrote the Sierra Club comments for the Department of the Interior's 2017 national monument review. Mr. Catlin plans to continue visiting the Monument (including the areas that have now been stripped of protection) in the future, including in 2019 and 2020.

52. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (the Center) is a national non-profit organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 61,000 members and is headquartered in Tucson, Arizona.

53. The Center's members and staff, including Taylor McKinnon, have visited the public lands within the Monument (including the areas that have now been stripped of protection) for hiking, camping, viewing and studying wildlife, photography, and other vocational and recreational activities. The Center's members and staff derive recreational, spiritual, professional, scientific, educational, and aesthetic benefit from their activities in these areas. Mr. McKinnon and other members and staff have specific intentions to continue using and enjoying these areas frequently and on an ongoing basis in the future, including in 2019 and 2020.

54. The Center has a long history of environmental advocacy within the southwestern United States generally, and in relation to public lands conservation in particular. As specifically relevant to this matter, the Center has worked to protect species and habitats that occur on these public lands in Utah within the Monument including Mexican Spotted Owl, northern goshawk, California condor, greater sage-grouse, southwestern willow flycatcher, yellow-billed cuckoo,

spotted bat, Arizona toad, Colorado River cutthroat trout, Colorado pikeminnow, and razorback sucker. Further, Center members participated in efforts to establish the Monument.

55. In their effort to support the Monument's designation, many of the Plaintiff groups submitted comments on the Department of the Interior's review of the Monument between May and July 2017, and submitted comments and protests relating to BLM's management planning process in 2018 and 2019, which BLM was required to undertake pursuant to President Trump's Proclamation.

DEFENDANTS

56. Defendant DONALD J. TRUMP is sued in his official capacity as President of the United States. He currently resides and conducts his duties in Washington, D.C.

57. Defendant DAVID BERNHARDT is sued in his official capacity as the Secretary of the Interior of the United States.

58. Secretary Bernhardt is responsible for ensuring that the Department of the Interior and its constituent agencies, including BLM, comply with the applicable law, including the 1996 Proclamation's direction and requirements for managing the Monument.

59. The Secretary of the Interior resides and conducts his duties in Washington, D.C.

60. Defendant WILLIAM PERRY PENDLEY is sued in his official capacity as the official who is exercising the authority of the Director of BLM, a bureau within the U.S. Department of the Interior.

61. The Director of BLM (and currently Mr. Pendley) is responsible for ensuring that BLM complies with the applicable law, including the 1996 Proclamation's direction and requirements for managing the Monument.

62. Before assuming his current position, Mr. Pendley represented Defendant-Intervenors Kane and Garfield Counties in this litigation. Therefore, according to a September 2019 letter from the Interior Department's Ethics Office, Mr. Pendley is "required to recuse himself from participating personally and substantially in any particular matters involving specific parties (i.e., litigation, permits, leases, grants, etc.) that are directly and substantially related to . . . [his prior] clients, including Kane and Garfield Counties, absent a waiver under the Ethics Pledge or written authorization from this office. As a result, he has not participated in the litigation related to [the Presidential Proclamation being challenged here] or the Grand Staircase-Escalante National Monument (GSENM) planning process since joining the BLM." ECF No. 111-1 (Sept. 23, 2019). On information and belief, Mr. Pendley has delegated the responsibilities of the Director with respect to this litigation and the Grand Staircase-Escalante National Monument to one of his officers or agents within BLM.

63. The Director of BLM (and currently, Mr. Pendley) presently resides and conducts his duties in Washington, D.C.

64. The above-named Defendants have the authority, ability, and obligation to remedy the harms alleged to Plaintiffs' interests.

BACKGROUND

THE ANTIQUITIES ACT

65. The U.S. Constitution's Property Clause gives Congress the exclusive "Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." U.S. Const. art. IV, § 3, cl. 2. Exercising this power, Congress may withdraw federal public land from entry or manage it and prescribe limitations on its use. It may also sell, lease, or otherwise convey federal public land to third parties.

66. In 1906, Congress delegated a discrete part of its Property Clause power to the President when it enacted the Antiquities Act. The Act authorizes the President to “declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments,” and to “reserve parcels of land as a part of the national monuments” that comprise “the smallest area compatible with the proper care and management of the objects to be protected.” 54 U.S.C. § 320301(a), (b).

67. Using Congress’s delegation of authority in the Antiquities Act, Presidents have declared by proclamation more than 150 national monuments in thirty-two states, four territories, two oceans, and the District of Columbia. Depending on the nature and location of the objects to be protected, national monument designations have ranged from just a few acres to millions of acres in size.

68. A President’s national monument designation immediately confers enhanced protection for the identified “objects of scientific and historic interest” and for the lands on which they are found. 54 U.S.C. § 320301(a). Once designated as a national monument, those lands must be managed for the purpose of preserving and safeguarding the objects of scientific and historic interest located there. The protection of the identified objects of historic or scientific interest is the paramount purpose for which the land is to be managed.

69. For example, to ensure that objects of scientific or historic interest are effectively protected, Presidents have used their Antiquities Act authority to “withdraw” national monument lands from mineral location under the General Mining Law of 1872, 30 U.S.C. § 21 *et seq.*, and from leasing for oil and gas exploration and development under the Mineral Leasing Act of 1920,

30 U.S.C. § 181 *et seq.*—as President Clinton did in the 1996 Proclamation establishing the Monument.

70. In the Antiquities Act, Congress granted the President limited authority to “*declare . . . national monuments*” and “*reserve parcels of land as a part of the national monuments.*” 54 U.S.C. § 320301(a), (b) (emphases added). Congress did *not* authorize the President to abolish national monuments, in whole or in part, once they have been designated. That power belongs to Congress alone.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Scientific, Historic, and Cultural Significance of the Grand Staircase-Escalante Landscape

71. President Clinton’s 1996 Proclamation establishing the Grand Staircase-Escalante National Monument described in detail the geological, paleontological, ecological, archaeological, historic, and cultural significance of the Grand Staircase landscape and the objects of historic or scientific interest found there, and set forth requirements essential to their future protection. 61 Fed. Reg. at 50,223-26.

72. The 1996 Proclamation described the Monument’s brilliantly colored landscape showcasing geologic treasures of sedimentary rock formations unobscured by vegetation, and which lay bare millennia of Earth’s geologic history. Canyon systems—formed by eons of erosional forces—wind through thousands of square miles of successively ascending plateaus and layered rock formations. The serpentine rock formations of the upper Escalante Canyons reveal vivid sandstone and shale deposits in shades of red, maroon, chocolate, tan, gray, and white. 61 Fed. Reg. at 50,223.

73. The 1996 Proclamation further described the Monument's rock formations containing world-class paleontological sites and the best record of late Cretaceous terrestrial life in the world. Sites in the Monument contain "[e]xtremely significant fossils" of mollusks, turtles, crocodilians, lizards, fishes, and mammals (including "the only evidence in our hemisphere of terrestrial vertebrate fauna, including mammals, of the Cenomanian-Santonian age"), and the Circle Cliffs area features unusually large, unbroken petrified wood specimens exceeding thirty feet in length. 61 Fed. Reg. at 50,223-24.

74. The 1996 Proclamation also described the Monument as a point of intersection and contact for different Native American cultures, as evidenced by numerous archaeological sites. Diverse groups of Ancestral Puebloan cultures mingled in the area, leaving objects and sites that merit archaeological study. The Proclamation explained: "Hundreds of recorded sites include rock art panels, occupation sites, campsites and granaries. Many more undocumented sites that exist within the monument are of significant scientific and historic value worthy of preservation for future study." 61 Fed. Reg. at 50,224. The Monument and its cultural sites and landscapes continue to hold importance for Native American tribes such as the Southern Paiute, Navajo, Hopi, Zuni, and others today.

75. The 1996 Proclamation also described the Monument as an outstanding biological resource with "perhaps the richest floristic region in the Intermountain West." 61 Fed. Reg. at 50,224. As the Proclamation recognized, the Monument's remoteness and limited travel corridors helped preserve its unique desert flora and fauna. The landscape hosts many endemic species and an abundance of hanging gardens, tinajas (natural pockets in the rock that hold water), and dunal plant communities.

76. As the Proclamation explained, the geologic uplift, deformation, and erosion of the landscape have exposed large expanses of soil layers with distinct physical and chemical characteristics, which, in turn, support numerous vegetative communities, endemic plants, and their pollinators. Undisturbed by human impacts, remote locations within the Monument harbor relict plant communities, with pinon-juniper trees up to 1,400 years old. 61 Fed. Reg. at 50,224. The Proclamation also noted that over 200 species of birds are found in the Monument, including bald eagles, peregrine falcons, and neotropical migrant songbirds that concentrate around rivers and streams within the Monument. 61 Fed. Reg. at 50,225.

77. Based on the grand scale of the Monument's geology, ecosystems, and other objects of historic or scientific interest, and the importance of protecting them from degradation and injury, President Clinton determined that the boundaries of the Monument represented the smallest size compatible with the protection of the objects contained therein.

78. The 1996 Proclamation made clear that the listed objects were immediately subject to the Antiquities Act's protections, stating: "Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof." 61 Fed. Reg. at 50,225.

79. The 1996 Proclamation also mandated specific protections and use limitations. It provided that "[a]ll Federal lands . . . within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale, leasing, or other disposition"—an immediate prohibition of the location of any new mining claims and the offering of any new leases for oil and gas development. 61 Fed. Reg. at 50,225.

80. The 1996 Proclamation required BLM to "manage the monument" in a manner consistent with "the purposes of this proclamation"—that is, the protection of the objects of

historic or scientific interest that the Monument was created to protect. The 1996 Proclamation required BLM to “prepare . . . a management plan” for the Monument to ensure that the purposes of the Proclamation were achieved. 61 Fed. Reg. at 50,225.

The 2000 Monument Management Plan

81. Prior to the Monument’s designation, BLM managed the Monument lands pursuant to the Federal Land Policy and Management Act (FLPMA). Except for public lands governed by a special protective designation, such as a national monument designation, FLPMA generally requires BLM to manage federal public lands in accordance with the “multiple use and sustained yield” principle, which allows for a range of uses, including oil and gas drilling, mining, motorized vehicle use, and wilderness protection. 43 U.S.C. § 1701(a)(7).

82. Before 1996, this multiple-use approach to land management in the Grand Staircase region failed to safeguard the unique landscape and the historic, scientific, and cultural sites situated there. For example, ineffective management and poorly regulated motorized vehicle use led to environmental damage and the looting and vandalism of cultural sites and fossils. Relying on multiple-use principles, BLM also leased large tracts of federal public land for coal mining and oil and gas drilling, and in the years leading up to 1996, it was working toward the approval of a large coal mine in the Kaiparowits Plateau.

83. The 1996 Proclamation dramatically changed BLM’s development-oriented approach to the management of these remarkable lands, requiring BLM to focus instead on the protection and preservation of the objects identified in the Proclamation. It also required BLM to “prepare . . . a management plan for this monument, and [to] promulgate such regulations for its management as [the agency] deems appropriate.” 61 Fed. Reg. at 50,225.

84. In 2000, after a three-year-long process, BLM issued a Monument Management Plan comprehensively detailing BLM's management prescriptions for the Monument's protected resources—including archaeology, fish and wildlife, geology, history, paleontology, soils, water, and vegetation. BLM, Grand Staircase-Escalante National Monument Management Plan (Feb. 2000) (hereinafter 2000 Monument Management Plan). BLM has managed the Monument pursuant to that plan since 2000.

85. The 2000 Monument Management Plan ensured that all future activities on the Monument conformed to the protective purposes for which the Monument was designated. The 1996 Proclamation and the 2000 Plan meant that, for the first time, BLM focused on the conservation, instead of the exploitation, of the federal public lands within the Monument.

86. In particular, the 2000 Monument Management Plan required BLM to manage and monitor uses of the Monument to prevent damage to its resources, to increase public education and appreciation of its resources, and to facilitate scientific research and the preservation, study, and appreciation of cultural heritage. Pursuant to the Plan, BLM managed a variety of uses consistent with the conservation mandate of the Antiquities Act and the 1996 Proclamation. In particular, it provided for heightened protection in certain zones within the Monument to safeguard their remote and wild character. These areas of the Monument—designated as the “primitive zone”—provide a primitive and undeveloped visitor experience with limited motorized access and no facilities. They also provide opportunities for landscape-scale research.

87. The 2000 Monument Management Plan recognized that numerous paleontological sites in the Monument offered a wealth of information on prehistoric life and environment, noting that “[t]he sequence of rocks found on the Kaiparowits Plateau contains one of the best

and most continuous records of Late Cretaceous terrestrial life in the world.” The Plan required BLM to inventory and monitor the Monument for paleontological resources and manage uses to prevent damage to these resources.

88. The 2000 Monument Management Plan also established a Monument Advisory Committee (the Committee) to consult with BLM on Monument management. The Committee provided a mechanism for stakeholders, including Plaintiffs, to participate directly in the Monument’s management decisions and to ensure effective protection for the landscape and the objects therein. Some of Plaintiffs’ members have served on the Committee or have participated in public meetings since the Committee was chartered.

89. Because of the conferral of Monument status and the resulting 2000 Monument Management Plan, research in the Monument expanded significantly after 1996. This research has contributed to a growing wealth of knowledge about a previously unknown fossil record, the history of Native American groups, and the ecological functions of desert plant and animal life.

90. The Monument’s extraordinary paleontological resources have earned it the moniker “the Science Monument.” Fossils excavated from the Monument are now studied, interpreted, and displayed in local, regional, and national museums. Thousands of fossils have been recovered from the Kaiparowits Plateau within the Monument, and they have significantly advanced scientists’ understanding of the ecosystems that existed before the Cretaceous-Paleogene extinction. Twenty-one species of dinosaurs previously unknown to science have been discovered in the Monument.

91. Zoological and botanical research has also flourished. Scientists have identified over 650 species of bees in the Monument, including approximately four dozen species that were unknown to scientists before 2003.

Congress's Actions to Protect the Monument's Objects and to Affirm, Expand, and Adjust the Monument's Boundaries

92. On a number of occasions since 1996, Congress has deliberately acted to ensure consistent management of monument objects; adjusted the boundaries of the Monument by legislation adding roughly 200,000 acres to its area; and taken other legislative actions to ensure the effective, lasting protection of the Monument's land and objects of interest.

93. In 1998, Congress ratified a land-exchange agreement between the State of Utah and the federal government, which was meant to "resolve many longstanding environmental conflicts and further the interest of the State trust lands, the school children of Utah, and the[] [Monument's] conservation resources." Utah Schools and Lands Exchange Act of 1998, Pub. L. No. 105-335, § 3, 112 Stat. 3139, 3141 (1998).

94. As part of the agreement, Utah exchanged "approximately 176,698.63 acres" of inholdings that were scattered "within the exterior boundaries of the Monument," plus the mineral interests in "an additional 24,000 acres," for equivalent federal lands and mineral interests outside the Monument boundaries. Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America, *as ratified by* Pub. L. No. 105-335, §§ 2-3, 112 Stat. at 3139-41. Congress specifically found the state inholdings had substantial "scientific, historic, cultural, scenic, recreational, and natural resources, including ancient Native American archaeological sites and rare plant and animal communities," and that "[d]evelopment of surface and mineral resources" on such lands "could be incompatible with the preservation of these scientific and historic resources for which the Monument was established." Pub. L. No. 105-335, § 2(2)-(3), 112 Stat. at 3139. The federal government paid the State of Utah \$50 million in furtherance of the agreement.

95. Also in 1998, Congress passed another statute adjusting the Monument's boundaries, adding some lands and removing others. Automobile National Heritage Area Act, Pub. L. No. 105-355, § 110, 112 Stat. at 3247, 3252-53 (1998). On balance, this Act added approximately 5,546 acres to the Monument.

96. Together, these two acts of Congress in 1998 added roughly 200,000 acres of land to the Monument, bringing its total area to 1.9 million acres.

97. Not long thereafter, to ensure the Monument enjoyed lasting protection from coal mining, Congress appropriated \$19.5 million to buy back pre-existing coal leases within the Monument. Department of the Interior and Related Agencies Appropriations Act, 2000, Pub. L. No. 106-113, 113 Stat. 1501, 1501A-215.

98. In 2009, as part of the Omnibus Public Land Management Act, Congress made one more small modification to the Monument's boundaries. Pub. L. No. 111-11, § 2604, 123 Stat. 991, 1119-20 (2009) (removing roughly 25 acres from the Monument to exclude a ranch). In addition, this Act specifically included the Monument and all other BLM-managed national monuments within a newly established "National Landscape Conservation System," the purpose of which is to "conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." *Id.* § 2002, 123 Stat. at 1095 (codified at 16 U.S.C. § 7202(a), (b)(1)(A)).

PRESIDENT TRUMP’S MONUMENT “REVIEW”

99. Even before President Trump’s inauguration, Utah politicians (including members of the State’s congressional delegation) and those who support coal mining on the Kaiparowits Plateau began to lobby him to dismantle the Monument.

100. On April 26, 2017, President Trump issued Executive Order 13,792, 82 Fed. Reg. 20,429 (Apr. 26, 2017), which directed the Secretary of the Interior to “review” national monuments designated since 1996—the year President Clinton designated the Monument. On information and belief, the twenty-one-year timeframe was designed specifically because Defendants intended to dismantle the Grand Staircase-Escalante National Monument, among others.

101. As the President prepared to sign the order, Vice President Mike Pence presaged the outcome of the review, explaining that President Trump was about “to undo one of the great Federal overreaches of recent decades: the abuse of the Antiquities Act . . . to grab land and power at the American people’s expense.” President Trump followed with his own preview of the outcome of the process: “I’m signing a new executive order to end another egregious abuse of federal power,” referring to previous Presidents’ use of the Antiquities Act. Although the affected monument lands are federal public property, the President declared: “Today we are putting the states back in charge.”

102. The President also highlighted the lobbying by Senator Orrin Hatch of Utah to reverse monument designations in Utah, and the “never-ended [sic] prodding” by Senator Mike Lee of Utah toward the same end. The President stated, “I’m very proud to be doing it in honor of you guys.”

103. Executive Order 13,792 required the Secretary to provide reports and recommendations to the President concerning future actions regarding the monuments.

104. On May 11, 2017, the Department of the Interior announced that it was accepting public comments on twenty-seven monuments it intended to review pursuant to the Executive Order, including the Grand Staircase-Escalante National Monument. 82 Fed. Reg. 22,016, 22,016-17 (May 11, 2017). The public comment period for all twenty-seven monuments under review was open for just sixty days. Despite the brief comment period, the Interior Department received 2.8 million comments, which, with near unanimity, supported retaining the monuments.

105. Then-Interior Secretary Zinke submitted his report on Grand Staircase-Escalante National Monument (among other monuments) to President Trump on August 24, 2017. Neither Secretary Zinke nor President Trump released this report publicly, but national news reporters obtained what appeared to be a leaked copy of the report. The Secretary's report acknowledged that the public comments received were "overwhelmingly in favor of maintaining existing monuments." Nevertheless, as to Grand Staircase-Escalante, the Secretary recommended that the President rescind monument status and protections from large portions of the Monument. The Secretary's report stated that it considered the monuments' effects on private land and on extractive uses such as grazing, mining, and timber production in reaching its conclusions.

**PRESIDENT TRUMP'S UNLAWFUL PROCLAMATION
REVOKING MONUMENT STATUS FROM ROUGHLY HALF OF THE MONUMENT**

106. On December 4, 2017, President Trump issued his Presidential Proclamation "Modifying the Grand Staircase-Escalante National Monument," revoking monument status from nearly half of the Monument. The Trump Proclamation replaced the original Monument with three fragmented, smaller "units," which the President named the "Grand Staircase," the

“Kaiparowits,” and the “Escalante Canyons” units. (The Kaiparowits unit also includes an entirely separate exclave known as East Clark Bench, a rectangular tract of land that Congress added to the Monument in the Automobile National Heritage Area Act of 1998, which is now stranded south of the diminished monument’s southern boundary.)

107. The President has no constitutional or statutory authority to take such action.

108. The Trump Proclamation stated that “[a]ny lands reserved by [the 1996 Proclamation] not within the boundaries identified on the accompanying map are hereby excluded from the monument.” 82 Fed. Reg. at 58,093. The Trump Proclamation thereby abolished monument status for nearly 900,000 acres of Monument lands—including 80,000 acres of land that Congress itself had added to the Monument since 1996—stranding numerous objects of scientific or historic interest outside the Monument’s boundaries and without monument protections.

109. The Trump Proclamation further provided that “[a]t 9:00 a.m., eastern standard time, on the date that is 60 days after the date of this proclamation”—i.e., February 2, 2018—“the public lands excluded from the monument reservation shall be open to: (1) entry, location, selection, sale or other disposition under the public land laws; (2) disposition under all laws relating to mineral . . . leasing; and (3) location, entry, and patent under the mining laws.” 82 Fed. Reg. at 58,093.

110. Thus, even before BLM’s adoption of any new management plans, President Trump’s re-drawing of the Monument boundaries and lifting of the 1996 Proclamation’s mineral withdrawal has had direct and deleterious effects on the ground and on Plaintiffs’ members, as discussed below.

111. Because of President Trump’s Proclamation and the revocation of the mineral withdrawal, the Department of the Interior and BLM are no longer prioritizing the “proper care and management of the objects to be protected” on the lands removed from the Monument, as evidenced by their acceptance of new hard-rock mineral claims in those lands. 54 U.S.C. § 320301(b). Agency Defendants will no longer implement or comply with the 1996 Proclamation with respect to the excised lands unless the Court declares President Trump’s action unlawful and sets it aside.

112. As directed by President Trump’s Proclamation, BLM has already undertaken and is nearing completion on a series of new resource management plans to replace the 2000 Monument Management Plan: one plan for each new unit, and a separate plan for the lands that the Trump Proclamation excised from the Monument (which BLM has dubbed the Kanab-Escalante Planning Unit, or “KEPA”). These proposed final plans have already undergone public comment, and BLM has completed its Final Environmental Impact Statements. BLM issued the proposed final versions of both management plans in September 2019. On information and belief, BLM intends to issue records of decision adopting the plans before the end of 2019. Additional foreseeable harms will follow when BLM formally adopts those new management plans, as discussed below.

PRESIDENT TRUMP’S ACTION HARMS PLAINTIFFS’ INTERESTS

113. The Plaintiff organizations actively supported the designation of the Monument and have long advocated for its effective management. They have participated in numerous public processes involving a variety of issues, including development of the 2000 Monument Management Plan, grazing authorizations and allotment availability designations, oil and gas

drilling on grandfathered leases, motorized vehicle management, watershed restoration, and recreation management.

114. Mr. Phil Hanceford, an employee of The Wilderness Society, represented the environmental community on the Monument Advisory Committee from 2011 until 2017. On information and belief, BLM disbanded the Monument Advisory Committee based on the Trump Proclamation.

115. Each of the Plaintiff organizations also has individual members who regularly use and enjoy the Monument, including the lands stripped of monument status by the Trump Proclamation, for scientific study, hiking and recreation, wildlife viewing, cultural and spiritual purposes, and aesthetic appreciation of the Monument's pristine beauty, unmarred night skies, and natural quiet. (A sample of illustrative member declarations is attached to this complaint.)

116. Many of these members live in Utah within driving distance of the Monument. They know the landscape intimately and return to it multiple times each year for recreation, exploration, and spiritual renewal. Some also perform fieldwork in the Monument, documenting landscape conditions and wilderness characteristics. *See* Declaration of Ray Bloxham ¶¶ 2-3, 11-13 (Ex. 1); Declaration of Ellen Heyn ¶¶ 3, 7-13 (Ex. 2); Declaration of Kya Marienfeld ¶¶ 2, 11 (Ex. 3).

117. Plaintiffs' members value the beauty, remoteness, and largely unspoiled nature of the landscape and the geological, paleontological, archaeological, historic, cultural, and ecological resources found throughout the Monument, including in the areas that President Trump's Proclamation excluded from the Monument.

118. The 1996 Proclamation benefited Plaintiffs' members by conferring Monument status on these lands; withdrawing them from hard-rock mineral entry and location; withdrawing

them from coal mining and oil and gas exploration and development; protecting them from motorized vehicle trail and road construction and excessive motorized vehicle use; protecting them from artifact and fossil theft and destruction; and protecting them from other harmful activities.

119. As described in detail below, the Trump Proclamation adversely affects Plaintiffs' members' interests by removing Monument status and protections from nearly 900,000 acres of federal public lands that those members regularly use, and by allowing activities that will disturb the tranquility and scenic beauty of the area and expose irreplaceable paleontological and cultural sites to damage and looting.

120. The excluded lands include spectacular areas that contain innumerable objects of historic and scientific interest, including Burr Trail, Wolverine Bench, part of the Circle Cliffs, White Canyon Flat, Hole-in-the-Rock Road, Scorpion Flat, Fortymile Ridge, Dry Fork and Coyote Gulch, Chimney Rock, Fiftymile Bench, Cottonwood Wash, the Cockscomb, the Paria River corridor, Buckskin Gulch, Vermillion Cliffs, Skutumpah Terrace, West Clark Bench, Wire Pass, Long Canyon, House Rock Valley Road, Pine Hollow, Kitchen Corral Wash, and the White Cliffs. Plaintiffs' members have visited, and intend to continue visiting, these areas.

121. President Trump's action rendered one of the country's most pristine, unique landscapes vulnerable to immediate harm, and thus injures the aesthetic, recreational, scientific, cultural, spiritual, and educational values that Plaintiffs' members derive from the Monument as designated in 1996 and then expanded by subsequent congressional action.

Hard-rock mining

122. In particular, President Trump's Proclamation revoked the 1996 Proclamation's mineral withdrawal and reopened previously protected Monument lands to hard-rock mining

under the General Mining Law of 1872. President Trump's Proclamation, by its terms, allows prospectors to engage in hard-rock mining activities in areas and in a manner that previously would have been unlawful.

123. There are deposits of hard-rock minerals—including copper, uranium, titanium, alabaster, cobalt, lithium, and zirconium—throughout the Monument's original boundaries.

124. President Trump's Proclamation directed BLM, as of February 2, 2018, to disregard the 1996 Proclamation's ban on mineral entry and location for the lands excised from the Monument. BLM has complied with the President's direction and is no longer observing the 1996 Proclamation's ban on mineral entry and location.

125. Some of the 900,000 acres excised from the Monument are within wilderness study areas, but most (roughly 75%) are not. (There are no designated wilderness areas in the Monument.) Now that these lands have been stripped of Monument protection, they are at immediate risk of damage, because mining claimants may engage in some ground-disturbing activities without *any* advance approval or other affirmative action by BLM. Even wilderness study areas are at risk; there is no categorical prohibition on hard-rock mining in wilderness study areas. *See* 43 U.S.C. § 1782(c); 43 C.F.R. §§ 3802.0–2(a), 3802.0-6; BLM, *BLM Manual 6330—Management of Wilderness Study Areas*, at 1-24 to -25 (2012).

126. Under the General Mining Law of 1872, prospectors do not need permits or other prior authorization from BLM or any other government agency before locating, recording, and conducting casual use and even notice-level operations on hard-rock mining claims on lands excluded from the Monument. Prospectors may stake hard-rock mining claims simply by paying a fee and may then begin mineral exploration without undergoing any National Environmental Protection Act (NEPA) review.

127. Once a claimant has located a mining claim on non-withdrawn (e.g., non-Monument) land, she may undertake a variety of mining activities there.

128. First, a claimant may undertake “[c]asual use” activities at any time, and she “need not notify BLM” before doing so. 43 C.F.R. § 3809.10(a). “Casual use” activities are defined as activities that “result[] in no or negligible disturbance,” such as collecting samples without mechanized earth-moving equipment. 43 C.F.R. § 3809.5. Still, casual-use activities can leave telltale signs on the ground, including tracks from motorized vehicles used to access the claim, and flags, posts, and other markers advising others of the claim.

129. Second, a claimant may also undertake more extensive “notice”-level activities—that is, activities “causing surface disturbance” of up to five acres—simply by sending BLM “notice” of planned operations and waiting fifteen calendar days after BLM receives it. *Id.* §§ 3809.10(b), 3809.21(a). Unless BLM requests additional information or takes other specific actions within that fifteen-day window, the claimant may proceed with ground-disturbing work. In other words, notice-level activities may commence as early as fifteen days after BLM receives a claimant’s notice.

130. The harm associated with notice-level activities can be substantial. Road construction, the use of mechanized earth-moving equipment, and the use of truck-mounted drilling equipment all can be undertaken without affirmative BLM approval or any NEPA analysis. *See* 43 C.F.R. §§ 3809.5, 3809.21(a), 3809.312(a); *see also* Bloxham Decl. ¶¶ 10, 13-15; Marienfeld Decl. ¶¶ 13, 15, 19.

131. These activities can have long-lasting impacts: polluting the air and soil, producing unsightly waste and debris, scraping lasting scars into the soil, removing native

vegetation, disturbing wildlife habitat, increasing erosion, harming water quality, and damaging cultural resources.

132. The auditory and visual effects of these mining activities—including dust, mechanical noise, and light pollution—can extend well beyond the boundaries of the mining claims themselves, broadly impacting large areas that would otherwise be quiet and pristine. Increased noise and vehicle traffic threaten the unique character of the Monument, described in the 1996 Proclamation as a “high, rugged, and remote region, where bold plateaus and multi-hued cliffs run for distances that defy human perspective” and where the “unspoiled natural area remains a frontier.” Visual and auditory disturbances can be seen and heard for miles in this rocky desert landscape, especially on mesas and slickrock expanses where there is relatively little vegetation to dampen sound or to obstruct viewsheds. Bloxham Decl. ¶ 14; *see also* Declaration of Michael Mason ¶¶ 10, 12 (Ex. 4).

133. Notice-level activities can also harm fragile cultural, archaeological, and paleontological resources, which are widely dispersed throughout the excised lands. BLM does not require National Historic Preservation Act review or surveys for archaeological resources before notice-level operations proceed. *See, e.g.*, 36 C.F.R. Part 800; *id.* § 3809.313.

134. Third, a claimant may engage in even more extensive “plan of operations”-level mining activities that involve removing a thousand tons or more of presumed ore, for which BLM requires detailed information about the proposed disturbance, including mitigation measures. *See generally* 43 C.F.R. §§ 3809.11, 3809.400 to -.401. Plan-level mining activities can have all the same impacts as notice-level activities described above, but on a larger scale.

135. All these impacts—from casual use, notice-level activities, and plan-level activities—pose substantial harm to Plaintiffs’ members, who enjoy quiet recreation, solitude,

education, and aesthetic delight from visiting the areas the Trump Proclamation has now stripped of monument protection.

136. There is substantial industry interest in exploiting the Monument's hard-rock resources. On information and belief, even before the Trump Proclamation's sixty-day waiting period had ended, prospectors (unsuccessfully) attempted to record mining claims within the excised areas of the Monument, and indeed even within the remaining Monument lands.

137. Since February 2, 2018—when the Trump Proclamation's sixty-day waiting period ended—claimants have located at least nineteen new mining claims in the excised lands: “Creamsicle 1-3,” “Mesa 1-10,” “Berry Patch 1 and 4,” “Raspberry 1,” and “Volcon Coin 1-3.” All nineteen claims are located on land President Trump removed from the Monument. Some of these new claims abut one another and are recorded under a single claimant's name.

138. Mining activity has already commenced on the so-called “Creamsicle” claims. In September 2018, a company called Penney's Gemstones staked multiple claims for alabaster mining at a site it calls “Creamsicle” near Upper Slick Rock and Wiggler Bench. On December 14, 2018, Penney's Gemstones submitted to BLM a notice of intent to conduct exploration activity (i.e., notice-level activities), which BLM subsequently deemed complete. Penney's Gemstones also provided BLM with a financial guarantee, further evidencing the company's intent to develop the Creamsicle site.

139. As of October 2019, surface disturbance on and around the Creamsicle site shows that the claimant has already begun exploring for and quarrying alabaster. This activity has left visible scars on the exposed faces of pale pink and orange cliffs where rock has been removed by mechanized equipment. There are also visible vehicle tracks leading to the site. BLM did not

prepare any NEPA or National Historic Preservation Act analyses prior to notifying the claimant that it could proceed.

140. Mining activity at the Creamsicle site causes, and will continue to cause, auditory and visual disturbances that harm Plaintiffs' members, including Mr. Bloxham, who use the surrounding lands for hiking, quiet recreation, and other activities. *See* Bloxham Decl. ¶ 14. Plaintiffs' members' aesthetic interests are also harmed by the presence of machinery and vehicle tracks that are visible even at a considerable distance from the mine site. *See* Mason Decl. ¶ 12 (estimating that mining activities at the Creamsicle site may be visible as far away as 23 miles) & attached maps (showing projected auditory and visual disturbance ranges from the Creamsicle site).

141. Similarly, other claimants have staked ten claims at the Colt Mesa site near Silver Falls Canyon and Moody Canyon. The claimants have sent BLM a "notice to hold" their claims for 2019, indicating their intent to retain the claims for future exploration and possible development.

142. On information and belief, the Colt Mesa claimants have sought financing to develop a mine there for battery minerals including cobalt, nickel, zinc, and copper. Although the claimants have yet to secure financing, their efforts show a substantial likelihood that mining activity will commence on the Colt Mesa site, causing aesthetic harms to Plaintiffs' members—including Mr. Bloxham, who visited the site in 2019, and Ms. Heyn, who hiked the nearby Moody Canyon in 2019 and was planning to hike the nearby Silver Falls Canyon in the future. *See* Bloxham Decl. ¶ 15; Heyn Decl. ¶ 15. Mr. Bloxham and Ms. Heyn's use and enjoyment of Silver Falls Canyon, Moody Canyon, and other nearby areas would be diminished by the traffic and noise from mining activity. *See* Bloxham Decl. ¶ 15; Heyn Decl. ¶ 15.



*Fig. 1: Looking across the Circle Cliffs near Colt Mesa and the Mesa mining claims that were located after President Trump excluded these lands from the Monument
Credit: Ray Bloxham*

143. In addition, in 2018, a claimant called Alpine Gems staked a claim called “Berry Patch 4,” which is similarly located on lands excised from the Monument. Alpine Gems has submitted a plan of operations to BLM, which BLM deemed complete in June 2019.

144. There is a substantial risk that these and other destructive mining activities will continue and proliferate as a result of the Trump Proclamation, harming Plaintiffs’ members’ aesthetic interests and threatening the natural, paleontological, and archaeological resources in the Monument.

Roads and motorized vehicle use

145. The Trump Proclamation has also led to destructive motorized vehicle use in the excised lands, and additional harms from motorized vehicle use will foreseeably follow once BLM adopts its new management plans.

146. The 1996 Proclamation required BLM to regulate motorized vehicle use to “implement” the Proclamation’s purposes. 61 Fed. Reg. at 50,225. As a part of the 2000 Monument Management Plan, BLM met that obligation in part by implementing a travel management plan that substantially reduced the miles of dirt roads and trails available for motorized vehicle use from the network and areas open to such use before 2000. Several of the Plaintiff organizations successfully defended that travel plan from a legal challenge by local counties and entities.

147. Because of the Trump Proclamation, BLM is no longer obligated to manage motorized vehicle use on excised lands for the paramount purpose of protecting monument objects. There is a substantial likelihood that BLM will open new routes to motorized use in these excised lands. Indeed, the Trump Proclamation directed that “the Secretary [of the Interior] may allow motorized . . . vehicle use on roads and trails existing immediately before the issuance of [the 1996 Proclamation] and maintain roads and trails for such use,” 82 Fed. Reg. at 58,094, giving BLM the green light to designate new routes and re-open old routes closed to motorized vehicle use.

148. Consistent with the Trump Proclamation, BLM has already taken concrete steps toward revising its existing travel management plan.

149. First, in September 2018, BLM authorized a third-party contractor called Advanced Resource Systems (ARS) to perform a “route inventory” within the original Monument boundaries. From September 2018 through September 2019, BLM authorized ARS to drive motorized vehicles across 3,750 miles within the original Monument boundaries, including not only routes open to the public or open for administrative purposes, but also approximately 2,500 miles of routes (and claimed routes) that BLM had marked as “closed” to all motorized

travel under the 2000 Monument Management Plan and accompanying travel plan, in furtherance of the 1996 Proclamation.

150. BLM's route inventory is a direct outgrowth of the Trump Proclamation's removal of protections for monument objects. BLM initiated this route inventory specifically in anticipation of re-opening closed routes, pursuant to President Trump's direction. In Defendants' words, "the travel route inventory data will be used to inform travel plans that BLM will prepare after [the new management plans] . . . are adopted." ECF No. 107 at 2 (Aug. 13, 2019).

151. BLM's route inventory therefore demonstrates a substantial likelihood that BLM, pursuant to the Trump Proclamation, will indeed authorize expanded motorized vehicle use in the excluded lands, in areas where it was previously prohibited under the 1996 Proclamation and the 2000 Monument Management Plan and accompanying travel plan.

152. Moreover, even before BLM finalizes its new management plans and travel plans, the route inventory itself has, on information and belief, caused significant damage on the ground. One pass of a motorized vehicle on a closed route (or claimed route) can leave visible tracks, marked by crushed vegetation and long-lasting scars on the desert soils and fragile cryptobiotic soil crusts. Loss of this crucial assemblage of soil bacteria and other components causes ecological damage, loss of soil fertility, and scars on the landscape that, according to U.S. Geological Survey scientists, can take hundreds of years to recover.

153. Those tracks can also suggest to other motorized vehicle operators that the route is open for general use, inviting repeated use that causes additional damage. BLM's route inventory has likely already undone concerted efforts by BLM and volunteers over the past two decades to disguise closed routes, to rehabilitate and restore primitive areas of the original

Monument to their natural state, and to protect sensitive objects of historic and scientific interest on and adjacent to closed routes.

154. Further, BLM's proposed final management plan for the lands excised from the Monument will open a new "play area" for off-road motorized vehicle use in the Alvey Wash area, which BLM calls the "Little Desert" off-highway vehicle area. BLM, Grand Staircase-Escalante National Monument and Kanab-Escalante Planning Area Proposed Resource Management Plans and Final Environmental Impact Statement 2-58 (2019) (hereinafter Final EIS). BLM's decision will take effect as soon as BLM formally adopts its new management plan; it is not contingent on BLM's promulgation of a new travel management plan. People will be allowed to drive motorized vehicles anywhere in this 116-acre play area, even where there are no trails.

155. The Little Desert off-highway vehicle area is part of a larger BLM-identified potential "area of critical environmental concern" (ACEC). *See* Final EIS S-11 to S-12. As BLM has recognized, the Alvey Wash area contains historic Native American habitations, camps, cliff structures, rock art, and rock shelters. Final EIS at S-11. Paleontologists have also discovered important dinosaur and other vertebrate fossils in this area. These resources are vulnerable to damage, displacement, and loss from motorized vehicle use.

156. Auditory and visual disturbances from expanded motorized vehicle use will change the character of the surrounding land, harming the aesthetic and recreational interests of Plaintiffs' members, like Ms. Heyn and Ms. Marienfeld, who enjoy the Alvey Wash area for quiet recreation and scenic views. *See* Heyn Decl. ¶ 20; Marienfeld Decl. ¶ 16. Plaintiffs' members, like Ms. Heyn and Ms. Marienfeld, either will not visit the Alvey Wash area or will have a less enjoyable experience upon BLM's opening of the Little Desert off-highway vehicle area. *See*

Heyn Decl. ¶ 20; Marienfeld Decl. ¶ 16. Motorized vehicle use will likely also damage the archaeological and paleontological resources located in the Alvey Wash area and injure Plaintiffs' members who enjoy viewing and learning about these discoveries.

157. More generally, BLM's proposed final management plans confirm that BLM will authorize a substantial amount of new motorized vehicle routes, both within the remaining Monument units and in the excluded lands.

158. In fact, BLM's final proposed management plan for the remaining Monument units will itself open two new motorized vehicle trails—the so-called Inchworm Arch Trail and V-Trail—the opening of which will take effect immediately, without waiting for BLM's promulgation of a new travel management plan. *See* Final EIS 2-57, K-1 to K-2; Marienfeld Decl. ¶¶ 17-18. In opening one of these routes, BLM recognized that increased legal motorized vehicle use can result in increased illegal uses as well. *See* Final EIS K-14. BLM also recognized that, in general, opening new motorized vehicle trails “could result in impacts on cultural and paleontological resources, non-motorized recreation and travel, soil and water resources, wildlife, and other resources and uses.” Final EIS 3-126.

159. The impacts will likely be even more severe in the lands excluded from the Monument, where the Trump Proclamation purported to strip monument status from objects of historic and scientific interest, thereby releasing BLM from its obligation to prioritize their protection. Indeed, BLM's proposed final management plan for the excluded lands designates only 1,464 acres as “closed” to motorized vehicle use—a significant change from the current management regime, under which 1,210,137 acres are “closed” to motorized vehicle use. Final EIS 2-58.

160. There is therefore a substantial likelihood that, pursuant to the Trump Proclamation, BLM will construct and designate additional new roads and trails in areas previously closed to motorized vehicle use and will widen and “improve” existing roads and trails as part of its travel management plan. These actions will result in increased motorized use that will spread into new areas that have been off-limits to vehicular traffic for decades.

161. The revocation of Monument status, and the resulting opening of formerly protected lands to motorized vehicle use and road construction, will put paleontological, ecological, cultural, and archaeological sites in serious jeopardy. It will harm Plaintiffs’ members’ aesthetic, cultural, spiritual, recreational, scientific, and educational interests by authorizing increased noise, air pollution, and physical damage to the land, water, wildlife habitat, scenery, and cultural resources that Plaintiffs’ members wish to enjoy in their pristine state.

“Casual collection” of fossils and damage to paleontological resources

162. The Trump Proclamation exposes fragile paleontological resources in the excised lands to foreseeable harm, which will injure Plaintiffs’ members who enjoy studying, viewing, and learning about those resources.

163. BLM generally allows the non-commercial collection of “rock and mineral specimens, common invertebrate and common plant fossils, and semiprecious gemstones” on its land. 43 C.F.R. § 8365.1-5(b)(2). The 1996 Proclamation prohibited such collection inside the Monument, however, by giving “[w]arning . . . to all unauthorized persons not to . . . remove any feature of the monument.” 61 Fed. Reg. at 50,225. This protection is essential to the proper care and management of these resources in situ, as required by the Antiquities Act.

164. Pursuant to the 1996 Proclamation, the 2000 Monument Management Plan prohibited the unauthorized excavation or collection of paleontological resources (fossils) from the Monument.

165. Because of President Trump's Proclamation, however, casual collection of paleontological resources will no longer be prohibited on the lands excluded from the Monument, and will likely resume. BLM will now allow anyone to engage in the so-called "casual collection" of fossils in most of the 900,000 acres excised from the Monument. BLM's proposed final management plan for the excised lands continues to prohibit the casual collection of petrified wood, but it expressly allows the collection of other paleontological and mineral resources without permits for personal use in most of the excluded lands. Final EIS 2-15.

166. Paleontological resources are distributed throughout the excluded lands. *See* Final EIS app. A, Map 10 (showing BLM's assessment of "high" and "very high" fossil resources). As BLM acknowledges, "[c]asual collection of paleontological resources and petrified wood can result in the loss of paleontological resources over time." Final EIS 3-48.

167. Plaintiffs' members' scientific, educational, and recreational interests will be harmed by BLM's failure to prohibit casual collection on the excised lands. Casual collection disturbs fragile soils and increases the potential that important paleontological resources will be removed or destroyed, rather than preserved for public benefit as the Antiquities Act requires. The risk is particularly high given the post-1996 media attention and increased public knowledge of the unique paleontological resources found on the excised lands.

Mineral leasing

168. President Trump's Proclamation also revoked the 1996 Proclamation's mineral withdrawal and reopened previously protected Monument lands to mineral leasing and

development—including for coal, oil, and gas—under the Mineral Leasing Act of 1920, 30 U.S.C. § 181 *et seq.*

169. The lands excised from the Monument contain extensive coal deposits. Before the 1996 Proclamation, coal companies had leased numerous sites within the eventual Monument boundaries—particularly on the Kaiparowits Plateau, which the U.S. Geological Survey estimated contained 62.3 billion tons of coal. The Kaiparowits Plateau is a fifty-mile-long, high-elevation escarpment in the heart of the Monument, where researchers have discovered and studied tens of thousands of fossils.

170. The 1996 Proclamation prohibited the offering of new coal leases anywhere in the Monument. In addition, after 1996, the Secretary of the Interior negotiated the repurchase of large pre-existing coal leases inside the Monument to eliminate the remaining threats of industrial development and to preserve the Monument’s unspoiled natural character. In 2000, as described above, Congress appropriated the funds for this lease buy-back.

171. The Trump Proclamation, by excising lands from the Monument, revoked the 1996 Proclamation’s ban on coal leasing and countermanded Congress’s decision to buy back existing coal leases on those lands. A majority of the formerly leased lands now fall outside the Monument’s diminished boundaries, and BLM’s proposed final management plan for the excised lands designates them as open for leasing. Final EIS app. A, Map 65.

172. President Trump acknowledged that he initiated his monument “review,” in part, at the behest of then-Senator Orrin Hatch, a vocal proponent of coal mining in the Monument. Members of Utah’s state legislature also pressured the Trump administration to open the Monument to coal mining. On information and belief, when then-Secretary Zinke visited Grand

Staircase-Escalante in 2017, Kane County officials presented him with a map proposing boundary changes that would exclude major areas with coal deposits from the Monument.

173. During the monument “review” process, Interior and BLM officials analyzed coal potential within the Monument. An internal Interior memorandum dated April 25, 2017, noted that “[t]he Kaiparowits plateau, located within the monument, contains one of the largest coal deposits in the United States,” with a “geologic and mining technology adjusted resource of 30 billion tons. . . . Recent advances in underground coal mining techniques would likely result in the development of additional large areas of Kaiparowits coal resources not considered minable in the 1990[s].”

174. As revealed during a House Natural Resources Committee hearing on March 13, 2019, one BLM analyst told the Interior Department’s Office of Inspector General that Interior officials instructed him to identify coal-rich areas for exclusion from the Monument “regardless” of their paleontological resources.

175. Ultimately, when President Trump issued his December 2017 Proclamation, his re-drawn boundaries conspicuously excluded multiple coal-rich areas, including large swaths of the Kaiparowits Plateau.

176. BLM’s proposed final management plan for the excluded lands states that part of the Kaiparowits Plateau—specifically, an area that BLM previously determined had high mineral potential and where it had considered offering coal leases prior to the 1996 Monument designation—contains 66,097 acres that are “not unsuitable” for coal leasing. Final EIS 3-6.

177. The Interior Department and BLM are aggressively pursuing coal leasing and development on federal lands in nearby areas. In February 2019, BLM announced its approval of two new coal mining projects in Utah. One of these projects—a \$12 million bid to expand a mine

owned by Alton Coal Development LLC, which will produce an estimated two million tons of coal each year—is in Kane County, roughly fifteen miles outside of the Monument’s original boundaries. An internal Interior memorandum dated April 25, 2017, noted that “the Alton coal mine producing from adjacent private lands provide[s] an example of the development potential [of lands in the original Monument boundaries].” In preparing the final proposed monument management plan, BLM estimated that the federal government could generate \$208 million in revenue annually from coal royalties. Final EIS U-15 & tbl. 9.

178. Plaintiffs’ members who recreate and bicycle in the Kaiparowits Plateau would be harmed by the commencement of coal mining. *See* Heyn Decl. ¶ 13. Such activities would result in large-scale construction and increased traffic that would reduce Plaintiffs’ members’ enjoyment of the Kaiparowits Plateau’s pristine views and natural quiet. *See* Heyn Decl. ¶ 14.



Fig. 2: The Kaiparowits Plateau
Credit: Ellen Heyn

179. The lands excised from the Monument are also vulnerable to oil and gas development. There are significant oil and gas deposits in the lands excluded from the Monument. *See* Final EIS app. A, Map 72.

180. Prior to the 1996 Proclamation, the oil and gas industry commonly sought leases and permits to drill on lands that President Trump has now removed from the Monument, and in many instances BLM approved the sale of oil and gas leases and applications for permits to drill on those lands.

181. For example, BLM sold leases in Kaibab Gulch, along the Hole-in-the-Rock road, and near the town of Escalante—all areas that the 1996 Proclamation included within the Monument, but that President Trump has cut out of the Monument.



Fig. 3: Circle Cliffs
Credit: Jeff Foott

182. In addition, BLM sold leases in Middle Moody Canyon and Stud Horse Peaks, which are part of the Circle Cliffs, a towering forty-mile loop in the northeastern corner of the

original Monument just west of Capitol Reef National Park. They offer extraordinary vistas, unusual geological formations, and significant paleontological resources—including, as the 1996 Proclamation noted, “remarkable specimens of petrified wood, such as large unbroken logs exceeding 30 feet in length.” 61 Fed. Reg. at 50,223. Plaintiffs’ members visit the Circle Cliffs area, including Moody Canyon, Stud Horse Peaks, and the Lampstand, for hiking and quiet solitude. *See* Bloxham Decl. ¶ 12; Heyn Decl. ¶ 15; Marienfeld Decl. ¶ 11.

183. The Circle Cliffs area also contains predicted deposits of oil and gas, and the area was largely leased for oil and gas development before the Monument was designated in 1996. Those leases subsequently expired or were terminated, and the lands were not re-offered for development, because the 1996 Proclamation withdrew them from mineral entry. Thus, the remote wilderness landscape has been preserved. The Trump Proclamation stripped monument status from a substantial part of the Circle Cliffs.

184. BLM’s proposed final plan for the excised lands opens 529,898 acres of previously closed land to leasing with only modest stipulations to protect sensitive resources. Additionally, the proposed final plan opens another 120,990 acres of previously closed land to leasing with “major constraints.” Final EIS 2-38. The Circle Cliffs area (directly east of the Escalante Canyons Unit) is open to leasing with almost entirely moderate constraints. *See* Final EIS app. A, Map 64.

185. There is a substantial risk that mineral leasing and development will occur in these excised lands, and that such activity will injure Plaintiffs’ members’ aesthetic and recreational interests.

186. Once BLM has formally adopted its new management plan for the lands excised from the Monument, it may begin leasing those lands for coal mining and oil and gas development. BLM could offer leases as early as 2020.

187. There also remain some pre-existing, active oil and gas leases within the Monument's boundaries. These leases may now be developed more easily without the protective limitations that monument status requires.

188. Coal mining and oil and gas drilling can have long-lasting impacts on the leased land and on surrounding areas. Those impacts include the excavation of mines and unsightly pits; the construction of drilling rigs, well pads, and other facilities; the scraping of surface vegetation and displacement of native fauna; the construction of new roads and pipelines (with the resulting truck traffic, fumes, debris, and other damage); and the release of pollution into the air and water. All these incidents of mining and drilling activity scar the landscape and cause traffic, fumes, debris, noise, dust and haze, and light pollution—disrupting not only the leased parcels themselves, but also the surrounding areas.

189. These activities pose a substantial risk of harm to the recreational and aesthetic interests of Plaintiffs' members, including Mr. Bloxham and Ms. Marienfeld, who have visited the Circle Cliffs area and enjoyed its pristine views and natural quiet. *See* Bloxham Decl. ¶ 12, Marienfeld Decl. ¶ 11. Plaintiffs' members' future enjoyment of the Circle Cliffs area would be diminished, or they would avoid the area, if oil and gas drilling occurs. *See, e.g.*, Marienfeld Decl. ¶¶ 13, 15, 19.

AGENCY DEFENDANTS HAVE DECIDED NOT TO CARRY OUT THEIR DUTIES UNDER THE 1996 PROCLAMATION

190. Because of President Trump’s Proclamation, the Secretary of the Interior and the Director of BLM (or the official exercising the duties of the Director of BLM with respect to the Monument) (collectively, the Agency Defendants) have decided not to carry out their duties under the 1996 Proclamation.

191. Because of President Trump’s Proclamation, Agency Defendants no longer recognize the lawful boundaries of the Monument as established by the 1996 Proclamation and expanded by Congress over the years. Instead, Agency Defendants now treat the Monument as consisting of only the three fragmented monument “units” that the Trump Proclamation left in place.

192. Because of President Trump’s Proclamation, BLM no longer complies with the 1996 Proclamation’s mineral withdrawal on the excluded lands. Instead, BLM now treats those lands as open for mineral location and entry, as evidenced by its acceptance of multiple hard-rock mining claims recorded since President Trump’s Proclamation.

193. Because of President Trump’s Proclamation, Agency Defendants will no longer permit the Monument Advisory Committee members—including TWS’s representative, Mr. Hanceford—to participate in stakeholder processes relating to the lands excluded from the 1996 Monument. The loss of the ability to participate in management decisions for those excluded lands harms TWS’s members, as it hinders their ability to ensure the effective, conservation-focused management of those lands.

194. Because of President Trump’s Proclamation, BLM has prepared new management plans—three for the remaining “units” of the Monument, and one for lands excluded from the

Monument—which will replace the existing 2000 Monument Management Plan. As BLM’s Final Environmental Impact Statement acknowledges, the purpose of revising the plan for excised lands is to ensure that those lands are “managed for multiple use,” and not for the protection of Monument objects as the 1996 Proclamation required. Final EIS 1-4.

195. President Trump (by revoking monument status from nearly half of the Monument and nullifying the 1996 Proclamation as to those lands) and the Agency Defendants (by failing to carry out their duties under the 1996 Proclamation) have deprived Plaintiffs of the benefits of monument protection for the lands they cherish.

196. Defendants’ actions adversely affect and irreparably injure the Plaintiffs’ and their members’ interests, and those injuries will continue unless the Court grants the relief Plaintiffs seek.

197. Plaintiffs’ injuries would be redressed by the relief sought here.

198. Plaintiffs have no adequate remedy at law.

FIRST CLAIM FOR RELIEF
***Ultra vires* action or violation of the Antiquities Act,**
54 U.S.C. § 320301 *et seq.*
(All Defendants)

199. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

200. Judicial review is available to ensure that presidential actions are consistent with constitutional principles and that the President’s actions are within the scope of his statutory and constitutional authority.

201. The President has the authority to regulate federal lands only to the limited extent that Congress has delegated that authority to the President.

202. In issuing his December 4, 2017 Proclamation, President Trump acted wholly without authority under the Antiquities Act, 54 U.S.C. § 320301 *et seq.* Under the Act, Congress authorized the President to designate federal lands as national monuments, not to abolish them either in whole or in part.

203. As a result, the Trump Proclamation revoking monument status from nearly half of the Grand Staircase-Escalante National Monument, and stripping monument protection from innumerable objects of scientific and historic importance, lacked any authority and is *ultra vires* and unlawful. The President has no such authority to dismantle a national monument.

SECOND CLAIM FOR RELIEF
U.S. Constitution, art. II, and the separation-of-powers doctrine
(Defendant Trump)

204. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

205. Judicial review is available to ensure that presidential actions are consistent with constitutional principles and that the President has not unlawfully intruded on Congress's exclusive power over federal public lands under the Property Clause of the U.S. Constitution. U.S. Const. art. IV, § 3, cl. 2.

206. The Property Clause provides that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States" U.S. Const. art. IV, § 3, cl. 2. The President has the authority to regulate such property only to the limited extent that Congress has delegated that authority to the President.

207. Congress has not delegated the President any authority to rescind or reduce the national monument designations of his predecessors or of Congress. Nor has Congress delegated

the President any authority to remove lands from national monuments that Congress itself has added.

208. To the contrary, Congress has continually affirmed its sole prerogative to reduce or rescind national monuments once designated. Congress has specifically and frequently exercised its retained power with respect to Grand Staircase-Escalante National Monument, including adding to and fine-tuning the Monument's boundaries through a series of legislative acts. *See, e.g.*, Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 993 (2009); the Utah Schools and Lands Exchange Act, Pub. L. No. 105-335, 112 Stat. 3139 (1998); and the Automobile National Heritage Area Act, Pub. L. No. 105-355, § 110, 112 Stat. 3247 (1998).

209. The President has no independent authority to reduce or rescind a national monument.

210. In issuing his December 4, 2017 Proclamation, President Trump exceeded his authority under Article II of the U.S. Constitution and intruded on Congress's exclusive power to regulate federal property under the Property Clause, in violation of the doctrine of separation of powers.

THIRD CLAIM FOR RELIEF

Violation of the Omnibus Public Lands Management Act of 2009, the Utah Schools and Lands Exchange Act of 1998, and the Automobile National Heritage Area Act (All Defendants)

211. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

212. President Trump has violated the Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 993 (2009), the Utah Schools and Lands Exchange Act of 1998,

Pub. L. No. 105-335, 112 Stat. 3139 (1998), and the Automobile National Heritage Area Act, Pub. L. No. 105-355, 112 Stat. 3247 (1998), by revoking monument status from roughly 900,000 acres from the Monument, including 80,000 acres that Congress itself added to the Monument through these legislative enactments.

FOURTH CLAIM FOR RELIEF
Violation of the Antiquities Act,
54 U.S.C. § 320301 *et seq.*
(All Defendants)

213. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

214. Even if President Trump had the authority to reduce or rescind the Monument—which he does not—he could only do so in a manner consistent with the terms and the purposes of the Antiquities Act.

215. When President Clinton designated the Monument, he described the objects of scientific or historic interest that merited protection under the Antiquities Act. He also determined—based on the grand scale of the Monument’s geologic features, most notably the “Grand Staircase” of geologic strata, and the dispersed location of the objects of scientific and historic interest—that the Monument’s boundaries were “the smallest area compatible with the proper care and management of the objects to be protected.” 61 Fed. Reg. at 50,225. Those findings are grounded in fact, have survived a previous legal challenge, and are confirmed by over two decades of research conducted since the Monument’s designation.

216. The Trump Proclamation, by eliminating monument status and protection from nearly 900,000 acres of the Monument, excluded numerous objects of scientific and historic interest from the protection they enjoyed under the 1996 Proclamation, leaving them vulnerable

to irreversible damage. These objects include paleontological and cultural resources that are now located on the excised lands and vulnerable to loss and damage due to fewer restrictions on development and other harmful activities there. *See e.g.*, Final EIS 3-19 (noting that “[a]ny increase in visitation, road construction, grazing and recreational development will result in direct and indirect impacts on cultural resources” on lands excised from the Monument); Final EIS 3-48 (noting that impacts to paleontological resources would be greatest on lands outside the Monument due to the increased risk of development and other activities like casual collection, including in the Circle Cliffs which contain unique geologic layers and corresponding fossils found nowhere else in the Monument).

217. The Trump Proclamation re-drew the Monument’s boundaries based on considerations wholly outside the Antiquities Act—principally, Defendants’ interest in promoting resource extraction—and lacks an adequate legal or factual justification.

218. The Trump Proclamation admitted that it stripped monument protection from objects of scientific and historic interest, 82 Fed. Reg. at 58,089-90, but it attempted to justify their exclusion on the factually unfounded basis that some are not of “significant” or “distinctive” historic or scientific interest, *id.* at 58,090. Apart from being factually unfounded, the Trump Proclamation’s assertion is legally irrelevant, as the Antiquities Act does not require that Monument objects must be “significant” or “distinctive” to merit protection.

219. As a result, President Trump’s Proclamation exceeded his authority and is *ultra vires* and unlawful.

FIFTH CLAIM FOR RELIEF
Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*
(Agency Defendants)

220. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

221. The Administrative Procedure Act (APA) confers a right of action on any person adversely affected by a final agency action or a failure to act, and waives the federal government's sovereign immunity. 5 U.S.C. §§ 701-706.

222. Because President Trump had no lawful authority to dismantle the Monument, Agency Defendants remain subject to the 1996 Proclamation's direction to undertake specific, mandatory duties to protect the entire Monument.

223. Any Interior or BLM action contrary to the 1996 Proclamation constitutes arbitrary and capricious agency action not in accordance with the law.

224. Because of President Trump's Proclamation, Agency Defendants have made a final decision to adhere to the Trump Proclamation rather than to the 1996 Proclamation where the two conflict. Agency Defendants are currently violating the terms of the 1996 Proclamation by managing the excised Monument lands as available for mineral exploration and development under the General Mining Law of 1872; by treating new hard-rock mining claims located in the excluded lands (which were prohibited by the 1996 Proclamation) as valid and allowing mining activity to move forward; and by preparing a monument management plan incorporating President Trump's diminishment of the Monument's boundaries.

225. Agency Defendants will not carry out their duties under the 1996 Proclamation with respect to the excised lands as long as the Trump Proclamation remains in place.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs request that the Court:

1. Declare that President Trump's December 4, 2017 Proclamation is *ultra vires* and wholly without authority under the Antiquities Act or any other legislative enactment, and is invalid and void *ab initio*;
2. Declare that President Trump's December 4, 2017 Proclamation exceeds the scope of his authority under Article II of the U.S. Constitution, violates the separation of powers doctrine, and is invalid and void *ab initio*;
3. Issue injunctive relief against Agency Defendants, barring their implementation of the Trump Proclamation (including any management plans or subsidiary plans premised on the Trump Proclamation) and directing them to carry out the mandatory duties imposed on them in the 1996 Proclamation;
4. Declare that any mining claims, mineral leases, or other permits or authorizations premised on the validity of the Trump Proclamation are void *ab initio*;
5. Award Plaintiffs fees and costs pursuant to 28 U.S.C. § 2412; and
6. Grant such other relief as the Court deems just and proper.

Dated November 7, 2019

Respectfully submitted,

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