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May 18, 2023

Molly C. Dwyer, Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
James R. Browning Courthouse
95 Seventh Street
San Francisco, CA 94103

Re: *Apache Stronghold v. United States*, No. 21-15295.

Dear Ms. Dwyer,

At en banc oral argument in this case, the question arose of when the issuance of the Environmental Impact Statement (EIS), which will trigger a statutory duty to execute the land exchange, will occur. Argument video at 3:16-4:15; 44:04-44:58. Government counsel informed the Court that the “the prediction still is that [the EIS] will be ready this spring” (*id.* at 44:21-44:23) and would be issued by late spring or early summer (*id.* at 44:43-44:52).

However, the Department is conducting a thorough review of the consultation record, and environmental and other associated documents, to ensure compliance with applicable laws, regulations, and policies. The Department also continues to meet with Tribes and offer additional opportunities for formal consultation. The Department has not yet identified a timeframe for completing its review.

The government’s commitment and court-ordered obligation to issue a notice at least 60 days before issuing the EIS is unchanged.

Respectfully submitted,

s/ Joan M. Pepin

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cc: Counsel of record (via CM/ECF)