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19 IN THE UNITED STATES DISTRICT COURT  
20 FOR THE DISTRICT OF ARIZONA  
21 PRESCOTT DIVISION

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22 QUATERRA ALASKA, INC., a wholly-  
23 owned subsidiary of QUATERRA  
24 RESOURCES, INC. and BOARD OF  
25 SUPERVISORS, MOHAVE COUNTY,  
26 ARIZONA

Plaintiffs;

v.

27 KEN SALAZAR, Secretary of the Interior;  
28 U.S. DEPARTMENT OF THE  
29 INTERIOR; ROBERT V. ABBEY,  
30 Director of the Bureau of Land  
31 Management; and U.S. BUREAU OF  
32 LAND MANAGEMENT

Defendants.

)  
)  
) **Civil. No.**

)  
) **PLAINTIFFS' COMPLAINT FOR**  
) **DECLARATORY AND**  
) **INJUNCTIVE RELIEF**

1 Comes now, Plaintiffs, Quaterra Alaska, Inc., a wholly owned subsidiary of Quaterra  
2 Resources, Inc. (Quaterra) and the Board of Supervisors, Mohave County, Arizona  
3 (Mohave County), by and through counsel, to file their Complaint for Declaratory and  
4 Injunctive Relief against Defendants, Ken Salazar, in his official capacity as the Secretary  
5 of the U.S. Department of the Interior, the U.S. Department of the Interior (DOI), Robert  
6 V. Abbey, the Director of the U.S. Bureau of Land Management, and the U.S. Bureau of  
7 Land Management (BLM), and allege as follows:  
8

### 9 INTRODUCTION

10 1. Plaintiffs Quaterra and Mohave County challenge the actions of the DOI  
11 Secretary to close more than one million acres of federal land to all mining on the grounds  
12 that the withdrawal cannot be justified as necessary to protect the Grand Canyon  
13 watershed from the impacts of uranium mining. In making the Northern Arizona  
14 Withdrawal (NAW), Defendants failed to follow proper procedures under the Federal Land  
15 Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA),  
16 to coordinate with Mohave County to avoid conflicts with its county plans, to make a  
17 decision based on evidence rather than political rhetoric, to resolve scientific controversies,  
18 and to adequately address the material public comments. Had Defendants followed the  
19 FLPMA and NEPA procedures, they could not have rationally concluded that the million  
20 acre withdrawal was necessary to protect the natural resources and, in particular, the  
21 Grand Canyon watershed. The overwhelming scientific data show that uranium mining of  
22 breccia pipe formations within the withdrawal would have no adverse impacts on the  
23 Colorado River or its watershed. Defendants' own analysis also concluded that the existing  
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26

1 laws and rules fully protect Native American cultural sites and resources. By ignoring both  
2 the science and the facts, Defendants' actions have done nothing to protect the Grand  
3 Canyon watershed and effectively deprived Plaintiff Quatterra of its investment in uranium  
4 deposits and deprived Plaintiff Mohave County, as well as the State of Arizona, of tens of  
5 millions of dollars in revenues and jobs, further inhibiting the state and local government  
6 efforts to recover from the worst economic recession in 80 years.

### 7 JURISDICTION AND VENUE

8 2. This Court has jurisdiction under 28 U.S.C. §1331 [federal question], 28  
9 U.S.C. §2201 [declaratory judgment], 28 U.S.C. §1361 [mandamus], and the  
10 Administrative Procedure Act (APA), 5 U.S.C. §§701-706. The claims asserted herein  
11 arise under the laws of the United States, including but not limited to, the Mining Laws, as  
12 amended, 30 U.S.C. §§21 *et seq.*, the Federal Land Policy and Management Act (FLPMA),  
13 43 U.S.C. §§1701-1784, the National Environmental Policy Act (NEPA), 42 U.S.C. §§4321-  
14 4334; and the respective implementing regulations, 43 C.F.R. Part 3800; 40 C.F.R. Part  
15 1500; and the APA, 5 U.S.C. §§701-706.  
16  
17

18 3. Judicial review is authorized pursuant to the APA, 5 U.S.C. §§701-706. The  
19 action is final because Interior Secretary Salazar signed the challenged decision  
20 documents, thereby marking the end of the agency decision process. The challenged  
21 decision has a direct and concrete impact on the legally-protected interests of Quatterra in  
22 its mining claims and a direct impact on Mohave County's environmental interests and  
23 statutory functions.  
24

25 4. Venue is properly laid in this Court pursuant to 28 U.S.C. §1391(e), because  
26 the case and controversy pertains to federal lands located in Arizona.

## PARTIES

1           5.       Quaterra Alaska, Inc. is a wholly-owned subsidiary of Quaterra Resources,  
2 Inc. and is incorporated under the laws of Alaska. It is registered to do business and  
3 conduct operations in the states of Arizona, Nevada, and Utah where Quaterra Alaska  
4 holds and explores mineral properties. The parent company Quaterra Resources, Inc. is  
5 incorporated under the laws of British Columbia with its shares listed for trading on the  
6 TSX-Venture Exchange in Canada and the American Stock Exchange in the United States  
7 of America.  
8

9           6.       A large portion of the North Parcel is in Mohave County, Arizona. Mohave  
10 County is a statutorily established unit of local government authorized by Arizona state law  
11 to perform numerous governmental functions. A.R.S. §11-251. The withdrawal adversely  
12 impacts the socioeconomic and environmental interests of the County.  
13

14           7.       Mohave County was granted cooperating agency status in the development  
15 of the Northern Arizona Proposed Withdrawal Environmental Impact Statement and has  
16 been accorded a procedural right to protect its concrete interests under NEPA. 42 U.S.C.  
17 §4332(2)(C). Mohave County has adopted a Comprehensive Land Use Plan pursuant to  
18 Arizona State Law to protect its environmental interests. A.R.S. §11-804. For lands under  
19 its jurisdiction, Mohave County must "conserve the natural resources of the county,"  
20 maintain "air quality," and plan "for water resources." *Id.*  
21  
22

23           8.       Defendant Ken Salazar is sued in his official capacity as DOI Secretary.  
24 Secretary Salazar signed the public land order closing more than one million acres of  
25 federal land to mining [Public Land Order 7787 Withdrawal of Public and National Forest  
26

1 System Lands in the Grand Canyon Watershed; Arizona] and the Record of Decision  
2 (ROD) for the Northern Arizona Withdrawal Final Environmental Impact Statement (NAW  
3 FEIS), which is the subject of this action. Secretary Salazar is the cabinet-level officer  
4 delegated by Congress to implement laws governing mineral development on federal  
5 lands.

6 9. Defendant DOI is the department of the federal government to which  
7 Congress delegated the authority to administer the public lands in accordance with the  
8 Constitution of the United States and federal law.

9  
10 10. Defendant Robert V. Abbey is the Director of the BLM. In his official capacity,  
11 Director Abbey is responsible for managing the public lands in accordance with the U.S.  
12 Constitution and federal law.

13  
14 11. Defendant BLM is an agency within DOI, and was the agency responsible for  
15 writing the Northern Arizona Proposed Withdrawal EIS which has failed to comply with the  
16 requirements of NEPA as discussed in this Complaint.

17 **STATEMENT OF FACTS**

18  
19 **Plaintiffs' Interests**

20 12. Quatterra holds 1,000 unpatented mining claims that were located pursuant  
21 to the 1872 Mining Law and in compliance with the laws and rules governing the location  
22 and exploration of unpatented mining claims on federal lands. Quatterra also holds Mineral  
23 Exploration Permits on a total of 3,781 acres in nine sections of school trust lands from the  
24 Arizona State Land Department.  
25  
26

1 13. Quaterra's mining claims are located entirely within the North Parcel of the  
2 NAW. Quaterra has invested more than twelve million dollars since 2005 in the Arizona  
3 Strip, which represents approximately 30% of the Company's total exploration expenditures  
4 for North America. Quaterra seeks to expand its exploration activities and locate additional  
5 mining claims.

6 14. The NAW freezes Quaterra's development plans because the withdrawal  
7 limits development to valid mining claims, as that term is defined under the 1872 Mining  
8 Laws and case law. Defendants stated that no activity will occur unless and until BLM  
9 concludes that each claim is valid, a lengthy and expensive process. BLM's planned  
10 actions to contest and declare invalid all of the claims contradict the Secretary's statements  
11 that his action will allow mining on the existing mining claims to proceed, albeit more  
12 cautiously.  
13

14 15. Quaterra's legal interests in its mining claims fall within the "zone of interests"  
15 under FLPMA, which establishes policy to manage public lands to meet the Mining and  
16 Minerals Policy Act, 43 U.S.C. §1701(a)(12), and names mineral development one of the  
17 five principal multiple uses of public lands. 43 U.S.C. §1702(l). Quaterra's interests also  
18 fall within the "zone of interests" under NEPA, because Quaterra has effectively reclaimed  
19 its drilling and mine sites to protect air and water quality and restore the vegetation.  
20 Quaterra's activities also contributed to the knowledge of cultural and archaeological  
21 resources, since each drill site was inventoried before beginning work.  
22

23 16. NEPA is one of the laws used to regulate Quaterra's mining activities on  
24 federal land and provides for a number of procedural rights relating to the public comment  
25  
26

1 and analysis process of the proposed action. Quatterra participated throughout the  
2 development of the EIS and submitted comments on the notice of intent to prepare an EIS,  
3 on the DEIS, and on the FEIS before the ROD was signed. Quatterra suffered procedural  
4 injuries in that Defendants dismissed or ignored its technical and material comments.  
5 Defendants' decisions would have been very different had Defendants addressed the  
6 comments in the spirit mandated by NEPA.

7  
8 17. A decision finding that the Secretary failed to follow the criteria and  
9 procedures for a withdrawal and setting the withdrawal aside would restore the public lands  
10 to the status quo ante and allow Quatterra to proceed to develop the mineral deposits that  
11 it has lawfully claimed and worked.

12  
13 18. Local governments, including Mohave County, participated as cooperating  
14 agencies in the preparation of the EIS and further exercised their right to coordination in  
15 all land use planning efforts. Mohave County has mandate to retain environmental quality  
16 and to capitalize on its wealth of natural, built and human resources. Mohave County  
17 General Plan, p.23 (revised as of November 15, 2010). This mandate includes the "growth  
18 of communities that maintain the health and integrity of its valuable environmental  
19 features;" the protection of "wetlands, washes, aquifer recharge areas, areas of unique  
20 flora and fauna, and areas with scenic, historic, cultural and recreational value;" and  
21 avoiding industrial development that has the "undesired effect of increasing air pollution."  
22  
23 *Id.*

24  
25 19. In this respect, unlike natural gas, coal, and oil; nuclear power plants do not  
26 generate atmospheric pollution and do not emit carbon dioxide, sulfur dioxide, or nitrogen

1 oxides. Every metric ton of mined uranium used in place of coal saves the emission of  
2 40,000 metric tons of carbon dioxide. Mohave County is one of the Arizona Counties that  
3 receives nuclear power as a generating source of electricity from the Palo Verde Nuclear  
4 Generation Station.

5 20. In 2009, the Board of Supervisors in Mohave County voted to support  
6 uranium mining in the Arizona Strip because it creates jobs, provides critical fuel for  
7 nuclear power plants, does not adversely affect the local groundwater aquifers, or threaten  
8 the Grand Canyon.

9  
10 21. The Board of Supervisors of Mohave County, in order to conserve and  
11 promote the public health, safety, and general welfare, shall within its territorial limits, or  
12 any portion thereof, investigate the degree to which the atmosphere of the county is  
13 contaminated by air pollution and the causes, sources, and extent of such air pollution.  
14 A.R.S. 49-473. Indeed, one of the key air quality issues is to pave roads where reduction  
15 of dust is desired. Mohave County General Plan at 34.  
16

17 22. As part of the increased use of roads, which would result if mining were to  
18 continue, the existing roads would be improved, and often paved, to handle the traffic,  
19 reduce soil erosion, and to reduce dust emissions from motor vehicle use of unimproved  
20 roads.  
21

22 23. Mohave County has 1,277 miles of unpaved roads, most of which are  
23 necessary for access to livestock grazing allotments, hunting, and recreation. These roads  
24 are also used to access the mining claims and would provide the backbone for access to  
25 the developed mining sites.  
26



1           24. Under state law, Mohave County is responsible for maintaining and improving  
2 public roads. Due to budget considerations, the County selectively maintains the road  
3 system. The increased demand for access would also generate funds to better maintain  
4 the roads, reduce dust emissions, and control erosion.

5           25. The Interior Secretary's closure, therefore, of over one million acres of federal  
6 land to uranium mining adversely affects Mohave County's legally protected interest in air  
7 and water quality.

### 8 **Statutory and Regulatory Background**

9  
10           26. Congress declared federal lands open for mining and mineral development  
11 unless specifically closed or withdrawn. 30 U.S.C. §21a. The law grants any person the  
12 right to explore and develop minerals on federal land not withdrawn from mineral use, and  
13 upon a discovery of a valuable mineral, the right to apply for a patent. *Id.* at §§22, 29.

14  
15           27. In exchange for the right to develop minerals on federal land, the person  
16 assumes all of the costs and risks of mining the valuable minerals. The person also  
17 assumes the responsibility to comply with state and federal laws, which impose a complex  
18 net of laws, regulations, and compliance procedures.

### 19 *FLPMA*

20  
21           28. FLPMA governs public land management and the withdrawal procedures.  
22 Adopted in 1976, it reaffirmed federal ownership of public lands and dedicated them to  
23 multiple use and sustained yield management. 43 U.S.C. §§1701(a)(1), (7); 1732(b). It  
24 also directed BLM to manage the public lands for six primary or principal multiple uses: (1)  
25  
26

1 mineral development; (2) recreation; (3) livestock grazing; (4) rights-of-way; (5) fish and  
2 wildlife; and (6) timber. *Id.* at §1702(l). Closure of the public lands to any principal multiple  
3 use is a major land management decision that triggers reporting to Congress and  
4 amendment of the applicable land use plan, after coordination with state and local  
5 governments and public comment. 43 U.S.C. §1712(e).

6 29. FLPMA directs that “the public lands be managed in a manner which  
7 recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from  
8 the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84  
9 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands.” 43 U.S.C. §1701(a)(12). This  
10 policy is implemented through the dedication of public lands to multiple use, and the  
11 principal multiple uses, including mineral development. *Id.* at §1702(l).

12 30. FLPMA also commits BLM to work closely with and to coordinate with state  
13 and local government agencies. 43 U.S.C. §§1712(a); 1712(c)(9) (“to the extent consistent  
14 with the laws governing the administration of the public lands, coordinate the land use  
15 inventory, planning, and management activities of or for such lands with the land use  
16 planning and management programs of other Federal departments and agencies and of  
17 the States and local governments within which the lands are located”). Federal land use  
18 plans are also to be consistent with those of state and local governments. *Id.* (“Land use  
19 plans of the Secretary under this section shall be consistent with State and local plans to  
20 the maximum extent he finds consistent with Federal law and the purposes of this Act.”)

21 31. Public lands are to be managed pursuant to land use plans that guide all  
22 future management. 43 U.S.C. §1732(b). FLPMA also directs that public lands be  
23

1 managed to avoid undue and unnecessary degradation. *Id.* BLM adopted regulations for  
2 all mining exploration and development to ensure that mining conforms to this  
3 nondegradation standard. 43 C.F.R. Part 3800 (2000).

4 32. Under Arizona law,

5 If a county has laws, regulations, plans or policies that are less restrictive  
6 than a federal or state regulation, rule, plan or policy, the county shall  
7 demand by any lawful means that the federal or state government coordinate  
8 with the county before the federal or state government implements, enforces,  
9 expands or extends the federal regulation, rule, plan or policy within the  
10 county's jurisdictional boundaries. . . If the federal or state government fails  
to coordinate in good faith with the county, the county shall hold public  
hearings, consider the evidence and vote on whether to authorize litigation  
to enforce the county's coordination rights.

11 A.R.S. §11-269.09.

12  
13 33. Mohave County passed Resolution 2009-040 on February 5, 2009. The  
14 resolution urges Congress to preserve access to the uranium reserves of northern Arizona  
15 in order to meet America's demand for clean non-carbon emitting energy and energy  
16 independence (Mohave County 2009). The proposed withdrawal is inconsistent with  
17 County Resolution 2009-040.  
18

19 34. To address the determination that the haphazard system of withdrawals and  
20 segregation orders had closed about 75% of the public lands to mineral development,  
21 FLPMA repealed most express withdrawal authorities, except for the Antiquities Act, and  
22 all implied withdrawal authority. Section 204 of FLPMA replaced the repealed laws and  
23 authority and governs all notices of segregation and withdrawal procedures. Section 204  
24 adopts time limits on withdrawals and segregation orders and specific procedures to be  
25  
26

1 followed for a withdrawal exceeding 5,000 acres or a withdrawal for more than six months.  
2 FLPMA further prescribes 12 factors for the Secretary to document, including whether the  
3 proposed land use justifies the withdrawal in light of environmental degradation or conflicts  
4 with existing or future land uses, the views of state and local governments, and the  
5 economic impacts to the state and communities. 43 U.S.C. §1714(c)(2). All withdrawals  
6 must be reported to Congress within 90 days. *Id.* at §§1712(e)(2); 1714(c)(1).

### 7 **Cultural and Native American Resources**

8  
9 35. Native American resources and sites are protected under the Archaeological  
10 Resources Protection Act (ARPA), 16 U.S.C. §§470aa-470ll, the Native American Graves  
11 Protection and Repatriation Act (NAGPRA), 25 U.S.C. §3001, the National Historic  
12 Preservation Act (NHPA), 16 U.S.C. §§470-470x-6 and 36 C.F.R. Part 800, FLPMA, and  
13 NEPA. Native American religious practices are protected under the Religious Land Use  
14 and Institutionalized Persons Act (RLUIPA), 42 U.S.C. Part 2000cc, which prohibits land  
15 uses that burden religious practices.  
16

17 36. The law and implementing rules for archaeological or cultural sites primarily  
18 require that a project avoid the protected site or resources. The laws protect all sites listed  
19 on the National Historic Register and all sites that may be potentially eligible. 36 C.F.R.  
20 §800.4(c); 43 C.F.R. §3809.420(b)(8). In the rare situation where avoidance is not an  
21 option, the archaeological or cultural resources will be excavated through data recovery.  
22 43 C.F.R. §§3809.5; 3809.401(c)(1); 3809.415(a); 3809.420.  
23

24 37. BLM has adopted a series of manuals that govern the protection of cultural  
25 and historical resources and archaeological sites. Department Manual (DM) 8100  
26

1 Foundations for Managing Cultural Resources; 8110 Identifying and Evaluating Cultural  
2 Resources; 8120 Coordination with Tribes; 8130 Planning for Uses of Cultural Resources;  
3 8140 Protecting Cultural Resources; 8150 Permitting Uses of Cultural Resources; 8170  
4 Interpreting Cultural Resources for Public Use.

### 5 **Additional Laws and Regulations Governing Uranium Mining**

6 38. Uranium mining has changed dramatically since the days of the Cold War  
7 when uranium mines dotted the landscape in Utah, Colorado, and northwestern New  
8 Mexico.  
9

10 39. Since its establishment in 1970, the EPA has been responsible for protecting  
11 the public health and the environment from avoidable exposures to radiation. The EPA  
12 sets standards for the management and disposal of radioactive wastes and guidelines  
13 relating to control of radiation exposure under the Atomic Energy Act, the Clean Air Act,  
14 and other legislation. The EPA must determine what levels or limits are considered  
15 protective and specify measures or processes for putting these measures in place.  
16

17 40. Section 112 of the Clean Air Act (CAA) required the EPA to regulate airborne  
18 emissions of hazardous air pollutants (HAPs) (including radionuclides) from a specific list  
19 of industrial sources called "source categories." Each source category that emits  
20 radionuclides in significant quantities must meet technology requirements to control them  
21 and is required to meet specific regulatory limits. 42 U.S.C. §7412.  
22

23 41. These standards are the National Emission Standards for Hazardous Air  
24 Pollutants for Radionuclides (Rad NESHAPs), and were published by the EPA in 1989. 54  
25 Fed. Reg. 51654 (1989). The EPA was required to determine an acceptable risk to health  
26

1 in setting Rad NESHAPS standards that provided an ample margin of safety to protect the  
2 public health. 42 U.S.C. § 7412(b)(1)(B) (1982).

3 42. Subpart B of the EPA's Rad NESHAPs protects the public and the  
4 environment from the radon-222 emissions to the ambient air from underground uranium  
5 mines. The EPA set a limit on the emission of radon-222 that ensures that no member of  
6 the public in any year receives an effective dose equivalent of more than 10 millirem/year.  
7 Owners/operators of each mine must calculate the effective dose equivalent to any  
8 member of the public and report this information to the EPA annually. All sampling done  
9 during data collection must follow EPA-approved procedures. 40 C.F.R. Pt. 61, Subpart B.  
10 Pursuant to the CAA, the EPA has determined that the limit protects the public with an  
11 ample margin of safety. 54 Fed. Reg. at 51678.  
12

13 43. In 1982, pursuant to the Federal Water Pollution Control Act of 1972, as  
14 amended by the Clean Water Act of 1977 (CWA), 33 U.S.C. §§1311, 1314, 1316, 1317,  
15 1361, the EPA established national technology-based effluent guideline limitations for  
16 discharges from uranium mines and mills. 47 Fed. Reg. 54609 (1982).  
17

18 44. These regulations set effluent limitations based upon best practicable control  
19 technology (BPT) and best achievable technology (BAT) for uranium mills and open-pit and  
20 underground uranium mines, including mines using *in situ* leach methods. Discharges from  
21 regulated operations must meet best available technology/best practicable technology  
22 (BAT/BPT) standards for zinc, arsenic, ammonia, dissolved radium 226, total radium 226,  
23 uranium, total suspended solids, chemical oxygen demand (COD), and pH. 40 C.F.R. Part  
24 440, Subpart C.  
25  
26

1 45. Under the CWA's Water Quality Act amendments of 1987, the EPA  
2 promulgated regulations that specifically address point-source discharges of storm water  
3 from industrial facilities, including active and inactive/abandoned mine sites. 55 Fed. Reg.  
4 47990 (1990). These regulations require NPDES permits for all point source discharges  
5 of contaminated storm water from mine sites. 40 C.F.R. §§122.21, 122.22, 122.26,  
6 122.28, 122.42.

7 46. The Arizona Department of Environmental Quality (ADEQ) implements the  
8 above authorities through state law and delegation from EPA.  
9

#### 10 **Northern Arizona Federal Land**

11 47. The area now called the Grand Canyon National Park was initially established  
12 as a national monument pursuant to the Antiquities Act in 1907. 16 U.S.C. §§431-433.  
13 Congress enlarged the park in 1919 to include portions of the Grand Canyon Game  
14 Preserve, and then in 1975, Marble Canyon and Grand Canyon national monuments were  
15 joined to the park giving it its current boundaries. The boundaries of the park today include  
16 1,218,376 acres of land that protect both sides of the Colorado River for 277 miles. There  
17 is no mining in the national park.  
18

19 48. The Arizona Wilderness Act of 1984 designated several wilderness areas  
20 surrounding Grand Canyon National Park, including the Kanab Wilderness, and released  
21 the public lands not designated for wilderness to multiple use as determined in land use  
22 plans adopted under FLPMA. Pub.L. 98-406, 98 Stat. 1485, Title III, § 301(a)(3), Aug. 28,  
23 1984. This legislative compromise balanced the region's high mineral potential during the  
24  
25  
26

1 height of 1980s uranium mining with the scenic, geologic, and recreation resources that  
2 merited wilderness preservation.

3 49. In 2000, President Clinton closed another 1.3 million acres of public lands in  
4 northern Arizona to all forms of mineral entry and development by creating the Grand  
5 Canyon-Parashant National Monument (GCPNM), 65 Fed. Reg. 35385 (2000), and the  
6 Vermilion Cliffs National Monument (VCNM), 65 Fed. Reg. 69227 (2000), in part to protect  
7 the numerous archaeological and historical sites important to Native Americans.  
8

9 50. The Arizona Strip Resource Management Plan of 2008 (2008 RMP)  
10 continued to honor the land use compromise of the Arizona Wilderness Act of 1984, and  
11 classified the non-wilderness public lands outside of the national monuments as suitable  
12 and available for mining.  
13

14 51. The 2008 RMP designated and redesignated several Areas of Critical  
15 Environmental Concern (ACEC) to protect Native American resources under FLPMA, which  
16 makes the designation of ACECs a priority. 43 U.S.C. §1702(a). The ACECs in the Arizona  
17 Strip RMP outside of the national monument designations are tied to unique cultural and  
18 heritage sites, geologic features, and sensitive or listed plants. The ACECs established to  
19 protect cultural resources include Johnson Spring, Lost Mountain Spring, Moonshine Ridge,  
20 Kanab Creek, and Marble Canyon. The 2008 RMP enlarged these ACECs based on newly  
21 identified cultural sites and resources, which occurred due to new inventories related to the  
22 uranium exploration.  
23

24 **Uranium Resource**  
25  
26



1           52.     Uranium mineralization occurs 1,000 to 1,700 feet below the surface in  
2 northern Arizona in and around vertical columns of broken (collapsed) and re-cemented  
3 rock (known as breccia pipes). The uranium deposits in the breccia pipes of northern  
4 Arizona are the highest grade and historically the most profitable hard rock mined uranium  
5 ore found in the United States. The 2010 U.S. Geological Survey Scientific Investigations  
6 Report 2010-5025 estimates the withdrawn land to contain a mean undiscovered uranium  
7 endowment of 326 million pounds (USGS 2010-5025). This endowment is not a reserve  
8 because the withdrawal prohibits the investigations necessary to conduct an economic  
9 analysis of the mineralization, but is a critically important source for future domestic  
10 production. The 2008 U.S. Energy Information Agency estimate of the total uranium  
11 reserves of the U.S. at a \$50/lb uranium price is 539 million pounds.  
12

13           53.     Uranium was mined from breccia pipes in the 1980s, but these mines closed  
14 in the early 1990s due to falling uranium prices. Industry interest in this region was  
15 rekindled in 2004 when prices increased and it was apparent that the era of availability of  
16 uranium from decommissioned weapons was coming to an end.  
17

18           54.     Mineralized uranium in breccia pipes is mined using underground methods  
19 rather than open pits or dissolution fluids (*in situ* leaching). The underground mining  
20 method results in less dust emissions and fewer impacts to water. A developed mine site,  
21 including all roads and utilities, disturbs less than 20 acres. If all of the confirmed breccia  
22 pipes were developed into a mine, the disturbed surface area would still be less than 1,364  
23 acres or less than .15% of the total withdrawn area. FEIS, 4-111. The mined ore is trucked  
24 to a processing mill in Blanding, Utah and the remaining waste rock is backfilled into the  
25  
26

1 mine once mining is completed and the site is reclaimed. The site is sprinkled with water  
2 throughout the operations to keep dust to a minimum both at the mine site and along the  
3 unpaved roads.

4 55. It is probable that there are significantly more uranium bearing breccia pipes  
5 within the withdrawal boundaries than the 45 known breccia pipes discussed in the FEIS.  
6 All but two of the 45 known pipes penetrate the surface. Pipes that do not reach the surface  
7 are called "blind" pipes. Because they do not come to the surface, blind pipes have  
8 historically been difficult to find but are very strongly uranium mineralized. One of the two  
9 known blind breccia pipes (Hack 2) is the largest breccia pipe uranium deposit ever  
10 discovered.  
11

12 56. Quaterra used airborne geophysical exploration to survey 422 square miles  
13 (27%) of the withdrawn land. The survey identified all known pipes and more than 200  
14 targets that had a similar geophysical signature, most of which are thought to be blind  
15 breccia pipes. Subsequent drill tests of seven of these features had a 70% success ratio  
16 in identifying new breccia pipe structures. Quaterra comments to DEIS, p. 12, May 12<sup>th</sup>  
17 2011. The FEIS makes no provision for the future discovery of blind breccia pipe deposits.  
18

19 57. The results of Quaterra's airborne geophysical survey and the subsequent drill  
20 tests indicated that the total withdrawn area (1,573 square miles) could contain 522 breccia  
21 pipe structures (200 targets/0.27 percent total withdrawn area x 0.70 success ratio). Of the  
22 45 drill-confirmed breccia pipes on the withdrawn land, 16 (36%) are considered potentially  
23 economic deposits with uranium resources that have an average of 1.7 million pounds of  
24 uranium per deposit. Quaterra comments to DEIS, Table 1, p. 8, May 3, 2011. If the  
25  
26

1 success percentage and average deposit size are applied to the estimated total of 522  
2 breccia pipes in the withdrawal, the subject area has the possibility of containing a total of  
3 186 mineralized breccia pipes with a total of 317 million pounds (522 breccia pipes x 36%  
4 economic x 1.7 million pounds uranium per economic pipe). This estimate is very close to  
5 the 326 millions pounds of uranium endowment estimated by the USGS Report 2010-5025.

### 6 **The Northern Arizona Withdrawal**

7  
8 58. Pursuant to Section 204(e) of FLPMA, the U.S. House of Representatives  
9 Committee on Natural Resources adopted a resolution on June 25, 2008, declaring an  
10 emergency in northern Arizona and directing Secretary Kempthorne to immediately  
11 withdraw 1,068,908 acres from location and entry under the Mining Law. The Republican  
12 members of the Committee did not vote on the measure. Soon after the Center for  
13 Biological Diversity (CBD) petitioned Secretary Kempthorne to comply with the Resolution.  
14

15 59. The Interior Department responded to the Resources Committee in a letter  
16 stating that Section 204(e) was unconstitutional because a single committee of the House  
17 of Representatives cannot require a withdrawal of public lands, citing *Chadha v. Immigration*  
18 *and Naturalization Service*, 462 U.S. 919 (1983). CBD then filed suit to compel the  
19 withdrawal on September 27, 2008. *Center for Biological Diversity v. Kempthorne*, Civ. No.  
20 08-8117. The matter was dismissed as moot once the withdrawal process was initiated.  
21

22 60. With the election of President Obama, a coalition of environmental groups  
23 identified the withdrawal of the million acres in northern Arizona as one of the new  
24 administration's priorities for public lands. *Transition to Green: The Green Group's*  
25 *Transition Memo*, at 9-61 - 9-62, Nov. 2008.  
26

1           61. Secretary Salazar issued a Notice of Segregation on June 21, 2009, which  
2 closed the Federal lands from location and entry under the 1872 Mining Law for two years  
3 to allow various studies, including an EIS regarding uranium mining's impact on the Grand  
4 Canyon watershed. Secretary Salazar directed the USGS to develop the scientific basis  
5 for analysis in the NAW EIS.

6           62. The EIS process was intended to objectively determine whether a withdrawal  
7 was necessary and the need for a withdrawal was hotly disputed within the BLM and by the  
8 public.

9  
10           63. The DEIS, published on February 18, 2011, confirmed the purpose of the  
11 Proposed Withdrawal, stating, "the withdrawal was proposed in response to increased  
12 mining interest in the region's uranium deposits, as reflected in the number of new mining  
13 claim locations, and concern over potential impacts of uranium mining on the Grand Canyon  
14 watershed, adjacent to Grand Canyon National Park." DEIS, ES-1.

15  
16           64. BLM did not identify a preferred alternative in the DEIS, stating, "BLM has not  
17 identified a preferred alternative in this DEIS and is soliciting public comments and input  
18 with respect to the identification of a preferred alternative. Based on a review of public  
19 comments, BLM will identify a preferred alternative in the Final EIS." DEIS, 2-29.

20  
21           65. On June 21, 2011, with the two year segregation about to expire and review  
22 of the DEIS and public comments not completed, Secretary Salazar issued an emergency  
23 six-month withdrawal order of the subject Federal lands pursuant to FLPMA, 43 U.S.C.  
24 §1714(e). PLO No. 7773. PLO 7773 incorporated by reference the stated purpose of the  
25  
26

1 Notice of Segregation, namely “to protect the Grand Canyon Watershed from adverse  
2 effects of locatable hardrock mineral exploration and mining.” 76 Fed. Reg. 37826 (2011).

3 66. There was no emergency, only that Arizona BLM informed the Washington  
4 officials that due to the volume and complexity of the comments, it could not complete the  
5 FEIS by July 21, 2011 when the notice of segregation would have expired.

6 67. When Secretary Salazar announced the emergency withdrawal, he also  
7 announced the preferred alternative of a full withdrawal of the over one million acres from  
8 location and entry under the Mining Law to “ensure that all public lands adjacent to GCNP  
9 are protected from new hard rock mining claims, all of which are in the watershed of the  
10 Grand Canyon.” Secretary Salazar said the decision was based on input from BLM Director  
11 Bob Abbey, NPS Director Jon Jarvis, USGS Director Marcia McNutt, and USFS Chief Tom  
12 Tidwell. Secretary Ken Salazar, Remarks from Mather Point at the Rim of the Grand  
13 Canyon (June 20, 2011).  
14  
15

16 68. Secretary Salazar did not coordinate with state or local governments in the  
17 selection of the preferred alternative. The Secretary also did not consider the extensive  
18 public comments already submitted despite the earlier representations to the public,  
19 cooperating agencies, and other governmental organizations that their comments would  
20 influence the selection of a preferred alternative.  
21

22 69. On January 9, 2012, Secretary Salazar signed the ROD for the FEIS and PLO  
23 7787, which withdrew over one million acres of Federal land from location and entry under  
24 the Mining Law for 20 years in order “to protect the Grand Canyon Watershed from adverse  
25  
26

effects of locatable mineral exploration and development,” subject to valid existing rights.  
1 77 Fed. Reg. 2563 (2012).

2  
3 70. Including Grand Canyon National Park (GCNP), the National Monuments, the  
4 North Kaibab National Forest, various wilderness areas, and the NAW, more than 4.36  
5 million acres are closed to mineral development which is approximately 6% of all of the  
6 federal land in the State of Arizona.

7  
8 71. The purpose of the NAW was consistently described to prevent contamination  
9 of the Grand Canyon watershed due to uranium mining. The initial Proposed Withdrawal,  
10 the two-year Notice of Segregation, the Emergency Withdrawal, and both the DEIS and  
11 FEIS, which was finally published October 26, 2011, describe the purpose of the withdrawal  
12 to protect the natural, cultural, and social resources from possible contamination of the  
13 Grand Canyon watershed. DEIS, ES-1; FEIS, ES-5.

14  
15 72. The ROD lists four reasons for the withdrawal: (1) uncertain effects to surface  
16 and ground waters; (2) potential impacts to tribal resources which could not be mitigated,  
17 because mining within sacred and traditional places of tribal peoples may degrade the  
18 values of those lands to the tribes; (3) potentially 11 mines will proceed even with the  
19 withdrawal, so mining will in fact continue and benefit the communities; and (4) the set of  
20 circumstances and unique resources located in this area support a cautious and careful  
21 approach.  
22

23 73. The ROD concluded that uranium mining would harm the Grand Canyon  
24 watershed based on alleged uncertainties in data, including subsurface water movement,  
25 radionuclide migration, and biological toxicological pathways. The ROD’s conclusion is  
26

1 contradicted by the USGS report and FEIS statements that the probabilities of adverse  
2 impacts to water quality in groundwater are low or unlikely.

3 74. Undercutting the conclusion that at least 11 mines would proceed, the ROD  
4 states that “neither the BLM nor the USFS will process a new notice or plan of operations  
5 until the surface managing agency conducts a mineral examination and determines that the  
6 mining claims on which the surface disturbance would occur were valid as of the date the  
7 lands were segregated or withdrawn.” ROD at 6-7. A valid mining claim is limited to those  
8 claims where there is physical exposure of the mineral deposit, which demonstrates a  
9 discovery of valuable minerals of sufficient quality and quantity that a reasonable man would  
10 invest his own funds to develop the property.  
11

12 75. The ROD relies extensively on the conclusions of USGS 2010-5025. At the  
13 direction of Secretary Salazar, the USGS undertook the study of the impacts uranium  
14 mining on the natural resources of northern Arizona. The study was initiated after Secretary  
15 Salazar issued the two-year notice of segregation. The study was published as USGS  
16 2010-5025 on February 17, 2010, and revised on August 2, 2010. Rather than extensively  
17 researching the impacts uranium mining may have, USGS relied on data and assumptions  
18 that were 20 years old to estimate the economic viability of the uranium endowment, and  
19 USGS assumed a completely even distribution of breccia pipes for the entire region to  
20 estimate the total uranium endowment withdrawn by the NAW. Because of USGS’s  
21 reliance on outdated data and generalized assumptions rather than scientific facts and  
22 actual current knowledge, the study added nothing to the scientific understanding of the  
23 impact uranium mining has on natural resources under modern methods and regulations.  
24  
25  
26

1 The USGS circumnavigated a legitimate peer-review process for USGS 2010-5025 by  
2 having it reviews by other USGS employees, fellow co-workers with the same incentives  
3 and instructions as the authors this allowed Defendants to dismiss any current information  
4 submitted from public comments as not peer-reviewed to the standard of USGS.

5 76. For the first time, the ROD justifies the withdrawal as necessary because  
6 mining impacts to Native American resources could not be entirely mitigated. These  
7 unmitigated impacts are limited to the expressed belief that mining would wound the earth.  
8

9 77. The ROD dismissed the relevance of 2008 RMP decisions and admitted that  
10 DOI did not consider the RMP decisions in the FEIS, because “uranium mining was not a  
11 major issue at the time it was being written.” ROD at 19. This statement is patently  
12 incorrect. The RMP was written between April 2002 and January 2008 and it addressed  
13 concerns regarding uranium mining impacts. 2008 RMP FEIS, at 4-17, 4-48, 4-67, 4-175,  
14 4-225, 4-383 (addressing cumulative impacts of mining activity); 5-110, 5-120, 5-259  
15 (addressing calls for a ban on uranium mining). Even the NAW ROD admits that it was the  
16 “increase in new mining claim locations during the period of 2004 - 2008 that generated  
17 public concern.” ROD at 3.  
18

## 19 **FEIS Conclusions and Findings**

### 20 *Lack of Impacts to the Quantity and Quality of the Redwall-Muav Aquifer*

21 78. The FEIS analyzed the impacts of mining to the water quantity and quality of  
22 the Redwall-Muav Aquifer (R-aquifer), including potential migration of pollutants from mining  
23 downward into the aquifer.  
24  
25  
26



1           79.     The R-aquifer lies over 1,000 feet below the base of a typical uranium mine  
2 that itself is usually about 1500 feet from the surface. The R-aquifer flows north towards  
3 Utah where it lies thousands of feet below the surface. FEIS at 4-61. The FEIS concludes  
4 that mining would have minimal impacts on the quantity of the water in the R-aquifer. FEIS  
5 at 4-67.

6           80.     The FEIS also concludes that there is a low to no risk of adverse impacts on  
7 the water quality in the R-aquifer due to low permeability conditions associated with ore  
8 deposits in breccia pipes and adjacent rock strata between the base of an uranium mine  
9 and the R-aquifer. The R-aquifer is covered by a 1,000-foot thick, unsaturated and  
10 practically impermeable layer of Supai Group Sandstone.

11           81.     The FEIS also considered theoretical contamination from downward migration  
12 of surface or ground waters to the R-aquifer through fractures, faults, sinkholes, or breccia  
13 pipes, but concluded such migration is unlikely based on the region's hydrogeologic  
14 features. FEIS at 4-51. In addition, any plan of operations would address the site specific  
15 aspects which would address potential concern for contamination. The FEIS concludes that  
16 "deep drilling operations are projected to represent no impact or a negligible impact to R-  
17 aquifer water quality." FEIS at 4-67.

18           82.     Further, the FEIS concludes that "AAC Title 12, Chapter 15, Article 8 requires  
19 proper construction and abandonment of wells to prevent cross-contamination of different  
20 aquifers." FEIS at 4-58-4-59. Both the R-aquifer and perched aquifers are protected by  
21 these regulations, which were adopted in 1984.  
22  
23  
24  
25  
26

1           83.     The ROD cites the Orphan Lode mine, which lies outside of the withdrawal on  
2 the Southern Rim of the Grand Canyon, as evidence of the uncertainty of hydrogeologic  
3 conditions below different mines. The FEIS admits that any impact to the R-aquifer from  
4 the Orphan Lode mine is due to lack of reclamation by the National Park Service (NPS) and  
5 that similar hydrogeologic conditions are not thought to exist in the withdrawal areas. FEIS  
6 at 3-64, 4-62.

7           84.     The NPS purchased the Orphan Mine around 1962, and while mining ceased  
8 in 1969, the agency took no action to reclaim the site until the fall of 2008. As a result, its  
9 unreclaimed condition and location within two miles of the Colorado River has facilitated  
10 runoff from the unreclaimed site for almost 40 years.

11           85.     Therefore, the FEIS contradicts the conclusion of the ROD that the “migration  
12 of mine released radionuclides is unknown” between the base of a mine and the R-aquifer.  
13 The FEIS concludes that radionuclide migration is highly unlikely and would be mitigated  
14 based on site-specific conditions. FEIS at 4-70.

15  
16  
17 *Lack of Impact to Perched Aquifer Water Quality*

18           86.     Perched aquifers are small, thin, and discontinuous aquifers lying anywhere  
19 between a few feet to 300 feet below the surface. USGS 2010-2025 at 145. Perched  
20 aquifers depend on annual recharges from precipitation. Most perched aquifers are not  
21 potable if located near mineralized breccia pipes, and the few wells that use potable  
22 perched water provide water for livestock grazing on the Federal lands.

23  
24           87.     Perched aquifers form where the breccia pipes reach the surface. These  
25 pipes are characterized by cones of structural depression in the Moenkopi siltstone which  
26

1 often trap small amounts of water to form a small aquifer near the top of the Kaibab  
2 limestone.

3 88. The FEIS concludes that if drilling were uniform over the million acres, there  
4 was a 13.3% chance that drilling may intersect such an aquifer. FEIS at 2-35. The  
5 intersection of the aquifer will not adversely affect water quality, only water quantity, and that  
6 effect is temporary.

7  
8 89. These small perched aquifers have not been shown to flow outside of the  
9 breccia pipe. Mining operations use this water for drilling operations and dust suppression.  
10 Therefore, the only impact to the perched aquifer would be to the quantity of the water,  
11 which after reclamation, is likely to be restored. For instance, the Hermit mine, located in  
12 the center of the North Parcel, had one of the more significant perched tables. After  
13 reclamation, the well was reconditioned and once again offers a small supply of water for  
14 road maintenance and livestock.

15  
16 90. Blind breccia pipes have no cone of depression to trap water for the  
17 development of perched aquifers, so the risk of impacts to perched aquifers from blind  
18 breccia pipe uranium mining is substantially lower. Therefore, the risk of impact to perched  
19 aquifers is significantly less and modern regulations and mining methods prevent any  
20 negative impact to the water quality or quantity of these perched aquifers.

21  
22 91. The FEIS concluded there is minimal risk of impact to perched aquifers  
23 “because the regulations are protective of groundwater, deep drilling operations that  
24 occurred after the regulations were adopted on March 5, 1984 (ADWR 2008), are  
25

1 considered to represent no impact or a negligible impact to the quantity and quality of  
2 perched groundwater available to perched aquifer springs or wells.” FEIS at 4-59, 4-72.

3 92. The ROD incorrectly equated impacts on water quantity with impacts on  
4 quality, declaring the risk of even a possible impact to be significant. Drilling will temporarily  
5 affect quantity of water in a perched aquifer where operations drill into the trapped water.  
6 FEIS at 4-60. Thus, intersecting the aquifer and using the water in mine operations will  
7 affect the aquifer but will not have an adverse environmental effect on water quality.  
8 Impacts to perched aquifers can be fully mitigated according to the site specific analysis  
9 prior to approval of the Plan of Operations.  
10

11 *Possible Impacts to Surface Waters*

12 93. Like any other surface disturbance, uranium mining may affect surface waters  
13 through increased erosion. Erosion could occur through floods, flash floods, or debris flows,  
14 which may transport trace elements or radionuclides present on the surface to surface  
15 waters. Based on these possibilities, no matter how remote, the ROD uses these potential  
16 impacts to surface waters to support the withdrawal without considering the FEIS conclusion  
17 that such impacts would be fully mitigated under existing regulations.  
18

19 94. The FEIS states that “erosion-related impacts are effectively controlled under  
20 existing regulations; therefore, the overall impact to stream function in all three parcels  
21 would be expected to be negligible but might be moderate in some locations.” FEIS at 4-87.  
22 Soil, water, and flood related controls are designed for site specific hydrologic conditions,  
23 as shown by all of the regulations listed in the FEIS at 4-70. These regulations effectively  
24  
25  
26

1 remove any concern regarding flood, flash flood, or debris flow, or wind blown  
2 contamination from mining activities.

### 3 **Role of Background Radiation in Water Quality**

4 95. The Colorado River has a natural concentration of uranium of 4 parts per  
5 billion (ppb), amounting to 86,000 to 176,400 pounds of uranium carried annually. AGS  
6 OFR-11-04 at 8.

7  
8 96. The USGS concluded that the Grand Canyon watershed is affected by  
9 naturally eroding uranium from exposed breccia pipes located in adjacent lands, where  
10 there has never been any mining. Weathering, evaporation, and erosion contribute to the  
11 naturally high concentrations of radionuclides in springs and surface waters in the region.  
12

13 97. Under BLM rules, surface conditions are returned to their natural state during  
14 reclamation, as shown by the Hermit Mine, the only mine developed after 1984 and fully  
15 reclaimed. The reclaimed Hermit Mine site's average uranium concentration is below levels  
16 known to naturally occur in the region and none of the arsenic soil samples exceeded levels  
17 known to naturally occur in the region. USGS 2010-5025 at 112-116. The Hermit Mine  
18 shows that modern regulations and more stringent approval procedures have resolved  
19 issues of contaminated soils left by Cold War era mines.  
20

21 98. The USGS looked for a correlation between higher concentrations of  
22 radionuclides in spring water near mining activities, but could not find a causal connection  
23 between current mining activities or reclaimed mine sites and higher spring water  
24 concentrations of radionuclides. USGS 2010-5025 at 141. Water quality near any breccia  
25  
26

1 pipe, regardless of mining activity, is generally poor quality. Thus, the USGS could not find  
2 a causal link between changes in water quality and past mining.

### 3 **Impacts to Cultural, Historical, and Archaeological Resources**

4 99. The ROD, for the first time, justifies the withdrawal because “it is likely that the  
5 potential impacts to tribal resources could not be mitigated.” ROD at 9.

6  
7 100. The FEIS addressed the potential impacts of mining on cultural historic and  
8 archaeological resources and concluded that such impacts are negligible due to existing  
9 laws and regulations that either require avoidance or mitigation of any impacts. Depending  
10 on the individual location of mines, cultural resources may not be disturbed at all. FEIS at  
11 4-213.

12  
13 101. The regulations require all mining applications be subject to a cultural  
14 resources inventory prior to approval.

15 If sites are found during this inventory, disturbance to those sites must be  
16 mitigated. Since avoidance is the primary mitigation measure for any project,  
17 it can be assumed that the total number of cultural resources that would need  
18 to be mitigated further through data recovery or other means for these  
19 projects is minimal and would not significantly change the historic or  
20 prehistoric character of the parcels; therefore, no cumulative impacts to  
21 cultural resources are anticipated under Alternative A, [the No Action  
22 alternative].

23 FEIS at 4-216.

24 102. The FEIS also concluded that traditional cultural practices and important and  
25 sacred physical tribal sites and objects are protected from direct and indirect impacts of  
26 mining activities under FLPMA, NEPA, the ARPA, the NHPA, NAGPRA, the RLUIPA, as  
well as several corresponding regulations. Therefore, the only Native American resources

discussed in the FEIS which may not be mitigated, are individual sensibilities, specifically the belief that mining the earth for commercial gain is “wounding the earth.” FEIS at 4-221. There is no legal protection or mitigation when these emotions are not tied to a particular site.

103. The FEIS does not disclose how these sensibilities are tied to the entire 1,006,545 acres of the withdrawal. This omission is further confused by the fact that the FEIS identifies only the Grand Canyon as the site of creation for surrounding tribes and location of religious significance, which is within the national park where mining is already prohibited. Additional lands next to GCNP also preclude mining, including the Parashant and Vermillion Cliffs National Monuments, the Game Preserve in the Kaibab National Forest, and designated wilderness areas.

#### **NEPA Procedures Were Not Followed**

104. Secretary Salazar tainted the NEPA process when he announced the preferred alternative before BLM had completed its review of the public comments and written the FEIS. After the Secretary’s announcement, BLM lacked the discretion to change the preferred alternative, regardless of the information and data found in the public comments.

105. The effect of the taint is particularly evident in the BLM responses to public comments and evidence contradicting the claimed need for the NAW. Instead of carefully responding to the material comments, which often provided more accurate and current data than what the DEIS used, BLM either ignored or dismissed the evidence as “no change is

warranted” or “beyond the scope of this EIS.” FEIS, 5-13 - 5-14, 5-35 - 5-36, 5-102 - 5-105,  
1 5-108, 5-139 - 5-140, 5-150 - 5-153, 5-169 - 5-170, 5-227.

2  
3 *Uranium Resource Endowment*

4 106. The FEIS massively underestimated the number of mineralized breccia pipes  
5 and potential uranium resource of the NAW. Consequently, the FEIS failed to correctly  
6 analyze or address the massive financial implications of closing the withdrawal area to  
7 development. The FEIS relied on outdated data to minimize the amount of uranium in the  
8 NAW. As a result, the reasonable foreseeable development scenario used erroneous  
9 assumptions to greatly reduce the significance of the withdrawal to the national interest and  
10 minimize the projected revenues based on the percentage of uranium that can be mined  
11 economically.  
12

13  
14 107. The Defendants dismissed comments showing the accurate estimate of the  
15 uranium endowment, even though the comments were based on the results of 20 years of  
16 exploration and a total investment thought to exceed \$100 million in research by industry.  
17 Defendants' basis to dismiss the new data and comments was that they were not peer-  
18 reviewed, thus, were not credible and did not lead to a refinement of the assumptions made  
19 in the DEIS.  
20

21 108. These comments were based on two estimates that have been presented with  
22 a published abstract that was subject to scrutiny by scientific audiences in three major  
23 technical conferences and upon invitation to the geological science department of a major  
24 university.  
25  
26



109. Defendants did not address the scientific controversy regarding the potential uranium resource of the withdrawn area. The FEIS used a single comment, unsupported by published data, in a 5-page, 22-year old Arizona Bureau of Geology and Mineral Technology publication, Wenrich and Sutphin (1988), as the principle technical source to reduce by 85% the USGS (2010-5025) uranium resource endowment estimate of 326 million pounds to a mere 49 million pounds of uranium. Wenrich and Sutphin wrote in 1988 “Although thousands of pipes may exist, only a small fraction of these, probably less than 8 percent, are mineralized, and an even smaller percentage of these, perhaps less than 10 percent, contain economic concentrations of minerals.” This statement was not based on a calculated or published estimate. All comments by industry to the contrary were dismissed as “did not lead to a refinement of this estimate.”

110. The 22-year old Wenrich and Sutphin (1988) report qualified the 10% economic estimate by further stating, “The potential for additional economic uranium mineralized breccia pipes is enormous and is greatest beneath the flat plateaus.” This statement accurately describes the only area subject to the withdrawal but the qualifying comment was never addressed by the FEIS.

111. The Defendants further justified the enormous reduction to the endowment by stating that the USGS (2010-5025) estimate included very low uranium grades. The FEIS failed to recognize that the amount of uranium in the low grade material was insignificant or probably less than 1% of the total estimate.

112. The FEIS assumption that only 15% of the uranium endowment can be mined economically is incorrect and reflects a lack of understanding of the deposits and mining.

1 Of the 45 known mineralized breccia pipes within the withdrawal, 16 pipes (36%) have  
2 uranium deposits with a calculated average of 1.7 million pounds of uranium per pipe. An  
3 additional 18 breccia pipes have been proven by surface drilling to be mineralized but have  
4 not been tested by underground drilling. Underground drilling has historically increased  
5 estimates based solely on surface drilling by a factor of 2.5. Eight of the 16 pipes with  
6 known uranium deposits have not been drilled underground. If the factor of 2.5 is applied  
7 to these 8 pipes, the average total estimate per known pipe is 2.3 million pounds and many  
8 of the 18 mineralized pipes with no estimates would clearly fall into the economical category  
9 with additional drilling. Therefore, the total number of economic deposits known at the  
10 surface of the withdrawn land could be estimated at 76% of the known pipes, not the 15%  
11 used in the FEIS. Rather than discuss the wide disparities or dispute Quatterra's comments,  
12 BLM simply dismissed the comment as not being any better justification than the 1988  
13 estimate, which is a flatly incorrect statement.  
14

15  
16 113. Defendants chose to ignore the conclusions of the BLM Mineral Examiners  
17 report that was completed for the requirements of 43 CFR 2310.3-2. The August 2010  
18 report for the withdrawal concludes: *"Failure to develop uranium resources on the subject*  
19 *lands that have the potential of becoming part of the second most important uranium-*  
20 *producing region in the United States has far reaching economic implications, which are*  
21 *beyond the scope of this report."* The BLM Mineral Report classifies the uranium potential  
22 of the withdrawn areas as "(H/D)"; the highest classification possible for both potential and  
23 level of certainty.  
24  
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114. The DEIS totally neglected to conduct any study of uranium mineralized pipes in the Grand Canyon where a perfect exposure of the region's geology presents an unparalleled opportunity to make a rigorous and scientifically accurate assessment of the region's true uranium endowment.

115. Based on the determination of blind but viable breccia pipes, Quatterra calculated the mineralized breccia pipe density at different stratigraphic levels in the Grand Canyon and surrounding area to show that there may be 220 mineralized breccia pipes within the NAW. Quatterra Comments, at 9-10. If just one-half of the mineralized pipes are economic and using the historic estimate of 3 million pounds per developed breccia pipe uranium mine, the total economically viable uranium potential in the NAW could total 330 million pounds, not the 45 million pounds estimated by the FEIS. Quatterra Comments, at 9-11.

116. Nearly all known mineralized pipes in the region have been found in a north-south trending mineralized "corridor" that is approximately 45 miles wide by 110 miles long. All of the withdrawn area is in this corridor because the area was selected by drawing a line around the focus of the claim staking activity. More than three dozen pipes have been drilled outside of the corridor by Energy Fuels Nuclear. The pipes had large and well developed structures, but lacked significant mineralization. The withdrawal will not impair 12% of the most favorable endowment USGS (2010-5025), but "seriously affect the potential development of the only uranium mineralized area" on federal lands. Quatterra Comments, at 6. The above errors and others allowed BLM to significantly understate the uranium endowment by 85%. This has, in turn, led Defendants to understate the impacts

1 on national security and national interest, as well as the economic losses to the Arizona  
2 Treasury, jobs, and adverse impacts on the affected communities. Moreover, the higher  
3 endowment further shows that mining would be a long-term industrial activity providing jobs  
4 and income for 42 years, not the 20 years assumed in the FEIS.

5 117. The FEIS claims that BLM consulted industry experts in 2010, including  
6 Quaterra, and that industry experts failed to rebut the 1988 “assumptions.” This statement  
7 is contradicted by industry expert comments, which Defendants then dismissed as not being  
8 based on “peer-reviewed” data, even though NEPA does not require “peer-reviewed” data.  
9 If BLM had limited the public comments to peer reviewed data, it would have to discard  
10 virtually all of the public comments.  
11

12 *Economic Costs to Arizona and Mohave County*

13  
14 118. The State of Arizona assesses a 2.5% severance tax on net sales of minerals  
15 mined in the state, accounting for 1.3% of the state’s net taxable sales revenues. Arizona  
16 Department of Revenue, Fiscal Year 2011 Annual Report, at 35-38 (2011).

17  
18 119. Without the withdrawal, uranium mining would contribute \$168 million to  
19 Arizona over a 42-year period from severance taxes alone. Corporate and individual  
20 income tax revenues would contribute another \$2 billion over the same time period. The  
21 NAW will cost the State of Arizona nearly 400 jobs directly related to mining and 688 jobs  
22 indirectly related to mining. Quaterra Comments, at 13-15; Tetra Tech, Economic Impact  
23 of Uranium Mining on Coconino & Mohave Counties, Arizona, at ES-1-ES-3, 23-28 (2009).  
24

25 120. The withdrawal encompasses 57,617 acres of state school lands, which  
26 Arizona leases for mining and livestock grazing. Ten percent of revenues generated are

1 used to manage these lands and all proceeds are used to support the public schools  
2 through the permanent state school fund in accordance with the grant of lands by the U.S.  
3 A.R.S. §§37-521, 37-527. State land mining royalties are typically 5-6% of the net  
4 production in addition to the 2.5% severance tax paid.

5 121. The Arizona Land Department estimated that the withdrawal would cost the  
6 state between \$1.5 million and \$18.5 million per mine that would have been developed on  
7 the 35 school sections identified by companies for exploration.

8  
9 122. Socio-economically, Mohave County is directly affected by uranium  
10 exploration, mining and milling, and therefore is adversely impacted by the Department of  
11 the Interior's withdrawal of 1 million acres of the country's richest uranium resources.  
12 According to the September 2009 study, "Economic Impact of Uranium Mining on Coconino  
13 and Mohave Counties, Arizona", but for the withdrawal, there would be over a 40-year  
14 period: 1,078 new jobs in the project area; \$40 million annually from payroll; \$29.4 billion  
15 in output; \$2 billion in federal and state corporate income taxes; \$168 million in state  
16 severance taxes; and \$9.5 million in mining claims payments and fees to local governments.

17  
18 *Access to Arizona State Trust Lands*

19  
20 123. Quatterra holds nine Mineral Exploration Permits on sections of school trust  
21 lands of the Arizona State Land Department, which are entirely surrounded by the NAW.  
22 Prior to the proposed withdrawal, Arizona had issued 35 exploration permits for the state  
23 lands located within the withdrawal. Access requires a right-of-way from BLM.  
24  
25  
26

124. The FEIS states that there will be no impact on development of state and private lands. This statement is misleading because it omits the public land access requirements necessary to mine such lands.

125. BLM has broad discretion to deny right-of-way permits on the basis of adverse impacts on public land resources, such as riparian area or historic trail viewshed.

126. Defendants also fail to explain why the withdrawal is necessary to prevent any disturbance to the surface of the earth for commercial gain in deference to traditional tribal viewpoints but that it will grant access for the same activities on state lands.

**FIRST CAUSE OF ACTION**

**PLO 7787 WITHDRAWAL ARBITRARY AND CAPRICIOUS**

127. Plaintiffs hereby incorporate by reference the allegations in paragraphs 1 through 126.

128. An agency action will be set aside when the action is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. §706(2)(A).

129. Arbitrary action is when the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

130. FLPMA prescribes the Interior Secretary’s authority to withdraw public land to cases when the proposed use will cause environmental degradation, or if “existing and

1 potential resource uses are incompatible with or in conflict with the proposed use.” 43  
2 U.S.C. §1714(c)(2)(1),(2), & (3). BLM must also document “the effect of the proposed uses,  
3 if any, on State and local government interests and the regional economy.” *Id.* at  
4 §1714(c)(2)(8).

5 131. The ROD’s conclusions of environmental degradation and conflicts with  
6 current and potential resource uses are contradicted by the record, most notably the FEIS.  
7 Thus, the rationale that PLO 7787 is necessary due to unknown adverse impacts to water  
8 quality is implausible and fails to account for the contrary conclusions in the FEIS and  
9 underlying documents.  
10

11 132. FLPMA requires that BLM manage the public lands in conformance with the  
12 RMPs and that such management should ensure no undue or unnecessary degradation.  
13 43 U.S.C. §1732(b). The ROD failed to consider the provisions of the RMP or the decisions  
14 made therein on the basis that uranium mining was not an issue. The impacts of uranium  
15 mining were an issue during the RMP process, contrary to the ROD’s statement, and  
16 uranium mining was directly addressed with additional mitigation measures where  
17 appropriate.  
18

19 133. The ROD’s reliance on unknown impacts on water quality finds no support in  
20 the FEIS, which concludes that the impacts of uranium mining on quantity and quality of  
21 groundwater and surface waters would be negligible and fully mitigated under existing laws  
22 and regulations.  
23

24 134. By adopting a decision rationale for which there is scant, if any, support in the  
25 record, Defendants have acted arbitrarily for not considering the relevant factors, and for  
26

1 adopting a decision that runs counter to the evidence before Defendants. Because FLPMA  
2 requires evidence of environmental degradation, the withdrawal is unlawful under FLPMA  
3 as well.

4 135. PLO 7787 should be set aside on the grounds that it is arbitrary and capricious  
5 and Defendants should be enjoined from taking any action to implement PLO 7787.

6  
7 **SECOND CAUSE OF ACTION**

8 **PLO 7787 ARBITRARILY WITHDRAWS OVER ONE MILLION ACRES TO ADDRESS**  
9 **SUBJECTIVE SENSIBILITIES, WHICH ENJOY NO LEGAL PROTECTION**

10 136. Plaintiffs hereby incorporate by reference the allegations in paragraphs 1  
11 through 135.

12 137. Courts may reverse an agency decision as arbitrary and capricious when the  
13 agency relied on factors that Congress did not intend it to consider, or offered an  
14 explanation for its decision that runs counter to the evidence or is so implausible that it  
15 could not be ascribed to a difference in view or the product of agency expertise.  
16

17 138. Federal law protects and mitigates against disturbing Native American cultural,  
18 historical, and religious sites and objects through the ARPA, the NHPA, the NAGPRA, and  
19 numerous other laws and regulations. Federal law also protects religious practices and  
20 prohibits federal action that will burden such practices under the RLUIPA.  
21

22 139. The ROD justified the withdrawal because it was not possible to fully mitigate  
23 impacts on tribal resources.  
24  
25  
26



140. The FEIS concluded that existing laws and regulations require that traditional and cultural sites be avoided entirely, and thus, mining would have little or no adverse impact on cultural sites or religious practices. FEIS, 4-213, 4-216, 4-218.

141. The only tribal interests that cannot be entirely mitigated are the subjective, emotional sensibilities that any mining anywhere in the entire region is contrary to tribal beliefs or feelings. This is described as “wounding the earth” through drilling or mining.

142. Federal law does not recognize the right to preclude land uses based solely on religious or cultural sensibilities. When these sensibilities are severed from a site protected under the NHPA or religious practice burdened in violation of the RLUIPA, they enjoy no legal protection.

143. Therefore, a withdrawal based on protecting sensibilities independent of legally protected sites and religious practices is arbitrary and capricious and contrary to law, because it is based on irrelevant factors not recognized in law and exceeds the Secretary’s authority.

144. PLO 7787 should be set aside on the grounds that it is arbitrary and capricious and Defendants should be enjoined from taking any action to implement PLO 7787.

**THIRD CAUSE OF ACTION**

**DEFENDANTS VIOLATED NEPA PROCEDURES**

145. Plaintiffs hereby incorporate the allegations made in paragraphs 1 through 144.

1 146. NEPA directs federal agencies, working in conjunction with local governments  
2 and the public, “to foster and promote the general welfare, to create and maintain conditions  
3 under which man and nature can exist in productive harmony, and fulfill the social,  
4 economic, and other requirements of present and future generations of Americans.” 42  
5 U.S.C. §4331.

6 147. An agency’s compliance with the provisions of NEPA is reviewed under the  
7 arbitrary and capricious standard of the APA and can be set aside if an agency adopted the  
8 ROD or acted “without observance of the procedure required by law.” 5 U.S.C. §706(2)(D).  
9

10 148. Though NEPA does not mandate a particular result, an EIS must contain a  
11 reasonably thorough discussion of the significant aspects of probable environmental  
12 consequences of the agency’s actions to satisfy the requisite “hard look,” and the EIS’s  
13 form, content and preparation must foster both informed decision-making and informed  
14 public participation.  
15

16 149. An EIS will be set aside and remanded for supplementation or revision when  
17 “the information in the initial EIS was so incomplete or misleading that the decision maker  
18 and the public could not make an informed comparison of the alternatives, revision of an  
19 EIS may be necessary to provide a reasonable, good faith, and objective presentation of  
20 the subjects required by NEPA.” *Animal Def. Council v. Hodel*, 840 F.2d 1432, 1439 (9th  
21 Cir. 1988) (as cited in *Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 965  
22 (9th Cir. 2005)).  
23

24 150. The regulations adopted by the Council on Environmental Quality (CEQ) to  
25 implement NEPA require an agency respond to public comments in the FEIS. “[T]he agency  
26

1 shall discuss at appropriate points in the final statement any responsible opposing view  
2 which was not adequately discussed in the draft statement and shall indicate the agency's  
3 response to the issues raised." 40 C.F.R. §1502.9(b).

4 151. NEPA also requires consideration for the comments by state and local  
5 governments and directs the federal agency to avoid conflicts with state and local  
6 government plans. 40 C.F.R. §§1502.16(c); 1506.2(d).

7  
8 152. The FEIS and ROD failed to conform to the above procedures. First, the  
9 Secretary identified the decision after the close of the comment period, without consulting  
10 and coordinating with state and local governments, including Mohave County. Second, the  
11 decision was selected without considering the extensive and technical comments  
12 demonstrating that most, if not all, of the key assumptions for the proposed action were  
13 wrong. Third, given the short time frame and the fact that a decision was already made,  
14 BLM made no effort to address the material public comments. Had BLM done so, it would  
15 have had to change the FEIS to conclude that the withdrawal would cost the nation and the  
16 state *"the potential of becoming part of the second most important uranium-producing*  
17 *region in the United States"*, and that it would cost the State of Arizona \$168 million in direct  
18 revenues, state lands up to \$18.5 million per mine, and communities almost 400 direct  
19 mining jobs and 688 indirect jobs.  
20  
21

22 153. Failure to follow the nondiscretionary procedures particularly resolving  
23 conflicts with state and local government programs and addressing public comments  
24 renders the FEIS inadequate and on that basis it must be set aside.  
25  
26

**FOURTH CAUSE OF ACTION**

**FEIS FAILED TO ADDRESS SCIENTIFIC CONTROVERSIES**

1  
2  
3           154. Plaintiffs hereby incorporate the allegations made in paragraphs 1 through  
4 153.

5  
6           155. Scientific controversies regarding probable environmental consequences must  
7 be thoroughly discussed to ensure a “fully informed and well-considered” decision, including  
8 both beneficial and adverse impacts of a proposed action, uncertainties, and unique or  
9 unknown risks. 40 C.F.R. §§1503.4, 1502.9(b); 1508.27. Accurate and current data for  
10 economic and technical issues must also be considered, along with environmental  
11 amenities and values, as these considerations affect the quality of the human environment.  
12 See 43 U.S.C. §4332.

13  
14           156. An EIS’s conclusions are suspect when the responsible agency ignores  
15 conflicting views and information of other agencies with pertinent expertise.

16  
17           157. Cooperating agencies and public comments identified several scientific  
18 controversies, including: (1) impacts, if any, of uranium mining to water resources; (2)  
19 estimates of the uranium endowment; (3) the amount and distribution of the mineable  
20 uranium; and (4) adverse economic impacts to the State of Arizona and its communities  
21 from the withdrawal. The ROD and FEIS failed to acknowledge these issues as scientific  
22 uncertainties and did not provide further explanation or a basis that no change was  
23 warranted. The FEIS instead states “no change is necessary” to most requests or  
24 comments.  
25  
26

1 158. As one example, BLM refused to adjust its conclusions to reflect the water  
2 quality study done by the State of Arizona, Arizona Geological Survey.

3 159. BLM's failure to resolve scientific controversies or adequately explain why a  
4 scientific controversy exists when the current data contradict the FEIS findings results in a  
5 failure of the "hard look" requirement of NEPA. The FEIS should be set aside and the  
6 withdrawal revoked until a revised FEIS through supplement or a new document is provided.

7  
8 **FIFTH CAUSE OF ACTION**

9 **FAILURE TO COORDINATE WITH LOCAL GOVERNMENTS**

10 160. Plaintiffs hereby incorporate the allegations made in paragraphs 1 through  
11 159.

12  
13 161. Article IV, Section 3, Clause 2 of the United States Constitution section  
14 declares that the Congress shall regulate the federal lands. Congress exercised this  
15 constitutionally derived authority when it enacted FLPMA in 1976 and delegated to the  
16 Interior Secretary management responsibilities on lands administered by BLM.

17  
18 162. The provisions of FLPMA require that the Secretary coordinate all federal  
19 plans and management actions with local government. 43 U.S.C. §1712(c)(9). The  
20 withdrawal provisions in Section 204 of FLPMA are not exempted from the coordination  
21 mandate, and the provisions make it clear that the Secretary is required to complete the  
22 coordination process prior to making any decision to withdraw lands from multiple use.

23  
24 163. As part of the coordination mandate, FLPMA requires the Secretary to provide  
25 local governments with prior and early notice of planning or decision making processes, to  
26

1 provide local government the opportunity for “meaningful” involvement in the “development”  
2 of plans and decisions, and to use every practicable effort to reach consistency between  
3 the federal plan or action and local policy. 43 U.S.C. §§1712(a); 1712(c)(9).

4 164. Secretary Salazar issued the notice of segregation without coordination with  
5 any local government in Garfield, Washington, San Juan, and Kane Counties in Utah, and  
6 Mohave County in Arizona. Neither he nor any of his designees gave prior notice to the  
7 governing bodies of these units of local government of the development of or issuance of  
8 the Notice of Segregation. Neither he nor any of his designees gave the governing bodies  
9 the opportunity of any type of involvement, let alone meaningful, in the development of the  
10 planning for, or issuance of the Notice.  
11

12 165. The Notice of Segregation and the ultimate withdrawal of the public lands is  
13 inconsistent with the policies and planning efforts of Mohave County and the other affected  
14 local governments. Neither the Secretary nor any of his designees made any effort, much  
15 less every practicable effort, to resolve inconsistencies between the decision to withdraw  
16 the public lands and local plans and policies of the named local governments. He also  
17 failed to coordinate the segregation decision with the cities of Blanding in Utah and Fredonia  
18 in Arizona which are severely impacted by the decision.  
19

20  
21 166. This failure to coordinate violates Section 202 of FLPMA, 43 U.S.C. §1712(a),  
22 (c).

23 167. In response to Defendants’ failure to coordinate the initial notice of  
24 segregation, the local governments of Garfield, Washington, San Juan, Kane and Mohave  
25 Counties and the city of Fredonia adopted resolutions asserting their authority to engage  
26

1 in coordination to resolve the inconsistency between the Secretary's interest in withdrawing  
2 the land from mining and their local policies of retaining the land in multiple use as  
3 Congress ordered when it exempted the lands from wilderness designations.

4 168. The governing bodies of the named local governments demanded, in writing,  
5 that the Secretary and/or his designees coordinate with them in accordance with the  
6 requirements Congress imposed in exercising its constitutional authority over federal lands  
7 by enacting FLPMA.

8  
9 169. The District Manager designated by the Secretary to manage the lands did not  
10 coordinate with the local governments before or after issuance of the Notice to Segregate.  
11 He was unable to coordinate prior to the issuance of the Notice because he was not even  
12 made aware that the Notice was being developed in Washington, D.C. and was not made  
13 aware of issuance of said Notice until it was announced.

14  
15 170. Scott Florence, the District Manager, attended the first coordination meeting  
16 called by the local governments and advised the governing bodies that (a) he did not  
17 request segregation or withdrawal, (b) he would not have segregated or withdrawn the lands  
18 if it were up to him as manager of the District, (c) the orders for segregation and withdrawal  
19 came directly from the Secretary's office; and (d) he was not even involved in discussions  
20 of the segregation and withdrawal, prior to receiving notice from DC.

21  
22 171. Mohave County and the local governments served as cooperating agencies  
23 but this process was equally dismissive of the local government plans and authority. BLM  
24 largely ignored the information and comments. BLM declined to accept additional economic  
25

1 information on the basis that the Secretary set a deadline and BLM could not consider  
2 information that would interfere with BLM meeting that deadline.

3 172. Neither the Secretary nor his designees notified the local governments of the  
4 decision to withdraw one million acres of public land. There was no coordination regarding  
5 development of or issuance of the withdrawal and none of the local governments were  
6 provided the opportunity to be meaningfully involved in the planning of or issuance of the  
7 decision. The Secretary and his designees made no effort, much less every practicable  
8 effort, to resolve the inconsistencies between the withdrawal and the local governments'  
9 policies in favor of retaining the lands in multiple use as provided by Congress. By failing  
10 to coordinate, the Secretary and his designees violated FLPMA.  
11

12 173. The Secretary and his designees were given advance notice of every meeting  
13 held by the local government coalition for the purpose of coordinating the planning of,  
14 development of, and/or issuance of the withdrawal order. Even though the designated  
15 District Manager attended the meetings, no effort was made to even discuss conciliation of  
16 inconsistencies between the proposed and expected withdrawal and local policies. The  
17 designated District Manager was not even authorized by the Secretary to discuss efforts to  
18 reach consistency, and the Secretary himself did not attend the meetings. After being given  
19 every opportunity to coordinate, the Secretary and his designees refused to do so, in  
20 violation of FLPMA.  
21  
22

23 174. When the Secretary personally visited the area to be withdrawn, he was  
24 invited to meet with the local governing bodies for the purpose of coordinating his decision  
25 with them, and he failed to even acknowledge the invitation.  
26



175. There was no coordination of the segregation order or withdrawal order by the Secretary or his designees with any of the governing bodies of the local governments, and the failure to coordinate resulted in a flawed FEIS, which contained misstatements as to the environmental, economic and social impacts on the citizens served by the local governments. The failure and refusal to coordinate resulted in an insufficient analysis of the human environment, an insufficiency which could have been avoided had the Secretary or his designees coordinated in good faith with the local governing bodies familiar with the economic and social impacts of a decision to withdraw the lands.

176. The FEIS did not address the inconsistencies between the federal withdrawal and local plans and policies supporting retention of the lands in multiple use as Congress ordered and any efforts made by the BLM to resolve the inconsistencies. The failure of the Defendants to coordinate with the local governments violates FLPMA. Defendants' refusal to coordinate when specifically requested to do so constitutes substantive and substantial violations of law, sufficient for the Court to set aside PLO 7787 and the FEIS as having been adopted without following procedures mandated by law.

177. The failure to coordinate violates the provisions of FLPMA and also resulted in BLM failing to consider how the withdrawal will harm the interests of Mohave County. Had BLM engaged in coordination in good faith, it would have had to consider removing the public land located in Mohave County from the withdrawal and would have had to consider how closing the land to uranium mining adversely affects Mohave County's air quality due to the fact that it will otherwise rely on coal-fired power plants. It would also have had to consider how reduced revenues to the state and county impair other county functions

1 including road maintenance that reduces erosion and management of desert tortoise  
2 habitat.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs respectfully requests that this Court:

5 A. Declare unlawful and set aside PLO 7787 on the grounds the withdrawal  
6 violates FLPMA and is arbitrary, capricious, an abuse of discretion, or otherwise not in  
7 accordance with law;  
8

9 B. Declare unlawful and set aside PLO 7787 on the grounds that Defendants  
10 violated FLPMA by justifying the NAW on impacts to subjective emotional sensibilities that  
11 enjoy no legal recognition and are not tied to historical or traditional sites or religious  
12 practices that do enjoy legal protection;  
13

14 C. Declare and set aside as unlawful the ROD and FEIS on the grounds that  
15 Defendants violated the procedures established by NEPA by failing to identify and address  
16 issues in scientific controversy and failing to adequately address the public comments and;  
17

18 D. Set aside in the PLO 7787 Northern Arizona Withdrawal in its entirety;

19 E. Issue a permanent injunction enjoining Defendants from implementing any  
20 aspect of the Northern Arizona Withdrawal;  
21

22 F. Grant Plaintiffs such further relief as may be just, proper, and equitable.  
23  
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Dated: April 13, 2012.

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Respectfully Submitted,  
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