



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

May 13, 2025

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Apache Stronghold v. United States, No. 24-291

Dear Mr. Harris:

I write in response to petitioner's letter of yesterday in the above-captioned case. As that letter indicates, on May 9, 2025, the district court granted petitioner's motion to enjoin the federal government from publishing a final environmental impact statement (FEIS) that is a necessary predicate to effectuating the land exchange at issue here and from carrying out the land exchange. See 16 U.S.C. 539p(c)(9); see also Gov't Br. in Opp. 6. The district court acknowledged that it had declined to grant a preliminary injunction at an earlier stage of the litigation and that the en banc Ninth Circuit has since then rejected petitioner's claims on the merits. D. Ct. Order 6-7 (May 9, 2025). The district court nonetheless concluded that "enough has changed to suggest that [this] Court * * * will grant certiorari" to reconsider the precedents under which petitioner's claims had been rejected. *Ibid.* The only supposedly new development identified by the district court, however, was the fact that the petition for a writ of certiorari in this matter "has been relisted thirteen times." *Ibid.* The court's new injunction prohibits the government from publishing the FEIS or conveying the lands at issue until the day after this Court's disposition of the pending petition. *Id.* at 17-18. As a result, the government is now prohibited, while the petition remains under further consideration, from taking steps to effectuate a land transfer that is both mandated by statute and plainly in the national interest. See Exec. Order No. 14,220, § 1, 90 Fed. Reg. 11,001, 11,001 (Feb. 25, 2025) (discussing harms to national security from dependence on foreign copper supply chains). Under the circumstances, we respectfully suggest that the district court's injunction provides further reason to deny the petition.

I would appreciate it if you would circulate this letter to the Members of the Court.

Sincerely,

D. John Sauer
Solicitor General

cc: See Attached Service List

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