



U.S. Department of Justice
Environment and Natural Resources Division

Appellate Section
P.O. Box 7415
Washington, DC 20044

Telephone (202) 514-2748
Facsimile (202) 353-1873

March 21, 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 today's en banc oral argument, Judge Gould asked government counsel to submit citations in support of her claim that "very general language like that" used in the relevant treaty "has been held by the Supreme Court in, I believe, another *Navajo Nation* case to not create enforceable rights, so no, that cannot be used to create a right here." Argument at 1:18:30 (statement of counsel); 1:20:30 (Judge Gould's request for citations).

The relevant citations are *United States v. Navajo Nation*, 537 U.S. 488, 506 (2003) and *United States v. Jicarilla Apache Nation*, 564 U.S. 162, 174 & 177 (2011). Both cases are cited and discussed on page 54 of the government's answering brief, ECF No. 51.

Respectfully submitted,

s/ Joan M. Pepin

Joan M. Pepin
Attorney, Appellate Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7415
Washington, DC 20044-7415
(202) 305-4626
joan.pepin@usdoj.gov

cc: Counsel of record (via CM/ECF)