No. 17-17320

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DINÉ CITIZENS AGAINST RUINING OUR ENVIRONMENT, *et al.*,

Plaintiffs-Appellants,

v.

UNITED STATES BUREAU OF INDIAN AFFAIRS, *et al.*,
Defendants,

ARIZONA PUBLIC SERVICE COMPANY and NAVAJO TRANSITIONAL ENERGY COMPANY, LLC,

Intervenor-Defendants-Appellees.

On Appeal from the United States District Court
for the District of Arizona
No. 3:16-cv-8077-SPL (Hon. Steven Paul Logan)

BRIEF OF THE UNITED STATES AS *AMICUS CURIAE* IN SUPPORT OF REVERSAL

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GLOSSARY

APA	Administrative Procedure Act
ESA	Endangered Species Act
NEPA	National Environmental Policy Act
NTEC	Navajo Transitional Energy Company

CONCISE STATEMENT OF INTEREST

Pursuant to Federal Rule of Appellate Procedure 29(a), the United States respectfully submits this *amicus curiae* brief. At issue in this appeal is whether the inability to join a tribal entity bars a plaintiff's challenge to federal agencies' and officers' compliance with federal environmental law. The United States has a significant interest in the extent to which its own actions may be challenged in the federal courts and in what entities are deemed parties necessary to defend such actions. The United States believes that the district court erred in departing from the normal rule that the federal government is the *only* required and indispensable defendant in a challenge to federal agency action. For that reason, and notwithstanding that the district court dismissed the claims against the federal defendants below, the United States supports reversal.[1]

ISSUE PRESENTED

Whether plaintiffs' challenge to federal agencies' compliance with federal law must be dismissed due to inability to join the Navajo Transitional Energy Company ("NTEC"), a non-federal entity.

[1] The United States' disagreement with the district court's resolution of the joinder issue in no way signifies agreement with the merits of the plaintiffs' claims. While the United States believes that dismissal of plaintiffs' claims on joinder grounds was inappropriate, it continues to believe that judgment against the plaintiffs is appropriate on the merits, and it will so argue if this Court reverses and remands for further proceedings in the district court.

BACKGROUND

A. Traditional joinder rules and the public rights exception

Under Federal Rule of Civil Procedure 19, a nonparty is "required to be joined if feasible" when one of two criteria is met:

> (A) in that person's absence, the court cannot accord complete relief among existing parties; or
>
> (B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:
>
> > (i) as a practical matter impair or impede the person's ability to protect the interest; or
> >
> > (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

Fed. R. Civ. P. 19(a)(1).

When joinder of a required nonparty is not feasible—as, for example, when the nonparty is protected from suit by sovereign immunity—"the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed," i.e., whether the nonparty is "indispensable" to the action. Fed. R. Civ. P. 19(b). In making the indispensibility determination, courts consider four factors:

> (1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;
>
> (2) the extent to which any prejudice could be lessened or avoided by:
>
> > (A) protective provisions in the judgment;

> (B) shaping the relief; or
>
> (C) other measures;
>
> (3) whether a judgment rendered in the person's absence would be adequate; and
>
> (4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

Id.

While Rule 19 provides the usual framework for evaluating whether a federal lawsuit may proceed in a nonparty's absence, the Supreme Court has recognized an exception to traditional joinder rules "[i]n a proceeding . . . narrowly restricted to the protection and enforcement of public rights." *Nat'l Licorice Co. v. NLRB*, 309 U.S. 350, 363 (1940). In such cases, "there is little scope or need for the traditional rules governing the joinder of parties in litigation determining private rights." *Id.*

This Court has applied the public rights exception to exempt from the usual joinder rules actions challenging federal agency compliance with federal environmental law under the Administrative Procedure Act ("APA"). *See Conner v. Burford*, 848 F.2d 1441, 1459–62 (9th Cir. 1988). The APA entitles a person "adversely affected or aggrieved by agency action within the meaning of a relevant statute" to judicial review of such action. 5 U.S.C. § 702. The APA generally authorizes non-monetary relief against the United States and its agencies and officers. *Id.* In particular and as relevant here, the APA authorizes courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse

of discretion, or otherwise not in accordance with law," among other infirmities. *Id.* § 706(2). The APA does not provide a cause of action against non-federal actors or otherwise authorize relief against them. *See id.* §§ 702, 706; *see also id.* § 701(b)(1) (defining "agency").

B. Procedural history

Plaintiffs-Appellants (collectively, "Diné Citizens") sued agencies and officers within the U.S. Department of the Interior (collectively, "Interior"), claiming that Interior's approval of certain operations at the Four Corners Power Plant and nearby Navajo Mine violated federal environmental law. *See* Appellants' Excerpts of Record ("ER") 14–16. Diné Citizens alleged that Interior committed various errors in determining that its approvals were not likely to jeopardize the continued existence of two species of fish protected by the Endangered Species Act ("ESA"), 16 U.S.C. §§ 1531 *et seq.* ER 49–60. Diné Citizens also argued that Interior inadequately considered the environmental impacts of its actions, as required by the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.* ER 60–67. Diné Citizens brought its claims under the APA and also cited the ESA's citizen-suit provision, 16 U.S.C. § 1540(g). ER 18. Diné Citizens named only federal entities in its complaint, ER 15, 19–26, and it sought injunctive and declaratory relief against only federal entities, ER 67–69. *See also* Appellants' Opening Br. ("Br.") 6–7.

The operator of the Four Corners Power Plant successfully moved to intervene. ER 77, 82–83. The operator of the Navajo Mine, NTEC, then sought to

intervene for the limited purpose of filing a motion to dismiss Diné Citizens' suit for failure to join a required and indispensable party under Rule 19—namely, NTEC itself. *See* ER 101. According to NTEC, it is an "arm" of the Navajo Nation which possesses sovereign immunity through the Nation. ER 104.[2] Because that sovereign immunity prevented it from being joined, NTEC maintained, dismissal of the entire action was required.

Interior opposed NTEC's motion. ER 105. Interior explained that "the only required party to defend" agency action from claims like those at issue here is the federal agency itself. ER 106. In such cases, federal agencies and officers "have a strong interest in defending the adequacy of their own environmental compliance and therefore, adequately represent all non-parties sharing an interest in having the analyses and approvals upheld." *Id.* Interior further affirmed that it would "fully defend [its] analyses and decisions in this litigation." *Id.* For that reason, Interior explained, NTEC's interest in seeing those approvals upheld would be adequately protected by the United States regardless of NTEC's participation. *See id.* NTEC was thus neither a required party under Rule 19(a) nor an indispensable one under Rule 19(b). *See* ER 108–19. Interior also explained that traditional rules of joinder need not apply in an APA suit like the one brought by the plaintiffs. ER 115.

[2] The United States takes no position on whether NTEC does in fact enjoy sovereign immunity, but will assume for purpose of argument that it does. *See* ER 109–10.

The district court reached a different conclusion. Applying the usual joinder rules, it found that NTEC was a required party under Rule 19(a) by virtue of its interest in seeing the federal approvals upheld. ER 3–5. The court recognized that an absent party's "ability to protect its interests will not be impaired by its absence from the suit where its interests will be adequately represented by existing parties to the suit." ER 4 (quoting *Alto v. Black*, 738 F.3d 1111, 1127 (9th Cir. 2013)). The court further recognized that Interior and NTEC's "interests are aligned—both advocate for defending [Interior's] decisions which provided for the continued operation of" the mine and the power plant. ER 5. But the court nevertheless concluded that NTEC was a required party because, in the court's view, NTEC and Interior had different *reasons* for wanting to seeing Interior's action upheld, such that their interests could conceivably diverge at some later point in the litigation. ER 4–5. The court went on to determine that NTEC "cannot be joined" because it enjoyed tribal sovereign immunity as an arm of the Navajo Nation, and that dismissal was therefore warranted under Rule 19(b). ER 5–7. In determining that NTEC was "indispensable" under Rule 19(b), the court did not address the four factors that the rule expressly directs courts to consider, but assumed that NTEC's sovereign immunity required the court to dismiss the lawsuit in NTEC's absence. *See* ER 7. The court did not consider whether the public rights exception supported relaxing the traditional rules of joinder here. *See id.*

SUMMARY OF ARGUMENT

Diné Citizens challenge a federal agency's compliance with federal environmental law under the APA. In a suit such as this, the agency's defense of its own action is adequate as a matter of law; no other defendants are required. A contrary approach would allow joinder rules to impinge upon or defeat the statutory right created by the APA. This Court should reject that outcome, especially in light of this Court's recognition that joinder rules should not be permitted to defeat public-rights litigation. Instead, the district court should have ruled that Diné Citizens' claims could go forward, irrespective of Rule 19. In any event, proper application of the Rule 19 framework likewise shows that dismissal was inappropriate here, because NTEC is neither a required nor an indispensable party within the meaning of that rule. The district court erred in concluding otherwise.

In reaching its conclusion that NTEC was a required party under Rule 19(a), the district court ignored the general rule recognized by this Court and other courts of appeals that the United States is the *only* required defendant in an APA challenge to federal agency action. The United States shares and adequately represents the interests of all persons wishing to see federal action upheld, including tribal entities. And the district court did not adequately explain why NTEC cleared the high bar for finding that the United States could not adequately represent any protectable interest NTEC has in this litigation.

The district court also erred in determining that NTEC was an indispensable party under Rule 19(b). The court reasoned that dismissal was virtually required in light of the immunity from suit afforded to tribal entities. But while sovereign immunity certainly is a factor weighing heavily in favor of dismissal in some cases, it does not do so—at least not the exclusion of all other considerations—in APA litigation like that brought by Diné Citizens. Allowing Diné Citizens' suit to proceed poses, at most, a limited danger of prejudice to NTEC. Dismissing suits like this one, on the other hand, would insulate an entire class of agency actions from judicial review, contrary to the public-rights exception to the usual joinder rules.

ARGUMENT

I. Federal agencies and officers are normally the only necessary defendants in APA litigation.

It is well-accepted—in this Court as in other courts of appeals—that federal agencies and officers are normally the only necessary defendants in an APA action. *See, e.g.*, *Alto*, 738 F.3d at 1125–29 (holding that tribe was not a required party in APA challenge to federal resolution of a tribal enrollment dispute); *Washington v. Daley*, 173 F.3d 1158, 1167–69 (9th Cir. 1999) (holding that tribes were not required parties in APA challenge to federal regulation allocating fish harvest amongst tribes); *Southwest Ctr. v. Biological Diversity v. Babbitt*, 150 F.3d 1152, 1153–55 (9th Cir. 1998) (holding that tribe was not required party in ESA and NEPA challenge to agency action); *Kansas v. United States*, 249 F.3d 1213, 1225–27 (10th Cir. 2001) (holding that tribe was not

required party in APA action challenging federal "Indian lands" determination); *Sac & Fox Nation of Missouri v. Norton*, 240 F.3d 1250, 1258–59 (10th Cir. 2001) (holding that tribe was not required party in APA action challenging federal decision to acquire land in trust for tribe); *Ramah Navajo School Bd., Inc. v. Babbitt*, 87 F.3d 1338, 1350–52 (D.C. Cir. 1996) (holding that tribes were not required parties in APA challenge to Interior's plan allocating funds to tribe). Here, there is no dispute that the claims NTEC sought to dismiss are claims directed against a federal agency, challenging that agency's compliance with federal law. In such a case, the presence of the federal defendants whose action is being challenged should be deemed adequate as a matter of law.

The only question to be decided in APA litigation is whether an agency action will be set aside. Given that agency action is judged on the basis articulated by the agency itself, there can be no question that the agency itself is the best—and only necessary—party to defend that action. *See Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 50 (1983). The APA does not authorize any relief against non-federal entities, *see* 5 U.S.C. §§ 702, 706, and Diné Citizens' complaint seeks no such relief against non-federal entities, in any event. *See* ER 67–69; *see also* Op. Br. 6–7. An adverse judgment setting aside the agency action, while it could have collateral consequences for nonparties like NTEC, leaves those nonparties in a state no different from that in which would have found themselves had the agency never taken the challenged action in the first place. Thus, an APA action threatens no interests beyond the interest in seeing agency action upheld, which the agency itself adequately represents.

Finding that non-federal entities are nevertheless necessary for an APA action to proceed—as the district court did here—would undermine important public rights crafted by Congress. Congress waived the United States' sovereign immunity as to suits properly brought under the APA in part to allow persons who are aggrieved as a result of agency action to appeal to the courts, subject to the exceptions set forth in the APA itself. *See* 5 U.S.C. § 702. Allowing joinder rules to preclude judicial review of agency action in situations where the APA itself authorizes review frustrates that statute. It could also "sound[] the death knell for any judicial review of executive decisionmaking," as this Court recognized in *Conner*, 848 F.2d at 1460. This Court expressly cautions against allowing joinder rules to undermine public rights in this way, particularly in APA litigation intended to vindicate broad public interests in compliance with federal environmental laws, this Court's *See id.*; *see also S. Utah Wilderness All. v. Kempthorne*, 525 F.3d 966, 970–71 (10th Cir. 2008).

For all these reasons, the district court should have denied NTEC's motion to dismiss. That court's failure to even consider whether the public rights exception warranted allowing the case to proceed was error.

II. NTEC is not a required or indispensable party under the Rule 19 framework.

Quite aside from the district court's failure to recognize the distinctive nature of an APA suit and the significance of the public rights at issue in this case, the district court erred in its application of the Rule 19 framework.

A. The district court erred in finding that NTEC was a required party under Rule 19(a).

In APA litigation, no parties other than federal agencies and officers fit Rule 19's definition of a "required" party. As explained above, when a plaintiff sues under the APA, relief can run against the federal government only. *See* 5 U.S.C. §§ 702, 706. Thus, no non-federal defendant is required in order for the court to "accord complete relief among existing parties." Fed. R. App. P. 19(a)(1)(A); *see also Alto*, 738 F.3d at 1126–27 (holding that tribes need not be present for adequate relief to be granted in an APA action, distinguishing such a case from those in which "the injury complained of was a result of the absent *tribe*'s action" (emphasis in original)); *Sac & Fox Nation*, 240 F.3d at 1258–59.[3] Moreover, the participation of the United States—which has the primary and strongest interest in seeing its own action upheld—adequately protects any other person's interest in seeing the federal action upheld, as this Court has repeatedly held. *See, e.g.*, *Alto*, 738 F.3d at 1127–29; *Washington*, 173 F.3d at 1167–69; *Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154. As this Court has explained, a nonparty's "ability to protect its interest will not be impaired by its absence from the

[3] By contrast, in *Lomayaktewa v. Hathaway*, 520 F.2d 1324, 1325–27 (9th Cir. 1975), an absent tribe was deemed required and indispensable in an action seeking to cancel a tribal lease itself, not merely to set aside a federal approval of the lease. The principle that "in an action to set aside a lease or a contract, all parties who may be affected by the determination of the action are indispensable" is not implicated where, as here, the relief is not directed at the *lease*. *Id.* Instead, to the extent that setting aside federal action may adversely affect parties to the contract, the relevant question is whether the United States adequately represents their interest in upholding the *federal action*.

suit"—and thus the nonparty is not a required party under Rule 19(a)(1)(B)(i)—"where its interest will be adequately represented by existing parties to the suit." *Alto*, 738 F.3d at 1127. This rule is applicable to tribal entities as much as to other interested persons. *See id.* Indeed, this Court has explained that "[t]he United States can adequately represent an Indian tribe unless there exists a conflict of interest between the United States and the tribe." *Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154 (citing *Shermoen v. United States*, 982 F.2d 1312, 1318 (9th Cir. 1992); *Makah Indian Tribe v. Verity*, 910 F.2d 555, 558 (9th Cir. 1990)); *see also Alto*, 738 F.3d at 1128. These same considerations would apply equally to an ESA citizen suit filed against the federal government and seeking relief from only the federal government. *See* 16 U.S.C. § 1540(g)(1); ER 67–69.

The district court erred in reaching the contrary conclusion here. No tribal interest that existed or exists independent of Interior's action would be adversely affected by an APA challenge to that action. The court nevertheless concluded that NTEC was a required party under Rule 19(a) by virtue of its "interest" in seeing the federal approvals of its mining operations upheld. ER 3–4. But while NTEC undoubtedly wants to see those approvals upheld, the question under Rule 19(a)(1)(B)(i) is whether any such interest will be *impaired* in NTEC's absence. *See, e.g.*, *Alto*, 738 F.3d at 1127. The United States' defense of its own action is a strong protection against any impairment, as recognized by the cases cited above.

To be sure, there may be unusual cases in which the United States cannot adequately represent a tribe's interest. For example, in *Kescoli v. Babbitt*, 101 F.3d 1304 (9th Cir. 1996), on which the district court relied, the Court did not consider whether the United States would adequately represent the absent tribe's interest in assessing whether the tribe was a required party. *See* 101 F.3d at 1309–10. At issue in that case was a settlement agreement to which both the United States and the absent tribe were parties. *Id.* at 1307. The United States recognizes that it may not adequately represent a tribe's interest in interpreting a settlement to which both the United States and the tribe are parties. But the bar for finding that the United States cannot adequately represent a tribe's interest in upholding federal action is high: this Court looks for an existing conflict of interest between the United States and the tribe. *See Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154; *Alto*, 738 F.3d at 1128.

The district court erred in assuming that high bar was met here. The court did not identify any conflict between Interior and NTEC. To the contrary, it recognized that Interior and NTEC's "interests are aligned." ER 5. It nevertheless found that Interior would not adequately represent NTEC because NTEC and Interior have different reasons for wanting Interior's approvals upheld, which the district court believed could possibly lead to unspecified conflicts in the future. ER 4–5. The district court's reasoning was flawed on two counts.

First, as this Court has explained, "the possibility of conflict" is insufficient to render the United States an inadequate representative, absent the identification of an

"argument the United States would not or could not make on the [tribe's] behalf" or a "necessary element the [tribe] alone could present." *Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154 (internal quotation marks omitted). The district court did not identify any such argument or element here. Nor is it obvious what argument or element the tribe alone could add to litigation such as this, in which the sole question for the courts is a federal agency's compliance with federal laws.

Second, the fact that the United States and a nonparty might have diverging *motivations* for defending government action does not mean that they have conflicting *interests*. Agency action *always* affects members of the public differently from how it affects the agency itself. That truism is insufficient to show that the agency's interest in seeing its action upheld diverges from that of persons, including tribes, who stand to benefit significantly from that action. *See, e.g.*, *Washington*, 173 F.3d at 1167–68 (holding that United States adequately represented tribes' interest in regulation allocating fish harvest among tribes); *Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154 (holding that United States adequately represented tribe's interest in ensuring that additional capacity behind nearby dam became available for use); *Kansas*, 249 F.3d at 1226–27 (holding that United States could adequately represent tribe's interest in defending agency action authorizing gaming activities on a parcel); *Sac & Fox Nation*, 240 F.3d at 1259 (same). A contrary rule could risk rendering virtually any member of the public personally affected by agency action a required party to an APA suit challenging that action.

For all of these reasons, the district court's determination that NTEC was required to be joined if feasible under Rule 19(a) was erroneous and should be reversed.

B. The district court erred in determining that NTEC was an indispensable party under Rule 19(b).

Because NTEC is not a required party under Rule 19(a), there was no reason for the district court to consider whether it was an indispensable party under Rule 19(b), even assuming the Rule 19 framework applies. But the court's determination that NTEC is indispensable is incorrect for independent reasons.

Rule 19(b) generally requires courts to engage in a fact-specific, equitable analysis in deciding whether to dismiss a case when a required party under Rule 19(a) cannot be joined. In particular, Rule 19(b) directs courts to focus on (1) the potential for prejudice, (2) the ability to avoid such prejudice, (3) the adequacy of judgment in the required party's absence, and (4) the hardship to the plaintiff if the action were dismissed. Here, the district court failed to fully grapple with these factors, reasoning instead that dismissal was appropriate in light of NTEC's tribal sovereign immunity alone. *See* ER 7. That legal error warrants reversal. *See Koon v. United States*, 518 U.S. 81, 100 (1996) ("A district court by definition abuses its discretion when it makes an error of law.").

The district court relied heavily on non-APA cases for the proposition that where a nonparty cannot be joined because of sovereign immunity, that fact weighs in

favor of dismissal. *See, e.g.*, *White v. Univ. of Cal.*, 765 F.3d 1010, 1028 (9th Cir. 2014); *Republic of the Philippines v. Pimentel*, 553 U.S. 851, 864, 867 (2008). But, for all the reasons explained above, APA litigation like this suit does not implicate sovereign interests of non-federal entities. Instead, any interest a non-federal sovereign might have in the litigation is derivative of the federal government's primary interest in seeing its own action upheld. In this context, the default assumption should be *against* dismissal, especially in light of the public rights doctrine.

Had the district court appropriately balanced the Rule 19(b) factors in light of the public rights at issue, it would have found that the relevant factors tip strongly against dismissal, even assuming that NTEC enjoys sovereign immunity as an arm of the Navajo Nation. With regard to the first two factors, the court can minimize whatever potential for prejudice to NTEC an adverse judgment might pose by narrowly tailoring any relief granted—specifically, by ensuring that (as required under the APA) any relief granted runs against the federal actors and the federal approvals rather than directly against NTEC or any of its leases.[4] As the Tenth Circuit has explained, where a suit attacks the adequacy of the environmental analysis performed by the government in approving a tribal lease (rather than the lease itself), there will not necessarily be long-term prejudice to the tribe, because the government may

[4] The Court could further minimize any potential for prejudice by by remanding any approvals the court finds unlawful without vacatur.

ultimately re-approve the lease in question after correcting any errors in its environmental compliance. *See Manygoats v. Kleppe*, 558 F.2d 556, 558–59(10th Cir. 1977).[5]

The remaining two factors weigh heavily *against* dismissal. Given that Diné Citizens seek relief against the federal government and *not* against NTEC itself, judgment in NTEC's absence would be adequate, for the reasons stated above. *See supra* p. 11 Most importantly, dismissal should be disfavored here because dismissal would deprive Diné Citizens of any forum for their claims. In this case, as in *Manygoats*, dismissal "would produce an anomalous result" by ensuring that "[n]o one, except the Tribe, could seek review of" the federal government's compliance with federal environmental law with regard to "significant federal action relating to leases or agreements for development of natural resources on Indian lands." 558 F.2d at 559. As discussed above, such an outcome could severely limit APA review of federal agency action. The public rights doctrine does not countenance such an outcome.

The district court thus plainly erred in refusing to consider the factors under Rule 19(b). Had it weighed those factors appropriately, it would have concluded that dismissal for failure to join NTEC was improper.

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[5] The Tenth Circuit in *Manygoats* held that an absent tribe was a required party under Rule 19(a) but not an indispensable party under Rule 19(b). 558 F.2d at 558–59. That Court's required-party determination was based on its assumption that the United States could not adequately represent a tribe's interest in a NEPA action. *Id.* at 558. This Court has already rejected that flawed assumption. *See Southwest Ctr. for Biological Diversity*, 150 F.3d at 1154–55; *see also supra* pp. 11–14.

CONCLUSION

For the foregoing reasons, this Court should reverse and remand for further proceedings in the district court.

Respectfully submitted,

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STATEMENT OF RELATED CASES

There are no related cases within the meaning of Circuit Rule 28-2.6.

s/ Rachel Heron
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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the length limits permitted by Fed. R. App. P. 29(a)(5), because it contains 4,491 words. The brief's type size and type face comply with Fed. R. App. 32(a)(5) and (6).

s/ Rachel Heron
RACHEL HERON

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2018, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

All parties to this case are represented by registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

s/ Rachel Heron
RACHEL HERON