UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

PUEBLO OF SAN FELIPE, a federally recognized Indian tribe,	)	
Plaintiff,	)	
	)	**Case No. 23-CV-00296-JB-LF**
v.	)	
DEBRA HAALAND, Secretary of the Interior, et al.,	)	
Defendants,	)	
PUEBLO OF SANTA ANA, a federally recognized Indian tribe,	)	
Applicant-Intervenor-Defendant.	)	

MOTION FOR LIMITED INTERVENTION AS OF RIGHT IN ORDER TO FILE MOTION TO DISMISS, AND MEMORANDUM IN SUPPORT

The Pueblo of Santa Ana, a federally recognized Indian tribe situated in Sandoval County, New Mexico ("Santa Ana"), by and through its counsel, moves the Court for leave to intervene herein, as a matter of right, pursuant to Fed. R. Civ. P. 24(a)(2), but on a strictly limited basis, solely for the purpose of filing a motion to dismiss the Complaint herein on the grounds that Santa Ana is a required party under Fed. R. Civ. P. 19 that cannot be joined due to its sovereign immunity from unconsented suit. The grounds for this motion are set forth below.

I. INTRODUCTION

In 1763 Santa Ana purchased from Quiteria Contreras, a Spanish settler, a large *rancho* along the Rio Grande that included the tract that is in dispute in this case, in a transaction that was overseen and carefully documented by the famed Spanish artist, cartographer and official, Bernardo Miera y Pacheco. *See Pueblo of Santa Ana v. Baca*, 844 F.2d 708, 709-10 (10th Cir. 1988). Santa Ana's title was recognized by Spanish officials in an 1813 adjudication of the boundary between Santa Ana and San Felipe Pueblo. *Id*., at 710, 711-12.[1] As a result of that adjudication, as of 1848, when the United States acquired New Mexico pursuant to the Treaty of Guadalupe Hidalgo, 9 Stat. 922, there was no overlap between the two Pueblos' lands, and the tract now claimed by San Felipe was part of Santa Ana's lands. *Id*. The area of overlap between the surveys of the two Pueblos' lands, consisting of about 695 acres (and referred to hereinafter as the "Former Overlap"), was created in 1908, by the Hall survey of the east and south boundaries of the San Felipe Pueblo "Grant,"[2] which improperly placed San Felipe's south boundary about half a mile south of Santa Ana's long-established north boundary. *Id*. at 712 and n.3.

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[1]The original documentation of the Contreras purchase is in the Spanish archives of New Mexico, and is identified as document 1349 in Twitchell's comprehensive catalog of that archive. I SPANISH ARCHIVES OF NEW MEXICO (R..Twitchell, ed.; TorchPress, 1914; reprinted by Sunstone Press, Santa Fe, 2008) ("SANM") at 401-02. The documentation of the 1813 boundary adjudication is document 1356, I SANM at 422-28. A detailed account of Santa Ana's acquisitions of the parcels that made up the El Ranchito tract, and the 1813-19 Spanish adjudication of the boundary between those lands and the lands of San Felipe, is contained in Ebright, Hendricks & Hughes, FOUR SQUARE LEAGUES: PUEBLO INDIAN LANDS IN NEW MEXICO (Albuquerque: UNM Press 2014) ("FOUR SQUARE LEAGUES"), at 49-86.

[2]The document dated 1689 that is referred to in the Complaint as a "formal 1689 Spanish land grant," *see, e.g*., Complaint at ¶ 21, is not in fact an authentic Spanish land grant. Like all of the so-called "Cruzate Grants" that were confirmed to nine New Mexico Pueblos in 1858 (but without affecting any "adverse valid rights," Act of Dec. 2, 1858, 11 Stat. 374), the San Felipe document is a fake, and was apparently created in the mid-1800s, after the American acquisition of New Mexico, although who created the document, and for what reason, remain shrouded in mystery. *See* FOUR SQUARE LEAGUES, at 205-34.

The actions of the Department of the Interior that are challenged in this case by San Felipe, after more than a century of spurious claims by San Felipe to this tract, had finally restored to Santa Ana clear title to this land, which Santa Ana has owned and possessed exclusively for 260 years.

San Felipe's Complaint in this case seeks to undo the Federal Defendants' decisions that cleared the cloud on Santa Ana's title to the Former Overlap, but even more remarkably, to have this Court adjudicate title to that tract in San Felipe's favor, without Santa Ana's presence in the case. It is worth recalling that this Court and the Tenth Circuit Court of Appeals decided 35 years ago, in the *Baca* case[3] (25 years before the Department of the Interior reached the same conclusion) that Santa Ana's title to the Former Overlap is superior to San Felipe's claim.

Santa Ana thus has an undisputed and vital interest in this litigation—one that the federal government is unable to adequately defend. While the Federal Defendants are undoubtedly interested in defending the lawfulness of the administrative actions under attack in the Complaint, they also admittedly have trust responsibilities to both Santa Ana and San Felipe. More significantly, the Federal Defendants have already taken a position in the case that is adverse to Santa Ana's interests. Just as importantly, unlike Santa Ana, which if San Felipe is successful, stands to lose land it has owned, occupied, used and defended for more than a quarter of a millennium, the United States would lose no land in this litigation.

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[3]The *Baca* case was brought by Santa Ana against the successor owner of a private claim that had been adjudicated against San Felipe in the Pueblo Lands Board proceedings in the 1920s, which claim included about 131 acres within the Former Overlap. The issue in the case was who had better title to that 131 acres. Because Baca's title originated with a patent from the United States that quitclaimed the interest of San Felipe and the United States as its trustee in the private claim, the issue before the Court boiled down to the strength of Santa Ana's title versus the claim of San Felipe. This Court found in favor of Santa Ana, and voided Baca's title to the 131 acres within the Former Overlap. *Pueblo of Santa Ana v. Baca*, No. 81-CV-303 C (D.N.M. Apr. 30, 1985; *supplemented*, Jan. 15, 1986). The court of appeals affirmed. 844 F.2d 708 (10th Cir. 1988).

Santa Ana also has a well-established right to be free from unconsented suit. While Santa Ana agrees with most of the reasons for dismissal raised by the Federal Defendants in their Motion to Dismiss (Doc. 29), Rule 19 dismissal is likewise both appropriate and decisive. This Court should grant this motion to intervene in order to allow Santa Ana to vindicate its paramount interest in assuring that its title to the Former Overlap is not lost or impaired in its absence.

I. PROCEDURAL BACKGROUND

The current phase of this dispute began when Santa Ana filed a petition with the Secretary of the Interior, on December 22, 1989, asking that the Secretary exercise his authority under 25 U.S.C. § 176 to correct the survey of the San Felipe Pueblo Grant so as to eliminate the overlap of that survey with Santa Ana's El Ranchito lands. The petition recited the history of Santa Ana's acquisition of the disputed parcel and the adjudication of its boundary with San Felipe in 1813, and explained that the overlap was caused by the flawed survey of the San Felipe Grant in 1908. Santa Ana pointed out that its position had been upheld by this Court, and by the Tenth Circuit Court of Appeals, in the *Baca* case. *See supra*, n.3. Complaint, ¶¶ 159-60.

Santa Ana's petition was briefed extensively over the years, and the Department made repeated but unsuccessful efforts to have the two Pueblos reach a settlement. In 2000, then-Solicitor John Leshy issued Opinion M-37000, in which he found that the Secretary had the authority to grant the relief Santa Ana was seeking, *i.e.*, to correct the survey of the San Felipe Grant, should the merits be decided in Santa Ana's favor, overruling and rescinding a previous M Opinion, M-36963. Complaint, ¶¶ 161-65.

In 2013, Interior Solicitor Hilary Tompkins issued Opinion M-37027 (the "Tompkins Opinion"), entitled "Boundary Dispute: Pueblo of Santa Ana Petition for Correction of the

Survey of the South Boundary of the Pueblo of San Felipe Grant," by which the Department finally decided Santa Ana's original petition on its merits. The Tompkins Opinion made a thorough review of the extensive documentary record and briefing that had been submitted in support of and against the Santa Ana petition over the 23 years that it was pending, as well as a careful analysis of the Tenth Circuit's *Baca* decision, which the Opinion found "persuasive." Tompkins Opinion at 2. The Opinion recounts the history of the dispute between the two Pueblos during the Spanish period that led to the adjudication in favor of Santa Ana, then traces the tortuous survey history of the San Felipe Pueblo Grant. It also examined Santa Ana's case before the Court of Private Land Claims for confirmation of its El Ranchito deeds, and the Santa Ana Pueblo Lands Board proceedings in the late 1920s. It concluded that Santa Ana has "superior title" to the disputed area, and ordered a resurvey of the south boundary of the San Felipe Pueblo Grant to eliminate the overlap. Complaint, ¶¶ 168-73. San Felipe took no action to challenge the Tompkins Opinion, but it did protest the resurvey, and when that protest was rejected it appealed to the Interior Board of Land Appeals ("IBLA"). The IBLA, correctly viewing itself bound by the Tompkins Opinion, declined San Felipe's insistence that it reexamine the title issue, and after a thorough review of the survey history found that the resurvey of the south boundary of the San Felipe Grant was in compliance with the Tompkins Opinion. It determined that by the 2013 resurvey, "the southern boundary of the San Felipe Pueblo Grant has been restored to its true original position." *Pueblo of San Felipe*, 190 IBLA 17, 32 (April 5, 2017). Complaint, ¶¶ 174-86. Six years later, San Felipe filed this suit.

II. ARGUMENT

Santa Ana has an indisputable and vital interest in this litigation because San Felipe seeks to invalidate Santa Ana's title to the area of the Former Overlap, which has been repeatedly

upheld in proceedings to which Santa Ana was a party. Santa Ana plainly has Article III standing as a prospective intervenor, and easily meets the requirements of Fed. R. Civ. P. 24(a)(2) as an intervenor of right. And allowing Santa Ana to intervene solely for the purpose of filing its motion to dismiss pursuant to Fed. R. Civ. P. 19 will assure that Santa Ana's rights to its land are not adjudicated in its absence.

A. **Santa Ana is Entitled to Intervene as of Right.**

Intervention as of right involves two distinct but related sets of requirements. First, as a threshold matter, a prospective intervenor must establish Article III standing. *See Kane Cnty. v. United States*, 928 F.3d 877, 886-87 (10th Cir. 2019). Second, Rule 24(a)(2) itself sets out four additional criteria: (1) an application to intervene must be timely; (2) the applicant must claim "an interest relating to the property or transaction that is the subject of the action"; (3) the applicant must be situated such that "disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest"; and (4) the applicant must show that existing parties may not adequately represent that interest. An applicant that meets those criteria "must" be permitted to intervene. Fed. R. Civ. P. 24(a). As explained below, Santa Ana easily meets each of these requirements.

1. Santa Ana has Article III Standing.

To establish standing under Article III, a prospective intervenor must show: (1) injury-in-fact, (2) causation, and (3) redressability. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). To establish injury-in-fact, the injury alleged by the intervening party must be "concrete and particularized" and "actual or imminent, not conjectural or hypothetical." *Lujan*, 504 U.S. at 560 (citations and internal quotation marks omitted). To establish causation, the claimed injury must be "fairly traceable to the challenged action [], and not the result of the independent action

of some third party not before the court." *Id*. (citation and alterations omitted). To establish redressability, it must be "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision" of the court. *Id*. at 561 (citation and internal quotation marks omitted).

When a party is seeking intervention to join the government in defending a governmental action, "the party must establish that it [would] be 'injured in fact by the setting aside of the government's action it seeks to defend, that this injury would have been caused by that invalidation, and the injury would be prevented if the government action is upheld.'" *Forest Cnty. Potawatomi Cmty. v. United States*, 317 F.R.D. 6, 11 (D.D.C. 2016) (quoting *Am. Horse Prot. Ass'n, Inc. v. Veneman*, 200 F.R.D. 153, 156 (D.D.C. 2001)).

Those criteria accurately describe Santa Ana's situation. The federal actions that San Felipe is attacking in this action cleared away a cloud that had shadowed Santa Ana's title to the Former Overlap for more than a century. San Felipe's suit seeks not only to invalidate those federal actions, it seeks a declaration that *it* has title to the area, not Santa Ana. Santa Ana thus faces the loss of approximately 564 acres of its land.[4] The cause of Santa Ana's injury would be directly traceable to San Felipe's requested relief. That same injury will be prevented, and Santa Ana will retain unfettered possession of its land, if the federal actions under attack in the Complaint are upheld. Thus, Santa Ana has Article III standing for the purpose of intervention.

2. Santa Ana Satisfies the Criteria of Rule 24(a)(2).

The right to intervene "implements the basic jurisprudential assumption that the interest of justice is best served when all parties with a real stake in a controversy are afforded an

[4]Presumably, San Felipe cannot claim the 131 acres that were adjudicated in Santa Ana's favor in the *Baca* case, since its claim to title to that area had been extinguished in the Pueblo Lands Board proceedings. *See supra* n. 3.

opportunity to be heard." *Hodgson v. United Mine Workers*, 473 F.2d 118, 130 (D.C. Cir. 1972). Rule 24(a)(2) provides:

> On timely motion, the court must permit anyone to intervene who: . . . claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2). Importantly, the Tenth Circuit generally follows a "liberal view in allowing intervention under Rule 24(a)." *See Elliott Indus. Ltd. P'ship v. B.P. Am. Prod. Co.*, 407 F.3d 1091, 1103 (10th Cir. 2005); *see also Nat'l Farm Lines v. Interstate Commerce Comm'n*, 564 F.2d 381, 384 (10th Cir. 1977) ("Our court has tended to follow a somewhat liberal line in allowing intervention").

a) This Motion is Timely.

"The timeliness of a motion to intervene is assessed in light of all the circumstances, including the length of time since the applicant knew of his interest in the case, prejudice to the existing parties, prejudice to the applicant, and the existence of any unusual circumstances." *Utah Ass'n of Counties v. Clinton*, 255 F.3d 1246, 1250 (10th Cir. 2001) (quoting *Sanguine, Ltd., v. United States Dep't of Interior*, 736 F.2d 1416, 1418 (10th Cir.1984)).

There should be no dispute as to the timeliness of this motion. Santa Ana has acted diligently in seeking leave to intervene before any significant activity has occurred in the case. All that has transpired are the filing and service of the Complaint, and the filing of a motion to dismiss by the Federal Defendants. Should the Federal Defendants' motion be denied, Santa Ana's motion to dismiss can be considered immediately afterwards. Santa Ana's limited involvement in the case will cause no undue delay or undue prejudice to any party, and there are no "unusual circumstances" that would cause this motion to be considered untimely.

b) Santa Ana Has the Most Substantial Interest Relating to the Property that is the Subject of this Action.

The Tenth Circuit has held that "[w]hether an applicant has an interest sufficient to warrant intervention as a matter of right is a highly fact-specific determination," and "the 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Coal. of Arizona/New Mexico Cties. v. Dep't of Interior*, 100 F.3d 837, 840-41 (10th Cir. 1996). This Circuit recognizes that "any person who satisfies Rule 24(a) will also meet Article III's standing requirement." *Kane Cnty.*, 928 F.3d at 889 n. 14 (quoting *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003)); *see also Sokaogon Chippewa Cmty. v. Babbitt*, 214 F.3d 941, 946 (7th Cir. 2000) ("Any interest of such magnitude" sufficient to satisfy the Article III standing requirement will also support Rule 24(a) intervention of right) (internal quotations and alterations omitted). Because Santa Ana plainly has constitutional standing (*see* part III.B.1, *supra*), it also has a sufficient interest in this action to support intervention as of right. And indeed, Santa Ana has a far more substantial interest than any of the named defendants. The Federal Defendants' interest is mainly one of protecting the integrity and finality of the agency decision-making process; Santa Ana faces the loss of land it has owned and occupied for more than a quarter of a millennium.

c) This Action Threatens to Impair Santa Ana's Interest.

As discussed above, this action directly threatens the already-determined title of Santa Ana to the Former Overlap. For purposes of Rule 24(a)(2), the courts evaluate such threats by focusing on the practical consequences of denying intervention—*i.e.*, whether, as a practical matter, resolution of the case without intervention might threaten the proposed intervenor's ability to protect its interest. *See Utah Ass'n of Cties*, 255 F.3d at 1251-52 (quoting *Coal. Of*

Arizona/New Mexico Cties., 100 F.3d at 84). And establishing impairment of an interest "presents a minimal burden." *Kane Cty.*, 928 F3d at 891. Here, the practical consequence of denying intervention would be to allow the vital issue of ownership of the Former Overlap to be decided without the presence of the party who has consistently been found to hold the better title.[5] As such, there can be little question that denying this request for intervention would substantially impair (and could entirely undermine) Santa Ana's title to this important portion of its El Ranchito tract.

d) Santa Ana's Interest is Not Adequately Represented by the Federal Defendants.

Finally, no existing party to the litigation can adequately represent Santa Ana's concerns. The burden required for showing inadequate representation for purposes of Rule 24(a)(2) "should be treated as minimal," where the requirement "is satisfied if the applicant shows that representation of his interest '*may be*' inadequate." *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972) (emphasis added); *see also Coal. of Arizona/New Mexico Cties.*, 100 F.3d at 844-45 ("The burden is on the applicant in intervention to show that the representation by the existing parties may be inadequate, but this burden is "minimal"); *Natural Res. Def. Council, Inc. v. U.S. Nuclear Regul. Comm'n*, 578 F.2d 1341, 1346 (10th Cir. 2002) ("[T]he possibility of divergence of interest need not be great in order to satisfy the burden of the applicants."). Mere "alignment" of interests is not sufficient to establish adequacy of representation. *N.M. Off-*

[5]As the Federal Defendants correctly state in their Motion to Dismiss, "[a]s a form of relief, each of San Felipe's five claims seek to overturn Federal Defendants' recognition of Santa Ana's restricted fee title to . . . the Former Overlap Area, dispossess Santa Ana of that restricted fee title by seeking a 'judgment declaring that all claims adverse to San Felipe's title are now barred,' and recognize 'San Felipe's title and right to sole possession of the lands within the boundaries of the San Felipe Patent, including the Conflict Area.'" Fed. Def. Motion to Dismiss, Doc. 29, at 9-10.

Highway Vehicle All. v. United States Forest Serv., 540 Fed. Appx. 877, 881–82 (10th Cir. 2013) (unpublished opinion).

This showing is particularly common in suits involving the federal government, because typically the government cannot adequately represent both the interests of the public and those of a private intervenor. *See Western Energy All. v. Zinke*, 877 F.3d 1157, 1167 (10th Cir. 2017). Thus, the burden of demonstrating inadequate representation is met when the prospective intervenor "shows that the 'public interest the government is obligated to represent may differ from the would-be intervenor's particular interest.'" *SWEPI, LP v. Mora Cnty., N.M.*, No. CIV 14-0035 JB/SCY, 2014 WL 6983288, at *23–24 (D.N.M. Dec. 5, 2014) (quoting *Utah Assoc. of Cties.*, 255 F.3d at 1255). *See also, Utah Assoc. of Cties*, 255 F.3d at 1255-56) (allowing an environmental group to intervene as of right, explaining that "[i]n litigating on behalf of the general public, the government is obligated to consider a broad spectrum of views, many of which may conflict with the particular interest of the would-be intervenor."); *WildEarth Guardians v. United States Forest Serv.*, 573 F.3d 992, 994–97 (10th Cir. 2009) (allowing a coal company to intervene over the environmental groups' objections noting that "the government has multiple objectives and could well decide to embrace some of the environmental goals" that the company opposed). And although the Federal Defendants here have a general institutional interest in defending their agency decisions and fulfilling their trust responsibility to Santa Ana, they are potentially caught between their trust responsibilities to both Pueblos.

That the Federal Defendants may not represent Santa Ana's interests adequately in this case has already been shown, moreover, by the statements in their recently filed Motion to Dismiss, Doc. 29, at 2, 12 and 26-28, indicating that the United States "recognizes" that San Felipe retains title to the portions of Private Claims 4, 5 and 6 that extend into the Former

Overlap. This position is flat wrong as a legal matter, and, as the Federal Defendants are well aware, is directly contrary to Santa Ana's position, that San Felipe does not now and never has had title to those portions of those private claims. For the Federal Defendants to take this position (which was unnecessary to their motion) confirms Sana Ana's belief that its interests cannot be fully protected by those parties.

3. Limited Intervention is Appropriate to Vindicate Santa Ana's Sovereign Interest.

As "distinct, independent political communities" with sovereign powers that have never been extinguished, "Indian tribes have long been recognized as possessing the common law immunity from suit traditionally enjoyed by sovereign powers." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55, 58, (1978). *See also Michigan v. Bay Mills Indian Cmty*, 572 U.S. 782, 788-90 (2014) (sovereign immunity extends to bar suit whether on or off-reservation, whether or not the action concerns commercial activity). As such, "[a]s a matter of federal law, an Indian tribe is subject to suit only where Congress has authorized the suit or the tribe has waived its immunity." *Kiowa Tribe of Oklahoma v. Mfg. Techs.*, Inc., 523 U.S. 751, 754 (1998). As will be discussed in more detail in Santa Ana's Motion to Dismiss, this immunity means that Santa Ana is a required party that cannot be joined in this suit, and as a consequence, this suit must be dismissed pursuant to Fed. R. Civ. P. 19.

Federal courts routinely have recognized limited intervention as an appropriate vehicle for raising sovereign immunity objections under Rule 19. *See, e.g., Kansas v. United States*, 249 F.3d 1213, 1220–21, 1231 (10th Cir. 2001) (affirming the grant of a preliminary injunction in a case where a tribe had voluntarily intervened in order to join a motion to dismiss for lack of subject matter jurisdiction and to raise an ultimately unsuccessful Rule 19 argument for dismissal based on sovereign immunity); *Citizens Against Casino Gambling in Erie County v. Kempthorne*,

471 F. Supp. 2d 295, 312 (W.D.N.Y. 2007) (allowing the Seneca Nation of Indians to submit an amicus brief raising Rule 19 issues while also noting that "[a]s other tribes have done, it could have moved to intervene for the sole purpose of seeking Rule 19 dismissal"); *Dine Citizens Against Ruining Our Environ. v. Bureau of Indian Affairs*, 932 F.3d 843, 847-48 (9th Cir. 2019) (upholding dismissal of action for inability to join immune tribal party, where tribal party had "intervened in the action for the limited purpose of moving to dismiss" under Rule 19); *MGM Glob. Resorts Dev., LLC v. U.S. Dep't of the Interior*, No. 19-2377 (RC), 2020 WL 5545496 (D.D.C. Sept. 16, 2020) (granting tribes intervention on a limited basis for the purpose of filing their motion to dismiss, preserving their sovereign immunity from suit while doing so). Limited intervention is also appropriate because it preserves the sovereign immunity that Santa Ana seeks to vindicate through its Rule 19 motion. *See Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Norton*, 327 F. Supp. 2d 995, 1000 (W.D. Wis. 2004) (entities that have sovereign immunity may intervene for a limited purpose, such as moving to dismiss the lawsuit for failure to join a required party, without waiving their sovereign immunity), *aff'd*, 422 F.3d 490 (7th Cir. 2005); *Zych v. Wrecked Vessel Believed to be the Lady of Elgin*, 960 F.2d 665, 667-68 (7th Cir. 1992) (intervention by a State for limited purpose of moving to dismiss suit for lack of jurisdiction did not result in a waiver of its immunity).

Santa Ana here similarly moves to intervene for the limited purpose of asserting its position as a required party that cannot be joined, and that the action should thus be dismissed, under Rule 19. Limited intervention is appropriate for such purpose.

III. CONCLUSION

For the reasons set forth above, Santa Ana respectfully requests that its motion for limited intervention be granted. The undersigned have contacted counsel for the Federal Defendants and

for San Felipe, and are authorized to state that the Federal Defendants do not oppose this motion, though they will reserve their position on the Motion to Dismiss until it is filed; counsel for San Felipe state that San Felipe opposes this motion, and will oppose the Motion to Dismiss.

Respectfully Submitted,

_/s/_Richard W. Hughes___
Richard W. Hughes
Allison K. Athens
ROTHSTEIN DONATELLI LLP
1215 Paseo de Peralta
Santa Fe, New Mexico 87501
Tel.: 505-988-8004
Fax: 505-982-0307
rwhughes@rothsteinlaw.com
aathens@rothsteinlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion for Limited Intervention was filed electronically with the Clerk of the Court on the 8th day of September, 2023, using the CM/ECF system, and that all ECF registrants of such system in this case received electronic copies thereof.

_/s/ Richard W. Hughes_____
Rothstein Donatelli LLP