IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UTE INDIAN TRIBE OF THE UINTAH AND OURAY INDIAN RESERVATION, Plaintiff, v. THE UNITED STATES OF AMERICA, et al., Defendants.	Case No. 1:18-cv-546-CJN

REPLY IN SUPPORT OF FEDERAL DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

For over a century, the Congressional and Executive branches have consistently stated that the Tribe does not hold compensable title in the public lands within the exterior boundaries of the original Uncompahgre Reservation in Utah ("***Public Domain Lands***"). Congressional acts have clearly pronounced that those lands are in the public domain rather than held in trust status for the Tribe. And consistent with those congressional acts and legislative history, the Department of the Interior has long concluded that those lands were never held in trust status and therefore do not qualify as "remaining surplus lands" of a reservation and are ineligible for restoration under section 3 of the Indian Reorganization Act ("***IRA***"). Significantly, in neither its cross-motion nor its responding brief does the Tribe challenge Interior's interpretation of section 3 of the IRA as applying only to a tribe's previously ceded lands that were opened to disposal under federal land laws and for which the proceeds were to be held by the United States for the tribe's benefit. Instead, the sole question here is whether Congress created an interest for the Tribe that would make the Public Domain Lands eligible for restoration under section 3. Interior concluded—as it long has—that the answer is "no." As the statutes at issue make clear on their face, Interior's statutory reading is the better one. Interior's denial of the Tribe's request for restoration of the Public Domain Lands to trust status under section 3 was neither arbitrary and capricious nor contrary to law.

In its summary judgment briefing, the Tribe relies almost exclusively on the 1880 Act (21 Stat. 199) ("***the 1880 Act***") to argue that the lands should be restored under section 3 of the IRA. But as Federal Defendants have explained, the 1880 Act does not say anything about setting aside lands in Utah for the sole use and occupancy of the Uncompahgre Utes. Instead, the original Uncompahgre Reservation in Utah was set aside by Executive Order. Even if the 1880 Act had

set aside the original Uncompahgre Reservation in Utah for the Tribe's sole use and occupancy (it did not), Congress subsequently opened those lands for post-allotment location and entry in the 1897 Act (30 Stat. 62) ("***the 1897 Act***") and did not legislate for any compensation to the Tribe as part of that disposal. The Tribe offers no opposing interpretation of the 1897 Act, and instead contends, without any basis, that the Court should simply disregard it. But doing so would ignore a statute that specifically addressed the original Uncompahgre Reservation in Utah and the Public Domain Lands that are at issue here.

Subsequent Interior interpretations and Congressional acts further support Interior's reading. Interior withdrew the Public Domain Lands from disposition for grazing in 1933, again without reference to any interest the Tribe held. And Congress subsequently returned those lands to the public domain in 1948. Likewise, the Tribe fails to reconcile its current position that the Public Domain Lands were previously held for the Tribe's benefit with the settlement of its claims before the Indian Claims Commission, in which the Tribe sought compensation for land, including the Public Domain Lands, that the United States allegedly unconstitutionally took from the Tribe.

The Tribe also does not even attempt to reconcile the substantial contrary authority in both the United States' motion and the 2018 M-Opinion itself with the Tribe's argument that it has compensable title in the Public Domain Lands and therefore the lands are eligible to be restored. Rather, the statutes, legislative history, case law, and administrative record all affirm the widespread understanding that the Tribe did not hold compensable title to the lands and, therefore, that the denial of the Tribe's request for restoration was not arbitrary and capricious or contrary to

law.[1] Summary judgment should be granted in favor of the United States on Plaintiff's remaining claim.

ARGUMENT

The Tribe argues that section 3 of the 1880 Act is "clear and unequivocal" in providing the Tribe compensable title in the Public Domain Lands when it states that "the lands . . . when sold the proceeds of said sale shall be . . . set apart under this act by the government for the benefit of said Indians." ECF No. 109 ("***Tr.'s Reply***") at 6; Uncompahgre_139-140 (1880 Act at § 3). The Tribe's argument fails for several reasons. First, the Tribe ignores that this language applies to the Colorado Reservation the act established, not the reservation later established in Utah by Executive Order. Second, the Tribe disregards the 1897 Act (which expressly applies to the reservation in Utah established by Executive Order) that directed that unallotted lands "be open for location and entry" without any compensation owed to the Tribe, confirming that these lands were Public Domain Lands. Third, the Tribe fails to contend with subsequent legislation and events regarding the Uncompahgre Reservation that are incongruous with its present argument.

I. The statutes' plain language support Interior's reading that Congress did not grant the Tribe compensable title in the Public Domain Lands.

This case largely turns on questions of statutory interpretation, specifically of the 1880 Act and 1897 Act.[2] In analyzing a statute, the first step is to determine whether its language is plain

[1] The Tribe now seems to seek an order "direct[ing] the Executive Branch to treat that land as trust lands" rather than the relief it sought with its complaint, an order setting aside Interior's decision. Tr.'s Reply at 2; Compl., ECF No. 1 at ¶ 117. The Tribe's requested relief in its reply is improper. But, regardless, Interior's decision is consistent with applicable law and is not an abuse of discretion and therefore should be upheld.

[2] Though our opening brief at times used the word "deference" and postured Interior's ultimate conclusion as "reasonable," Federal Defendants did not invoke *Chevron* deference. Instead, Federal Defendants relied (and continue to rely) on the statutes' plain meaning and context and

and unambiguous regarding the issue at hand, and if the language is unambiguous, "the judicial inquiry is complete." *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 462 (2002) (citations omitted). Indeed, a statute that "does not contain conflicting provisions or ambiguous language" does not "require a narrowing construction or application of any other canon or interpretative tool." *Id.* at 461. At the same time, "a reviewing court should not confine itself to examining a particular statutory provision in isolation" as the meaning of statutory language "may only become evident when placed in context." *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000) (citations omitted). Here, the Tribe's proffered statutory interpretations deviate from Congress' express language and clear intent.

A. Section 3 of the 1880 Act could not have applied to the original Uncompahgre Reservation in Utah.

It is undisputed that the original Uncompahgre Reservation in Utah, within which lie the Public Domain Lands, was established by the Executive Order of 1882. But the parties diverge on the applicability of the 1880 Act to it. Contrary to the Tribe's arguments that the 1880 Act required the President to issue the 1882 Executive Order (Tr.'s Reply at 3), the 1880 Act did not mandate the establishment of the original Uncompahgre Reservation in Utah by the President. While the 1882 Executive Order was consistent with the 1880 Act, "[n]othing in the 1880 Act required" President Arthur to establish the Uncompahgre Reservation by Executive Order, as a majority of

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have invoked *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944). *See* U.S. Mem. at 16–23, 27–28; *infra* at 12-13. Thus, the Supreme Court's recent *Loper Bright* decision does not meaningfully impact the Court's analysis here other than to affirm the need to focus on the statutes. *See Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024) (overruling the holding of *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984), that courts should defer to agency interpretations of ambiguous statutory language in certain circumstances). *Loper Bright* was clear that although courts must exercise their independent judgment in interpreting statutes, they may continue to accord weight to agency interpretations consistent with their power to persuade, consistent with *Skidmore*. *See Loper Bright*, 144 S. Ct. at 2259, 2262, 2265, 2267.

the Tenth Circuit has noted. *Ute Indian Tribe v. Utah ("**Ute III**")*, 773 F.2d 1087, 1097 (10th Cir. 1985) (concurrence).

A President cannot convey compensable interest in land to a Tribe absent Congress delegating to the President the authority to do so. *Confederated Bands of Ute Indians v. United States*, 330 U.S. 169, 176 (1947). Plaintiff argues that *Karuk Tribe* does not undercut the Tribe's theory that the 1882 Executive Order conveyed compensable title. Tr.'s Reply at 14-15. While the Tribe is correct that *Karuk* does not stand for the general principle that an executive order can never provide compensable title, *Karuk* states that an Executive Order cannot convey an interest in public lands absent a clear and definite delegation in a congressional act. *Karuk Tribe of California v. Ammon*, 209 F.3d 1366, 1374-76 (Fed. Cir. 2000). Because the "Constitution places the authority to dispose of public lands exclusively in Congress," the president's power to convey any interest in public lands is thus restricted by Congress. *Sioux Tribe of Indians v. United States*, 316 U.S. 317, 326 (1942).

The United States recognized in its motion that "absent action under authority delegated by Congress for him to do so, the President cannot convey compensable interest in land to a Tribe." Memorandum in Support of Federal Defendants' Cross-Motion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment, ECF No. 103-1 ("***U.S. Mem.***") at 21. Because here, as in *Karuk*, there is no such Congressional delegation, the Tribe did not obtain compensable title in the Public Domain Lands through the Executive Order. U.S. Mem. at 16, 20. And Interior's determination that the 1880 Act did not provide the Tribe compensable title in Utah is consistent with the Supreme Court's reading of the statute:

> [t]here is not one word in that [1880] Act showing a congressional purpose to convey . . . any . . . lands[] to the Indians. On the contrary, the Act embodied a transaction whereby the Indians were the transferors and conveyed lands to the Government. For the value of lands so conveyed, and for no other, the Government was to make an account to the Indians after certain deductions had been made.

Confederated Bands of Ute Indians, 330 U.S. at 177.

There is nothing in the 1880 Act to suggest that section 3 of the Act applied to any future reservation the President may establish by executive order in Utah. Rather, the Act contemplated the potential for a reservation in Colorado near the Gunnison River in exchange for a reservation (also in Colorado) established by the 1868 Treaty. Uncompahgre_139-140 (1880 Act at § 1, 200). As the Supreme Court recognized, "[t]he only lands for which Congress agreed in 1880 to compensate the Indians were those 'the title to which' the Indians then 'released and conveyed to the United States." *Confederated Bands of Ute Indians*, 330 U.S. at 178. The Uncompahgre Band could only release and convey lands that then belonged it, and, at the time of 1880 Act, the original Uncompahgre Reservation in Utah had yet to be established. At the time, what later became the original Uncompahgre Reservation in Utah was an area of public domain in the Utah Territory. Uncompahgre_714-715 FN 84. The Uncompahgre Band could not have, under section 3 of the 1880 Act, "released and conveyed to the United States areas of land that were, at the time, already the United States' absolute property." *Id.* Rather, the payment provisions in section 3 of the 1880 Act are more properly understood as concerning the future disposition of Colorado lands that had been ceded under the provisions of the 1880 agreement and resulting 1880 Act. *Id.*

Therefore, section 3 of the 1880 Act does not provide the Tribe compensable title in the Public Domain Lands in Utah and Interior's denial of the Tribe's request to "restore" lands to trust status was based on a proper reading of the statute.

B. The 1897 Act opened unallotted lands for entry and did not provide compensable title to the Tribe.

As discussed above and in the United States' cross-motion, the 1880 Act did not provide the Tribe compensable title in the Public Domain Lands. But even if the Court were to agree with the Tribe that the 1880 Act provided it compensable title to the lands, the 1897 Act confirms that

the lands at issue are in the public domain, that the Tribe did not (after 1897) hold compensable title, and that Interior acted in accordance with the law in denying the Tribe's request to "restore" the Public Domain Lands to trust status under section 3 of the IRA.[3] U.S. Mem. at 22-23.

The Tribe argues that the 1897 Act has no bearing on whether it holds compensable title in the Public Domain Lands, and that the Court need only consider the 1880 Act. Tr.'s Reply at 12. Because subsequent Congressional acts can modify the effect of earlier statutes, *Brown & Williamson Tobacco*, 529 U.S. at 133, the 1897 Act is relevant to the Tribe's claim that the 1880 Act provided it compensable title in the Public Domain Lands. *Murphy v. I.R.S.* 493 F.3d 170, 180 (D.C. Cir. 2007) ("[T]he 'classic judicial task of reconciling many laws enacted over time, and getting them to 'make sense' in combination, necessarily assumes that the implications of a statute may be altered by the implications of a later statute.'") (quoting *United States v. Fausto*, 484 U.S. 439, 453 (1988)).

The 1897 Act states, in pertinent part, that

> all the lands of said Uncompahgre Reservation not therefore allotted in severalty to said Uncompahgre Utes shall, on and after the first day of April, eighteen hundred and ninety eight, be open for location and entry under all the land laws of the United States; excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances. And the title to all of the said lands containing gilsonite, asphalt, elaterite, or other like substances is reserved to the United States."

30 Stat. 62, 87.[4]

[3] For this reason, the Tribe is incorrect in contending that Federal Defendants would agree the Tribe prevails on its APA claim if the Court determines the 1880 Act provided the Tribe compensable title in the Public Domain Lands. Tr.'s Reply at 1-2.

[4] Uncompahgre_162 in the Administrative Record contains an excerpt from the 1897 Act but not all of the language included in the statute.

The 1897 Act specifically directed that the unallotted lands be open for entry under all federal land laws and did not provide the Tribe with any monetary benefit resulting from disposal of the unallotted lands. This statutory language is inconsistent with the idea that Congress had, in the 1880 Act, provided compensable title in the Public Domain Lands to the Tribe. Uncompahgre_459-466 at 466 ("the allotments to the Uncompahgres should be made under the acts of 1880, 1894, and 1897, giving controlling force to the later act where there is any difference in their provisions").[5] Indeed, the Uncompahgre Band members were required to pay for their own allotments at $1.25 an acre out of the proceeds from the sale of their Colorado lands. *Id.* In 1897, the United States' position was clear that even the band members who received allotments were required to pay for them. There is no logical interpretation of the statutes that could reach the conclusion that band members were required to pay for land for which they already had compensable title.

With the 1897 Act and the allotment of the Uncompahgre Reservation, "Congress was concerned solely with title and access to the unique mineral deposits found [in the lands]." *Ute III*, 773 F.2d at 1098 (concurrence). Congress "open[ed] for location and entry" this land under the laws of the United States, providing that the land was a part of the public domain, *see Hagen v. Utah*, 510 U.S. 399, 412 (1994) (public domain is government-owned land that is available for entry under the homestead laws or under general land laws) but made no mention of withholding proceeds for the Tribe's benefit or providing any other type of monetary interest to the Tribe from

[5] The Tribe states that the United States did not address its arguments from its opening brief regarding the 1887 Act. Tr.'s Reply at 11. The United States did address that statute in its cross-motion, *see* U.S. Mem. at 23 n.10, and to the extent the 1887 Act has any relevance here, the 1897 supersedes it.

the sale of unallotted land. *See* Uncompahgre_715. Congress' intent was that the Uncompahgre would not hold title to the land. *Ute III*, 773 F.2d at 1097.

Because the 1897 Act confirms that the Tribe did not hold compensable title in the Public Domain Lands, Interior's denial of the Tribe's request for restoration of the lands to trust status was not arbitrary or capricious.

C. The Indian canon of construction is inapplicable.

Perhaps recognizing that the statutes are contrary to the Tribe's desired reading, the Tribe turns to the Indian canon of construction. Tr.'s Reply at 9-10. But the effort fails. The statutes here are clear that Congress never provided the Tribe with a beneficial or compensable interest in the Public Domain Lands within the original Uncompahgre Reservation in Utah. The Indian canon "does not permit reliance on ambiguities that do not exist; nor does it permit disregard of the clearly expressed intent of Congress." *South Carolina v. Catawba Indian Tribe, Inc.*, 476 U.S. 498, 506 (1986). When there is no ambiguity in a statute, courts do not apply the Indian canon of construction. *Sault Ste. Marie Tribe of Chippewa Indians v. Haaland*, 25 F.4th 12, 21 n.7 (D.C. Cir. 2022). Nor does the Indian canon require a court to adopt a tribe's proffered reading simply because it is proffered by a tribe.

Here, the Tribe fails to identify any ambiguous provision that would require application of the Indian canons of construction. Rather, the Tribe asserts that the pertinent statues are "clear and unequivocal" and that "express language of the [1880] Act" provides the Tribe's right to proceeds from sale of the Public Domain Lands. Tr.'s Reply at 4, 6. The Tribe is correct that the statute is clear, but wrong on its reading as explained above.

II. The Tribe ignores later events that affect the status of the Public Domain Lands.

Not only does Congress' language in the 1897 Act confirm that Congress did not provide the Tribe a compensable interest in the public domain lands, but so do the later statutes and Interior actions. The Tribe fails to reconcile these acts with its argument in any meaningful way.

For one Interior has consistently—for at least ninety years—taken the position that additional legislation would be necessary to provide tribal ownership in the Public Domain Lands. A 1933 Secretarial order stated that the lands within the original Uncompahgre Reservation in Utah that were "not included in individual allotments were restored to the public domain," consistent with the Act of 1897. U.S. Mem. at 7, 9; Uncompahgre_467-460 ("***Grazing Withdrawal Order***"). The Grazing Withdrawal Order temporarily withdrew the Public Domain Lands from further disposition to allow for legislation that would make the withdrawal permanent. Uncompahgre_702; Uncompahgre_467-460.

Then, in 1945, Interior issued an order restoring lands within the Uintah Valley portion of the reservation to the Uintah and White River Ute bands under section 3 of the IRA. *See* U.S. Mem. at 8, 16; Uncompahgre_477; 10 Fed. Reg. 12,409 (Oct. 2, 1945). These lands had been open for allotment under the 1902 Act. Uncompahgre_477; 10 Fed. Reg. 12,409 (Oct. 2, 1945). But that order relied only on the 1902 allotment act, which specifically called for proceeds to be held for the Uintah and White River Ute bands' benefit, and did not identify the original Uncompahgre Reservation in Utah or the 1894 and 1897 Acts that opened that reservation to allotment and disposal. Uncompahgre_477; 10 Fed. Reg. 12,409 (Oct. 2, 1945). Congress' different position regarding the Uintah Valley Reservation evinces a Congressional understanding that Plaintiff did not hold compensable title to the Public Domain Lands. *Ute III*, 773 F.2d at 1097 at n.7; Uncompahgre_701 (citing H. Rpt No. 660, 53rd Cong., 2nd Sess. (1894) ("The rights of

the Indians upon the Uintah Valley Reservation differ from those of the Indians upon the Uncompahgre Reservation. The Uncompahgre Indians have no title to any of the lands within the [Uncompahgre] reservation [and have] nothing more than the privilege of temporary occupancy."); *see also* Uncompahgre_415.

Similarly, when Congress legislated in the 1948 Act to restore lands to tribal ownership, it extended the boundaries of the Uintah and Ouray Reservation only to encompass what was referred to as the "Hill Creek Extension" which was within the original Uncompahgre Reservation in Utah. U.S. Mem. at 9; 62 Stat. 72, 73-78 ("***1948 Act***"); *see also* Uncompahgre_191-197. The 1948 Act did not, however, extend to the entirety of the adjacent Public Domain Lands. To the contrary, the 1948 Act expressly revoked the Grazing Withdrawal Order, returning the remaining portion of the withdrawn Uncompahgre Reservation to the public domain, consistent with the 1897 Act. Uncomaphgre_196 at § 2.

Finally, the Tribe does not even mention the settlement of its previous ICC claims for breaches of the 1880 Agreement and 1880 Act and for land the United States allegedly took (via the 1897 Act) without compensation. U.S. Mem. at 9 (citing Uncompahgre_223-230) ("Defendant disposed of all lands in the Utah reservation for the Uncompahgre Utes . . . without just compensation to said Uncompahgre Utes . . . . In so dealing with the . . . Utah lands herein referred to, defendant acted . . . contrary to the purpose and intent of the 1880 agreement."). Not only did the Tribe receive $300,000 in compensation in settling those claims, but the Tribe also agreed that the settlement would dispose of all claims the Tribe asserted or could have asserted. Uncompahgre_704; *see also* Indian Claims Commission Act, 60 Stat. 1052, sec. 12 ("The Commission shall receive claims for a period of five years after the date of the approval of this Act [Aug. 13, 1946] and no claim existing before such date but not presented within such period may

thereafter be submitted to any court or administrative agency for consideration**,** nor will such claim thereafter be entertained by the Congress.") That settlement agreement also bars the Tribe from asserting such claims in any future action. Uncompahgre_704; Uncompahgre_662-684 at 664. Putting aside questions of res judicata, the ICC case evinces that even the Tribe understood that, as of the late-1950s it no longer held a compensable interest in the Public Domain Lands (if it ever had one).

The aforementioned legislation, orders, and settlement agreement all support Interior's denial of the Tribe's request for restoration.

III. Interior's reasoning was thorough, valid, and consistent with earlier decisions, and therefore *Skidmore* applies to Interior's denial of the Tribe's request.

Further, the Court should give weight to Interior's well-reasoned statutory reading, which has been consistent over time. The Supreme Court recently reiterated that Executive Branch statutory interpretations "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance," and that interpretations issued roughly "contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful." *Loper Bright*, 144 S. Ct. at 2258, 2259, 2262. As explained in the 2018 M-Opinion, our opening brief, and below, Interior has long held the statutory view that it now defends. We would therefore submit that this is a circumstance in which "courts may . . . seek aid from interpretations of those responsible for implementing particular statutes." *Id.* at 2262; *see also id.* at 2259 (citing *Skidmore*, 323 U.S. at 139–40) (explaining that "the 'interpretations and opinions' of the relevant agency, 'made in pursuance of official duty' and 'based upon . . . specialized experience,' 'constitute[d] a body of experience and informed judgment to which courts and litigants [could] properly resort for guidance,' even on legal questions.").

Plaintiff argues that *Skidmore* should not apply here, and that, even if it did, the doctrine is irrelevant to the Court's analysis. Tr.'s Reply at 9-10. The Tribe is incorrect. Courts can give considerable weight to agency interpretations of the statutes they administer when those interpretations are based on informed judgment. *Skidmore*, 323 U.S. at 140 ("The weight of [an agency's] judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, [and] its consistency with earlier and later pronouncements . . . ."). Interior's position on whether the lands at issue were in the public domain and that the Tribe did not hold compensable title has remained consistent over time. Indeed, Interior has twice previously refused to "restore" the Public Domain Lands to reservation status, once in 1935 and again in 1939. Uncompahgre_712. In 1935, the Secretary of the Interior noted in a letter to the Chairman of the Ute Tribal Business Committee that lands restored to the public domain under the 1897 Act were not of the class intended for restoration to tribal ownership under section 3 of the IRA and that additional legislation would be needed before that could be accomplished. U.S. Mem. at 10; Uncompahgre_686-87; Uncompahgre_709. In 1939, the Department reiterated its conclusion that the Public Domain Lands were not eligible for restoration under section 3 of the IRA. U.S. Mem. at 10; Uncomaphgre_694-695; Uncompahgre_710; *see also* Uncompahgre_706 FN 43. The Court should reach the same conclusion.

IV. Judicial review of any factual issues is limited to the administrative record.

The Tribe argues that support for its argument is not limited to the administrative record because their APA claim "presents an issue of law." Tr.'s Reply at 12-14. Defendants do not dispute that the Tribe can rely on statutes, cases, or legislative history in support of their APA claim (and the United States recognizes that there are sections of Cohen's Handbook included in the administrative record (*see, e.g.*, Uncompahgre_717-721)). But other sources the Tribe seemingly

relies on in arguing its APA claim are without citation to the record or are not in the record. The Tribe's reliance on non-APA cases to argue that it can rely on extra-record sources such as "scholarly books on history" is misplaced. Tr.'s Reply 12-14. The Tribe brought this claim under the APA, which limits reviews to the administrative record and the Court's review of Interior's decision should be based on that record. ECF No. 1 at ¶ 117; *Transp. Div. of the Int'l Ass'n of Sheet Metal, Air, Rail & Transp. Workers v. Fed. R.R. Admin.*, 10 F.4th 869, 878 (D.C. Cir. 2021).

CONCLUSION

Interior's decision to deny the Tribe's restoration request was based on a clear and long-held interpretation of the statutes at issue and is well-reasoned. Plaintiff fails to show otherwise. For the reasons discussed above and in Federal Defendants' memorandum in support of its cross-motion for summary judgment, the Court should grant Federal Defendants' motion, deny the Tribe's cross-motion for summary judgment, and enter final judgment for Federal Defendants.

Respectfully submitted this 19th day of July 2024.

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