No.

In the Supreme Court of the United States

J.R. SIMPLOT COMPANY, LLC, PETITIONER,

v.

SHOSHONE-BANNOCK TRIBES
OF THE FORT HALL RESERVATION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1701 *et seq.*, Congress established a comprehensive scheme for the management and disposal of federal lands, superseding a patchwork of thousands of land laws that had accumulated since the Founding. FLPMA applies to all "public lands," defined as "any land and interest in land owned by the United States within the several States and administered by * * * the Bureau of Land Management, without regard to how the United States acquired ownership." *Id.* § 1702(e). FLPMA authorizes the Bureau (*inter alia*) to exchange any "tract of public land" for non-federal lands under a uniform set of criteria and procedures. *Id.* § 1716(a).

The Ninth Circuit held, however, that a 1900 statute that ratified the original acquisition of public lands from an Indian tribe and authorized their disposal through certain listed methods barred the Bureau from exercising FLPMA's statutory authority for those lands. The court recognized that "it is clear that if the 1900 Act did not exist, FLPMA would permit disposal" here. App., *infra*, 14a. But it reasoned that Congress could not supplement the 1900 Act's initial enumeration of disposal methods—which are all now repealed or unavailable—without an express reference to that statute or those lands. The question presented is:

Whether the Bureau may exercise its authority under FLPMA to dispose of public lands by exchange notwithstanding an earlier federal statute that had expressly authorized the disposal of those lands only through specified methods.

PARTIES TO THE PROCEEDING AND RULE 29.6 DISCLOSURE STATEMENT

1. Petitioner J.R. Simplot Company was a defendant-intervenor in the district court and an appellant in the court of appeals. Respondent Shoshone-Bannock Tribes of the Fort Hall Reservation was a plaintiff in the district court and appellee in the court of appeals. The United States Department of the Interior, United States Bureau of Land Management, and the Principal Deputy Assistant Secretary for Land and Minerals Management (currently Lanny Erdos, automatically substituted for his predecessor while the case was in the court of appeals under Federal Rule of Appellate Procedure 43(c)(2)) were defendants in the district court and appellants in the court of appeals and are respondents in this Court pursuant to this Court's Rule 12.6.

2. J.R. Simplot Company is a Nevada limited-liability company that is wholly owned by The Simplot Company.*

The Simplot Company is not publicly traded and has no parent company, and no publicly held corporation owns 10% or more of its stock.

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* In September 2025, while the case was pending in the court of appeals, J.R. Simplot Company was converted from a Nevada corporation to a Nevada limited-liability company, which is a continuation of the same entity under Nev. Rev. Stat. § 92A.250(3).

RELATED PROCEEDINGS

United States District Court (D. Idaho):

Shoshone-Bannock Tribes of the Fort Hall Reservation v. *Daniel-Davis*, No. 20-cv-553 (June 30, 2023) (order amending summary-judgment ruling to certify interlocutory appeal)

United States Court of Appeals (9th Cir.):

Shoshone-Bannock Tribes of the Fort Hall Reservation v. *U.S. Department of the Interior*, Nos. 23-35543, 23-35544 (Aug. 22, 2025)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases: Page(s)

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INTRODUCTION

For the first two centuries after the Founding, Congress exercised its plenary authority over federal lands largely through a series of scattered statutes numbering in the thousands. Congress granted the Executive broad authority over the administration of public lands, but a disorganized, multilayered patchwork of ad hoc enactments proliferated. By the bicentennial, the Nation's public-land laws had become a convoluted tangle.

In 1976, Congress established a new comprehensive framework in the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 *et seq.* Congress enacted FLPMA to cut through the thicket of public-land laws by prescribing uniform substantive standards and procedures for federal lands. It applies to all "public lands," defined expansively and "without regard to how the United States acquired ownership." *Id.* § 1702(e). FLPMA empowers the Secretary of the Interior (through the Bureau of Land Management) to dispose of any tract of public land by sale or (relevant here) exchange for other lands, if the Secretary determines certain criteria are met. *Id.* §§ 1713, 1716.

In this case, the Bureau approved an exchange of public lands in Idaho under FLPMA for private lands owned by petitioner J.R. Simplot Company, finding that the exchange would serve the public interest. The exchanged public land would permit Simplot to continue operating a fertilizer plant, which has been important to the Nation's food security and local Pocatello economy since the 1940s. With the exchange, the plant can continue operating for decades—and in return the government gets nearby property it prefers. But *without* the exchange, the plant's lifespan will be cut short to a few years, needlessly undermining the Nation's food security and costing Idaho thousands of jobs and hundreds of millions of dollars in economic activity.

The Ninth Circuit's decision invalidating the Bureau's exchange with Simplot unravels Congress's careful work in crafting FLPMA's comprehensive scheme. The court held FLPMA's express authority was unavailable because a different statute, enacted three-quarters of a century before FLPMA, had authorized a narrower set of disposal methods when the United States first acquired the lands by tribal cession. In 1898, the government purchased nearly half a million acres, including the exchanged lands, from respondent Shoshone-Bannock Tribes of the Fort Hall Reservation. The government agreed that the Tribes could continue using the lands—but only so long as they remained in the public domain. When Congress ratified that acquisition in 1900, it began moving the ceded lands *out* of the public domain by authorizing their disposal "only" under a limited set of then-extant (but now repealed or unavailable) authorities. Later statutes authorized yet more disposal methods, culminating in FLPMA. Still, the Ninth Circuit held that, because FLPMA did not explicitly refer to that 1900 statute or these lands by name, the means of disposal listed in the 1900 statute remain exclusive (even though unavailable today) and that FLPMA's exchange authority is therefore off-limits.

That decision is profoundly wrong. FLPMA expressly and conclusively establishes the Bureau's authority to exchange public lands *without regard to how the United States acquired ownership*. The ceded lands here are undisputedly public lands. No earlier statute authorizing other disposal methods negates FLPMA's later-conferred authority. Congress in 1900 did not and constitutionally could not tie its successors' hands or mandate that they use magic words to expand the Executive's toolkit. Any superficial inconsistency must be resolved by giving effect to both statutes. As explained in Judge Bumatay's panel dissent and in dissents by Judges Collins and Tung from the denial of rehearing, courts must strive to *reconcile* putative conflicts between statutes, not *create* them. That is straightforward here: The 1900 law authorized one set of disposal methods, and FLPMA later added another. They thus confer "two independent ways to dispose of the land." App., *infra*, 39a (Bumatay, J., dissenting).

Instead of giving effect to both laws, the Ninth Circuit manufactured a conflict by reading the 1900 law to disable later disposal statutes *unless* they refer to the 1900 law or the property at issue by name. That name-checking requirement lacks any basis in precedent, misconceives courts' role in reconciling intersecting statutes, and undercuts Congress's primary goal of uniformity and predictability in administering public lands. And the court transformed the clear-statement rule for abrogation of tribal treaty rights—which has no application to the 1900 *statute*—into a license to disregard the express terms of both FLPMA and the Tribes' cession agreement, which contemplated that the government would dispose of the lands from the public domain.

The Ninth Circuit's erroneous decision—now entrenched by the denial of rehearing en banc—warrants this Court's review. The Ninth Circuit's approach to the interplay of FLPMA and prior land statutes conflicts with a decision of the D.C. Circuit that rejected as "implausible" the contention that a pre-FLPMA statute's limitations precluded the government from exercising new authority FLPMA added. *National Coal Ass'n* v. *Hodel*, 825 F.2d 523, 527 (D.C. Cir. 1987) (per curiam). Disagreement about a statute deliberately designed to create a uniform national framework should not be allowed to persist.

The practical consequences of the decision below are deeply harmful and destabilizing for management of public lands across the West. The 1900 law alone addressed 416,000 acres in Idaho—an area larger than the City of Los Angeles. The Ninth Circuit's interpretation leaves the government no ability to dispose of federal lands covered by that 1900 law *at all*. And the 1900 law is just one of many century-old enactments—at least 16 other tribal-cession statutes and five non-tribal land laws, enacted to address millions of acres—that fit the same pattern.

"[T]he consequence of the panel majority's erroneous ruling would be effectively to freeze the government's ability to dispose of those lands." App., *infra*, 138a (Tung, J., dissenting from denial of rehearing en banc).

The petition for a writ of certiorari should be granted.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-62a) is reported at 153 F.4th 748. The order of the court of appeals denying rehearing and opinions respecting that order (App., *infra*, 111a-143a) are reported at 173 F.4th 1012. The order of the district court on the parties' cross-motions for summary judgment (App., *infra*, 63a-104a) is not published in the Federal Supplement but is available at 2023 WL 2744123. The order of the district court certifying its summary-judgment order for interlocutory appeal (App., *infra*, 105a-108a) is not published in the Federal Supplement but is available at 2023 WL 5345102.

JURISDICTION

The judgment of the court of appeals was entered on August 22, 2025. Petitions for rehearing were denied on April 21, 2026 (App., *infra*, 112a). This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant provisions are reproduced in the appendix. App., *infra*, 144a-169a.

STATEMENT

A. FLPMA's Legal Framework

1. The Executive once managed roughly 450 million acres of federal lands under a patchwork of "some 3,000 public land laws." *Rocky Mountain Oil & Gas Ass'n* v. *Watt*, 696 F.2d 734, 737-738 & n.2 (10th Cir. 1982). Those laws were exercises of Congress's authority under the Property Clause to "dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." U.S. Const. Art. IV, § 3, Cl. 2. The Clause entrusts Congress with a "power over the public land" that "is without limitations." *Kleppe* v. *New Mexico*, 426 U.S. 529, 539 (1976) (citation omitted). Congress had wielded that power in a long series of enactments dating to the Founding that vested the Executive with "plenary authority over the administration of public lands." *Best* v. *Humboldt Placer Mining Co.*, 371 U.S. 334, 336 (1963).

By the mid-20th century, Congress came to recognize that the scattered and disorganized public-lands laws had become unwieldy and unpredictable. As it acknowledged (with understatement), existing laws governing public lands that "ha[d] developed over a long period of years" were not "fully correlated with each other" and were "inadequate to meet the current and future needs of the American people." Act of Sept. 19, 1964, Pub. L. No. 88-606, § 2, 78 Stat. 982. Deeming that "chaotic" status quo intolerable, Congress in 1964 created a commission to study existing land laws and to propose provisions that would rationalize the Executive's administration of public lands. *Lujan* v. *National Wildlife Federation*, 497 U.S. 871, 876 (1990).

2. That intense congressional inquiry culminated in 1976 with FLPMA. FLPMA overhauled the rabbit warren of parochial provisions with a "uniform" scheme for disposing of public lands (including by "exchange" for non-federal lands). 43 U.S.C. § 1701(a)(10).

Congress made FLPMA comprehensive by defining the "public lands" subject to its framework broadly to include "*any* land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, *without regard* to how the United States acquired ownership." 43 U.S.C. § 1702(e) (emphases added). That deliberately capacious definition has only two exceptions. One excludes "lands located on the Outer Continental Shelf," *id.* § 1702(e)(1), which are governed by a special statutory scheme, see *id.* § 1331 *et seq.*; *Parker Drilling Management Services, Ltd.* v. *Newton*, 587 U.S. 601, 606-607 (2019). The other carves out "lands held for the benefit of Indians, Aleuts, and Eskimos." 43 U.S.C. § 1702(e)(2).

FLPMA authorizes the Bureau to divest public lands by "sale," 43 U.S.C. § 1713(a), or (relevant here) "by exchange," *id.* § 1716(a). Section 1716 empowers the Bureau to "dispos[e]" of any "tract of public land or interests therein" by conducting a land "exchange" with other parties. *Ibid.* The agency may conduct an exchange so long as it finds that the "public interest will be well served" by the exchange and that the exchanged lands are of equal value (or subject to "equalization") based on an independent appraisal. *Id.* § 1716(a), (b), (d)(1). Such exchanges promote "more efficient management" and serve many "important" ends, including "the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs." Federal Land Exchange Facilitation Act, Pub. L. No. 100-409, § 2(a)(1), 102 Stat. 1086 (1988).

B. The Present Controversy

1. During World War II, Simplot was the lead supplier of dehydrated potatoes to the Armed Forces. Simplot understood the importance of high-quality fertilizer to the war effort and constructed a phosphate plant (the Don Plant) near Pocatello, Idaho, which began processing that key fertilizer ingredient by the end of 1944. App., *infra*, 4a. The Don Plant has since been a backbone of the local economy and today accounts for 5-6% of all phosphate-fertilizer production capacity in the United States and around half of Simplot's total. Congressional Research Service, *Consolidation of U.S. Fertilizer Production Since 2014 and Implications for U.S. Agricultural Producers* 7-8 (Dec. 22, 2025).

In 1994, Simplot proposed an exchange under FLPMA to acquire an adjacent, roughly 700-acre parcel of federal land bordering the Don Plant that is managed by the Bureau. Simplot needs that land to store and manage a manufacturing byproduct called phosphogypsum (or gypsum). App., *infra*, 4a-5a. Because of its mineral content, gypsum generally cannot be disposed of offsite; Simplot must store it nearby in a facility called a gypsum stack (or gypstack). *Id.* at 33a. Given Simplot's long-term ore reserves, expanding the gypstack would enable the Plant to continue operating into the 2080s. *Ibid.* But without the exchange, the Plant will stop operating once it reaches storage capacity, which Simplot has estimated could occur as soon as 2031. *Id.* at 5a.

The federal land in the proposed exchange was once part of respondent Tribes' Fort Hall Reservation, established shortly after the Civil War under the Fort Bridger Treaty, Art. II, 15 Stat. 674 (1868). App., *infra*, 3a. But it has not been tribal land since the late 19th century. In 1898, the Tribes agreed to cede a portion of the Reservation—including the parcel at issue—outright to the United States in exchange for a fixed sum. 1898 Agreement Arts. I-II, 31 Stat. 672-673. The agreement granted the Tribes certain rights to use the ceded lands, but only "[s]o long as [the ceded lands] remain part of the public domain." Art. IV, 31 Stat. 674. The 1898 Agreement said nothing about the government's ability to dispose of the ceded lands thereafter. Congress ratified the agreement in 1900. Act of June 6, 1900, ch. 813, § 1, 31 Stat. 675 (1900 Act).

The 1900 Act also addressed a question on which the 1898 Agreement had been silent: how the government would open the acquired land to development and settlement. Section 5 stated that the ceded lands "shall be subject to disposal under the homestead, townsite, stone and timber, and mining laws of the United States only." § 5, 31 Stat. 676. Many statutes in that period similarly authorized initial entry and settlement under homestead or other disposal laws to facilitate private settlement of ceded Indian reservation lands and abandoned military reservation lands. App., *infra*, 161a-168a; see, *e.g.*, *Rosebud Sioux Tribe* v. *Kneip*, 430 U.S. 584, 602 (1977); see also App., *infra*, 136a-138a & nn.3-4 (Tung, J., dissenting from denial of rehearing en banc) (collecting authorities).

Time did not stop in 1900. Congress soon supplemented the initial set of disposal methods for the ceded lands. For example, Congress extended just to those lands an existing law allowing sales of isolated tracts at public auctions. Act of May 19, 1926, ch. 337, 44 Stat. 566 (1926 Act). Congress also gave the Executive authority to sell desert lands to settlers who irrigated them. Act of May 4, 1932, ch. 164, 47 Stat. 146.

Congress also amended relevant laws in the opposite direction. In both pre-FLPMA laws and FLPMA itself, Congress ultimately emptied nearly all of the 1900 Act's initial set of disposal methods by repealing the homestead, townsite, and stone and timber laws, as well as the 1926 isolated-tract law (which applied only to the ceded Fort Hall lands). FLPMA §§ 702, 703(a), 90 Stat. 2787-2791; Act of Aug. 1, 1955, Pub. L. No. 84-206, 69 Stat. 434. The mining laws have been unavailable since the 1990s due to a statutory moratorium. App., *infra*, 6a n.6. Thus, the only methods of disposal that remain today for the ceded lands are FLPMA's, 43 U.S.C. §§ 1713, 1716, and sales to irrigating settlers under the desert-lands laws (which FLPMA preserved), *id.* § 1713(b).

In 2009, the Bureau approved a prior version of the exchange under FLPMA. 2011 WL 1743656, at *2-*7 (D. Idaho May 3, 2011). The Tribes—which had not owned the ceded lands for more than a century—sued the Bureau in 2010 to challenge that exchange. Their suit did not contest the Bureau's authority under FLPMA to approve the exchange of the ceded lands. They claimed instead that the Bureau failed to take a sufficiently hard look at the exchange under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* The district court agreed and ordered the Bureau to prepare an environmental impact statement. 2011 WL 1743656, at *12; see App., *infra*, 4a n.3.

2. In 2020, after producing a 180-page environmental analysis (based on a 60,000-page record), the Bureau

again approved the exchange. App., *infra*, 68a; see Simplot C.A. E.R. 608, 688-867. In return for a 713-acre parcel of federal land adjacent to the Don Plant, the Bureau would receive two plots of private land totaling 826 acres, plus a land donation Simplot would arrange to the Bureau of Indian Affairs (or to the Tribes directly). App., *infra*, 68a. The exchange promised a "net *gain* of 113 acres of lands available for exercise of off-reservation tribal treaty rights." *Id.* at 34a (Bumatay, J., dissenting).

The Tribes again challenged the exchange's compliance with FLPMA and NEPA. App., *infra*, 7a. For the first time, the Tribes also argued that the 1900 Act barred the Bureau from exchanging the ceded lands under FLPMA at all. They contended that the word "only" in Section 5 of the 1900 Act limited the Executive to disposing of the ceded lands under the categories of laws that provision enumerated—the long-obsolete homestead, townsite, stone and timber, and mining laws—thus forbidding the Bureau from disposing of the lands under FLPMA's framework. *Id.* at 6a. Simplot intervened to support the exchange. *Id.* at 7a.

The district court granted summary judgment in relevant part to the Tribes. App., *infra*, 70a-104a. The court agreed with the Tribes that the word "only" in Section 5 made the methods listed in the 1900 Act the "exclusive means of lawful disposal," even though "Congress has repealed nearly all the homestead, townsite, stone and timber, and mining laws." *Id.* at 71a-72a. As the court recognized, its interpretation means that "the federal government does not currently have a viable method for disposing of the ceded lands." *Id.* at 72a. The court also rejected most of the Tribes' FLPMA and NEPA claims, but it sustained their arguments that the Bureau had not performed a proper appraisal of land value, erred in making aspects of its determination that the exchange served the public interest across two documents, and did not take a hard enough look in its NEPA analysis at Simplot's potential future design plans for its Plant. *Id.* at 76a-104a.

The district court certified its order for immediate appeal under 28 U.S.C. § 1292(b), recognizing that deciding whether and, if so, how to unwind the exchange presents thorny remedial issues. App., *infra*, 107a-108a. The Ninth Circuit granted permission to appeal. *Id.* at 110a.

3. A divided panel of the Ninth Circuit affirmed. App., *infra*, 2a-62a.

a. The majority held that the 1900 Act bars the Bureau from approving the exchange under FLPMA. App., *infra*, 2a-31a. The majority acknowledged that "it is clear that if the 1900 Act did not exist, FLPMA would permit disposal of the ceded Fort Hall lands" because of its broad definition of "public lands." *Id.* at 14a-15a. The majority observed that the only two exceptions to that definition are undisputedly inapplicable. *Id.* at 6a n.5. But the majority reasoned that the word "only" in Section 5 of the 1900 Act made the methods that provision authorized the *exclusive* ways to dispose of the ceded lands. *Id.* at 8a-9a.

The majority stated that applying FLPMA as an independent disposal method would "*functionally* repeal the 1900 Act's disposal restrictions by broadly enabling disposal of the ceded lands for purposes far outside those * * * listed in Section 5," App., *infra*, 18a (emphasis added), even though Congress did not expressly repeal Section 5 and stated its intent not to repeal statutes by implication, see *id.* at 15a-16a. The majority acknowledged that Congress had authorized various other disposal methods for the lands throughout the 20th century, but it held that Congress could "properly add to Section 5's disposal options" solely by "specifically refer[ring] to the ceded Fort Hall lands." *Id.* at 16a-17a. Because "FLPMA did not reference the 1900 Act or name the ceded Fort Hall lands," the majority held, the Bureau could not invoke FLPMA's exchange authority. *Id.* at 17a-18a. The majority also invoked the principle that Congress must speak clearly to abrogate tribal treaty rights—here, rights of the Tribes under the 1898 Agreement to use the ceded lands "[s]o long as [they] remain part of the public domain." *Id.* at 3a (citation omitted); see *id.* at 25a-28a. It did not reach any other ground on which the district court had held the exchange invalid. *Id.* at 31a.

b. Judge Bumatay dissented. App., *infra*, 31a-62a. He saw "no reason to read a conflict between" FLPMA and the 1900 Act, which coexist as independent disposal methods. *Id.* at 41a. He explained that "FLPMA governs the land exchange" because its broad definition of "'public lands' * * * governs *all* public lands no matter how the land came into the possession of the federal government—including cession from Indian tribes." *Id.* at 36a-37a. Although Congress initially authorized disposal through the four methods listed in the 1900 Act, Congress remained "free to create new paths for disposal of public lands, including the ceded lands." *Id.* at 40a. He thus interpreted the 1900 Act as "one independent, but non-exclusive, grant of authority" that operates alongside later grants, including FLPMA. *Ibid.* As Judge Bumatay summarized, Congress "gave the federal government the statutory equivalent of a Ford Model T" in 1900 but then "bought the federal government" a new, "sleek Mustang" (FLPMA) in 1976. *Id.* at 41a. The Executive, he concluded, can drive the new

Mustang even if the old Model T "still sit[s] in the garage." *Ibid.*

Judge Bumatay disagreed with each of the majority's rationales for interpreting the 1900 Act to displace FLPMA. He explained that "giving FLPMA full effect" as an independent grant of disposal authority does not "implicitly repeal the 1900 Act." App., *infra*, 47a. He also warned that the majority's requirement of an express reference to the 1900 Act or the ceded lands "raise[s] significant constitutional questions" by interpreting the word "only" as though "the 1900 Congress barred the 1976 Congress from fully exercising its legislative power." *Id.* at 42a-43a (citing *Dorsey* v. *United States*, 567 U.S. 260, 274 (2012)). And Judge Bumatay observed that the clear-statement rule for abrogating treaty rights had no work to perform here because the Tribes' rights by their own terms applied only "so long as any of the ceded Fort Hall lands remain part of the public domain." *Id.* at 51a (quoting 1898 Agreement Art. IV, 31 Stat. 674) (brackets omitted).

Judge Bumatay would have reversed in full because the district court erred on each alternative ground on which it ruled for the Tribes. App., *infra*, 54a-62a.

4. The Ninth Circuit denied the government's and Simplot's petitions for rehearing en banc, over dissents joined by seven judges.

Judge Collins's dissent observed that "three undisputed or indisputable premises" establish that the Bureau could exchange the ceded lands under FLPMA. App., *infra*, 113a; see *id.* at 112a-117a. First, "the plain text of the FLPMA, considered by itself, authorizes the exchange" because the definition of "public lands" encompasses the ceded lands. *Id.* at 113a. Second, he noted the majority's agreement that, despite the word "only," "the exclusivity of § 5's list of authorized disposal methods was vitiated by subsequent statutes that unambiguously authorized additional means of disposing of ceded Fort Hall lands" even before FLPMA—including by the 1926 law that extended a public-auction authority specifically to the ceded lands. *Id.* at 113a-114a. Third, Congress enacted FLPMA "to establish 'uniform procedures for any disposal of public land'" and repealed the 1926 disposal law to clear the path to uniformity in disposing of the ceded lands along with all other public lands. *Id.* at 114a. Judge Collins concluded that the panel majority "plainly erred" in resolving an "important question" that would have "potentially significant ramifications for other cases." *Id.* at 112a, 117a.

Judge Tung's separate dissent—joined by Judges Callahan, Bennett, R. Nelson, Bumatay, and VanDyke—explained that the panel majority's approach flouted this Court's "instruction that," where two statutes apply to the same subject matter, "courts must 'strive to give effect to both [statutes].'" App., *infra*, 127a-128a (citing *Epic Systems Corp.* v. *Lewis*, 584 U.S. 497, 510 (2018)) (brackets in original); see *id.* at 117a-138a. Here, FLPMA and the 1900 Act can "coexist easily" as independent sources of exchange authority without "displac[ing] [each] other." *Id.* at 128a. The 1900 Act's use of the word "only" served merely to "exclude preexisting disposal laws from application"—not to "preclude a later Congress from adding new ways of disposing of the land." *Id.* at 127a. In holding otherwise, he concluded, the panel majority had failed to "respec[t] the rule that an earlier Congress cannot bar a later Congress from adding other means of disposal." *Id.* at 119a.

Judge Tung cautioned that the panel decision would have "highly unusual implications" beyond this case: It would "severely hamper the federal government's ability to administer its lands." App., *infra*, 121a, 136a. He identified "at least twenty-two statute[s] phrased similarly to the 1900 Act" that, if read the same way, would "effectively freeze the sale or exchange of large portions of public land throughout this circuit and beyond." *Id.* at 121a. The affected lands would be left "trap[ped] * * * in frontier amber," "flip[ping]" FLPMA "on its head." *Id.* at 138a.

The panel majority filed a statement that reiterated their view that the word "only" in the 1900 Act precludes the use of FLPMA to dispose of the lands at issue. App., *infra*, 140a-143a. Judge Tung filed a separate response, faulting the majority for refusing to read the two statutes as "compatible" with each other. *Id.* at 139a-140a.

REASONS FOR GRANTING THE PETITION

The decision below warrants this Court's review. The Ninth Circuit acknowledged that "it is clear" the exchange in this case comes within FLPMA's plain text. App., *infra*, 14a. But it refused to give effect to FLPMA because of basic errors of statutory interpretation. Defying its duty to avoid (not manufacture) statutory conflicts by harmonizing FLPMA and the 1900 Act, the court read the 1900 Act's initial enumeration of certain then-extant (but long-obsolete) disposal methods as exclusive unless and until that provision is repealed. The court then held that no subsequent statute—even a comprehensive overhaul of two centuries' worth of public-land laws—could displace the 1900 Act's supposedly permanent exclusivity unless the later statute name-checked the 1900 Act or the ceded lands. That magic-words requirement of the panel majority's invention flouts first principles and this Court's precedent.

The court of appeals' errors create other conflicts that amplify the need for review. By distorting both the 1900 Act and FLPMA, the Ninth Circuit entrenched the perceived policy preferences of the 1900 Congress against the views of both the 1976 Congress and the Executive that approved the exchange in 2020. And its decision creates a rift with the D.C. Circuit, which has emphatically rejected as "implausible" the notion that a pre-FLPMA statute allowing for disposal "only" through certain methods overrides FLPMA's later-granted exchange authority. *National Coal Association* v. *Hodel*, 825 F.2d 523, 527 (D.C. Cir. 1987) (per curiam).

The practical importance of the question presented cements the need for review. The decision below lays waste to FLPMA's uniform scheme, effectively nullifying an important federal statute in many of its applications. The ruling eviscerates the Executive's express statutory authority to dispose of the many thousands of acres the 1900 Act covers, leaving the federal government no means to dispose of those federal lands. The Ninth Circuit's reasoning also could prevent the disposal of public lands addressed by more than 20 other statutes "phrased similarly to the 1900 Act." App., *infra*, 121a (Tung, J., dissenting from denial of rehearing en banc); see *id.* at 161a-169a. That translates to serious real-world harm. Because every exchange the Executive approves must well serve the public interest, each exchange invalidated (or forgone) based on the decision below means public benefits forgone. This Court should grant review and reverse.

I. THE DECISION BELOW CONFLICTS WITH THIS COURT'S DECISIONS

FLPMA's plain terms authorize the exchange that the Bureau approved. As the Ninth Circuit acknowledged, "it is clear that if the 1900 Act did not exist, FLPMA would permit disposal of the ceded Fort Hall lands." App., *infra*, 14a. But the court read the 1900 Act to require ignoring later-enacted federal laws granting the Executive additional land-disposal authority *unless* the subsequent statute satisfies a Simon-says test. That decision contravenes this Court's teaching.

A. FLPMA expressly empowers the Bureau to exchange "public land" for equivalently valued private land when the agency determines that the exchange will "well serv[e]" the "public interest." 43 U.S.C. § 1716(a). The federal land in the exchange is undisputedly "public land," which FLPMA defines as "*any* land and interest in land owned by the United States within the several States and administered by [the Bureau], *without regard to how the United States acquired ownership*"—including, as here, by tribal cession. *Id.* § 1702(e) (emphases added). The only two exceptions to that definition—lands on the Outer Continental Shelf and lands currently held in trust for tribes—are indisputably irrelevant, and their narrow scope underscores the breadth of the "public land" definition. App., *infra*, 6a n.5; *id.* at 37a (Bumatay, J., dissenting). And the Bureau determined that this exchange would well serve the public interest—a finding the court below did not question. Simplot C.A. E.R. 590-608. FLPMA thus authorizes the exchange. "It's that simple." App., *infra*, 32a (Bumatay, J., dissenting).

B. The Ninth Circuit's contrary holding rests entirely on the 1900 Act, which it read to disable in advance exercises of authority granted decades later by FLPMA. The panel majority reasoned that (1) the word "only" in the 1900 Act made the initial disposal methods it enumerated exclusive irrespective of later laws; (2) that supposed exclusivity could be displaced only by express or implied repeal; (3) short of an express repeal, a subsequent statute like FLPMA could not override the 1900 Act unless it referred expressly to that law or the ceded lands by name; and (4) any doubt must be resolved in favor of the 1900 Act, and against giving effect to FLPMA, under the clear-statement rule for abrogating tribal treaty rights. Every step in that reasoning is fundamentally mistaken.

1. The 1900 Act could not and did not negate in advance the authority that Congress granted decades later in FLPMA. The Constitution does not allow "statutes enacted by one Congress" to "bind a later Congress." *Dorsey* v. *United States*, 567 U.S. 260, 274 (2012) (citing *Fletcher* v. *Peck*, 10 U.S. (6 Cranch) 87, 135 (1810)); see *Exxon Mobil Corp.* v. *Corporación CIMEX, S.A. (Cuba)*, 146 S. Ct. 1909, 1917 (2026). If the 1900 Congress had *tried* to tie its successors' hands, it would have failed. But the 1900 Act attempted no such thing.

The 1900 Act does not purport to preclude the Executive from exercising additional authority Congress might confer in subsequent statutes. After all, the 1898 Agreement that the 1900 Act ratified said nothing about subsequent disposal of the lands the Tribes were selling. The Tribes did not bargain for any particular set of disposal methods. It simply was not a deal point. Instead, the Tribes ceded the lands "outright" (in exchange for a one-time payment), leaving to "Congress and [Interior] to dispose of the same in such manner as may be determined." S. Doc. No. 169, 55th Cong., 2d Sess. 11 (1898).

Congress later chose to authorize an initial set of then-prevailing methods for the disposal of ceded lands: "the homestead, townsite, stone and timber, and mining laws of the United States only." 1900 Act § 5, 31 Stat. 676.

The Ninth Circuit seized on the word "only," but that lone word does not come close to making the 1900 Act's initial methods exclusive even as to later, supplementary grants of statutory authority. "Only" most naturally modifies the phrase "laws of the United States" that immediately precedes it—not the whole list of disposal methods—and thus makes clear that federal, not state, law governed disposal of the lands. See *Barnhart* v. *Thomas*, 540 U.S. 20, 26 (2003). Language later in the same sentence applying state law to particular tracts confirms that conclusion. 1900 Act § 5, 31 Stat. 676 (subjecting "the sixteenth and thirty-sixth sections in each Congressional township" to "the laws of Idaho").

Even assuming the Ninth Circuit's premise that "only" in the 1900 Act made the specific federal statutes enumerated exclusive at that time, it does not follow that the 1900 Act purported to foreclose FLPMA's subsequent grant of additional authority. As the Court has long explained, "[w]hen two statutes complement each other," both should be given effect; it would contravene the "congressional design" to conclude that "Congress nonetheless intended one federal statute to preclude the operation of the other." *POM Wonderful LLC* v. *Coca-Cola Co.*, 573 U.S. 102, 115 (2014); see, *e.g.*, *Ex parte Yerger*, 75 U.S. (8 Wall.) 85, 105-106 (1868). FLPMA and the 1900 Act thus operate as "two independent ways to dispose of the land involved in the exchange," allowing the Bureau to "follow either." App., *infra*, 39a (Bumatay, J., dissenting); see *id.* at 119a (opinion of Tung, J.). A statute that authorizes "disposal methods A, B, and C only" for certain lands does not preclude later legislation that authorizes "method D" for those same lands.

Congress itself never deemed the word "only" in the 1900 Act as disabling or restricting future legislation conferring additional authority. Beginning just a few years later and continuing for decades, Congress repeatedly augmented the initial set of disposal methods, including in the 1926 Act, which applied just to these ceded lands. App., *infra*, 40a (Bumatay, J., dissenting). The 1926 Act extended *solely* to the Fort Hall lands existing authority allowing public auctions. See pp. 9-10, *supra*. Such later disposal statutes reflect that the 1900 Act has never barred later additions to the Executive's disposal authority.

Congress further refuted the court of appeals' premise that the 1900 Act's enumeration of methods was frozen forever by repealing some (but not all) of those methods even as it established new, independent ones. FLPMA itself repealed half of the 1900 Act's initial set: the homestead and townsite laws. §§ 702, 703(a), 90 Stat. 2787-2791. And FLPMA repealed the 1926 Act extending an additional disposal method exclusively to the ceded lands, § 703(a), 90 Stat. 2790, "explicitly replac[ing] th[at] additional disposal authority granted under the 1926 Act with the general disposal authority conferred under" FLPMA, App., *infra*, 114a (Collins, J., dissenting from denial of rehearing en banc). Congress thus supplemented the 1900 Act's initial list and then targeted the intervening 1926 addition for replacement by FLPMA's new framework. Congress demonstrably had not "somehow forgot[ten]" that the former Fort Hall lands "exis[t]." *Exxon*, 146 S. Ct. at 1921; see App., *infra*, 45a-47a (Bumatay, J., dissenting); *id.* at 114a (opinion of Collins, J.).

There might be room for debate over what effect the word "only" had on the Executive's authority over public lands the moment President McKinley signed the 1900 Act into law. But that debate is irrelevant to the question here of what statutory authority the Executive could exercise in 2020. First principles, precedent, and Congress's actions over the ensuing decades all confirm that the land-exchange authority FLPMA expressly confers was and is fully available. Neither the word "only" nor anything else in the 1900 Act could or did contradict that conclusion.

2. Having misread the 1900 Act to imbue the initial methods with permanent "exclusivity," the Ninth Circuit erroneously held that giving effect to FLPMA's grant of additional, freestanding disposal authority would "functionally repeal the 1900 Act's disposal restrictions"—a result it deemed forbidden by FLPMA's disclaimer of "repeal[ing] any existing law by implication." App., *infra*, 14a-15a, 18a (quoting § 701(f), 90 Stat. 2786). But any effect of FLPMA on the 1900 Act is neither a repeal nor implied.

In authorizing land exchanges in FLPMA, Congress was not engaged in *subtraction* via repeal, but *addition*. FLPMA provided a "related but separate gran[t] of authority" that allows the federal government to dispose of the land via additional methods alongside those means authorized in the 1900 Act. App., *infra*, 128a (opinion of Tung, J.). Consider again a hypothetical statute that authorizes "disposal methods A, B, and C only" and a later law that authorizes "method D." The second statute overrides the first solely to the extent that the first law had initially made A-C exclusive. The second statute supplements that once-exhaustive list by conferring "overlap[ping]" yet independent authority. *Connecticut*

National Bank v. *Germain*, 503 U.S. 249, 253 (1992). "Congress didn't need to expressly repeal the 1900 Act" to achieve its end of enlarging Interior's disposal authority. App., *infra*, 47a (Bumatay, J., dissenting).

The Ninth Circuit went astray because it strained to create a conflict between the 1900 Act and FLPMA. Courts faced with two statutes that speak to the same situation in different ways—here, authorizing different tools to dispose of the same land—must presume that they coexist unless a conflict is irreconcilable. "[C]ourts are 'not at liberty to pick and choose among congressional enactments' but 'must instead strive to give effect to both.'" App., *infra*, 118a (opinion of Tung, J.) (quoting *Epic Systems Corp.* v. *Lewis*, 584 U.S. 497, 510 (2018)) (other internal quotation marks omitted). Here, there is "no 'clear repugnancy' between the two statutes" that "requir[es] a choice between one or the other." *Id.* at 47a (Bumatay, J., dissenting) (quoting *Georgia* v. *Pennsylvania Railroad Co.*, 324 U.S. 439, 456-457 (1945)). Both statutes authorize enumerated disposal methods. The Ninth Circuit could and should have given effect to each.

This Court has repeatedly rejected arguments that applying a later-enacted statute by its terms amounts to a "functiona[l] repeal" of an earlier statute. App., *infra*, 18a. In *Exxon*, for example, the Court recently parried a similar invocation of the "canon against implied repeal." 146 S. Ct. at 1923. The Court explained that "the implied-repeal canon does not apply" when the express language of a "standalone" statute covers a case. *Ibid.* And in *Department of Homeland Security* v. *MacLean*, 574 U.S. 383 (2015), the Court refused to blend together restrictions in two distinct statutes, explaining that applying Statute A straight-up "is not the same as saying that [Statute A] implicitly repealed" part of Statute B. *Id.* at 398. The same is true here.

Even if one could describe the 1900 Act's loss of "exclusivity" as a repeal, there was nothing *implied* about it. The only inconsistency between the 1900 Act and FLPMA is that the former authorized certain disposal methods while FLPMA on its face added more. Congress had already abrogated the 1900 Act's exclusivity many times over with subsequent legislation. App., *infra*, 113a (opinion of Collins, J.). And the unmistakable import of FLPMA's *explicit* language is likewise that the new disposal methods FLPMA authorized are available.

In short, the Ninth Circuit transformed the canon against implied repeals from a shield to protect earlier laws from inadvertent abrogation into a sword to smite later statutes. Congress made FLPMA comprehensive by including just two, narrow exceptions to its definition of public lands: the Outer Continental Shelf and tribal-trust lands. The Ninth Circuit invented a "third exception" not found in FLPMA's text. App., *infra*, 128a-129a (opinion of Tung, J.). And that new exception makes central what the definition expressly says is irrelevant: "how the United States acquired ownership." 43 U.S.C. § 1702(e). The decision below amounts to something much worse than implied repeal by a later statute: a judicial repeal of FLPMA's text in many of its applications.

3. The Ninth Circuit dug its hole even deeper by inventing an arbitrary litmus test that a later statute like FLPMA must meet to be given effect in the face of the 1900 Act. Pointing to "several" post-1900 disposal laws that "specifically refer[red] to the ceded Fort Hall lands," the court divined that Congress could add disposal methods to the initial set only by "referenc[ing] the

1900 Act or nam[ing] the ceded Fort Hall lands." App., *infra*, 16a-17a.

That name-checking requirement conflicts with this Court's decisions. Just as one Congress cannot handcuff its successors, this Court's "precedents forbid" one Congress to "impose a magic-words test" on another. App., *infra*, 139a (opinion of Tung, J.) (citing *Marcello* v. *Bonds*, 349 U.S. 302, 310 (1955); *Great Northern Railway Co.* v. *United States*, 208 U.S. 452, 465 (1908)). Even when a statute purports to prevent a later Congress from legislating on a topic unless it uses an "'express' statement" (which is not remotely true of the 1900 Act), Congress need not "use any 'magical passwords' to exempt a later statute from the provision," so long as the "'plain import'" is that the later statute governs. *Dorsey*, 567 U.S. at 274 (citations omitted). The plain import of FLPMA's text is that the Bureau can exchange any public land "without regard to how the United States acquired ownership," including by tribal cession. 43 U.S.C. § 1702(e). No magic words are required.

The Ninth Circuit tried to cabin that rule to instances where one Congress tries to bind a later one "to some *procedure* selected by an earlier Congress." App., *infra*, 30a (emphasis added). But that limitation was pulled out of thin air. The same principle applies to statutes that try to bind future Congresses on the substance of lawmaking. In *Reichelderfer* v. *Quinn*, 287 U.S. 315 (1932), for example, this Court explained that a law that had "'perpetually dedicated'" public land for use as a park "expressed no more than the will of a particular Congress which does not impose itself upon those to follow in succeeding years." *Id.* at 317-318. Here, too, any initial exclusivity of the 1900 Act's disposal methods did not "imply a promise" that those methods would be exclusive forevermore. *Id.* at 321. The 1900 Congress could not require that the 1976 Congress expressly refer to the ceded Fort Hall lands to supplement the initial set of disposal methods—whether one characterizes that Simon-says rule as substantive or procedural.

The Ninth Circuit's express-reference requirement is especially incongruous here. As Judge Collins observed, the "entire purpose of FLPMA * * * was to replace the patchwork of literally hundreds of specific authorities with a general set of 'uniform procedures for any disposal of public land.'" App., *infra*, 115a (quoting 43 U.S.C. § 1701(a)(10)); accord *id.* at 138a (opinion of Tung, J.). Congress went through the trouble of expressly repealing the subset of public-lands laws (roughly 250 of more than 3,000) that, if left standing, could have fractured FLPMA's uniform scheme. FLPMA §§ 702-703, 90 Stat. 2787-2791. But refusing to apply FLPMA until Congress finds and uproots by name even *obsolete* statutes like Section 5 of the 1900 Act would devastate that objective of securing uniformity.

4. The Ninth Circuit sought to backstop its baseless express-reference rule by invoking a clear-statement rule for abrogating tribal-treaty rights. App., *infra*, 26a-28a, 30a-31a. Whatever the force of that canon in other contexts, it has no role to play here. *No* rights protected by any treaty are at stake, and FLPMA would overcome a clear-statement rule in any event.

This Court has held that "Congress 'must clearly express' any intent to abrogate Indian treaty rights." *Herrera* v. *Wyoming*, 587 U.S. 329, 340 (2019) (citation omitted). But the Tribes have no treaty rights relevant to how the government disposes of the ceded lands. In the 1898 Agreement that the 1900 Act ratified, the Tribes sold the lands to the government outright and did not bargain for any limitation on the lands' later disposal. The government agreed only that the Tribes could cut timber and pasture livestock on the ceded lands "so long as any of the [lands] remain part of the public domain." Art. IV, 31 Stat. 674. Any supposed loss of rights thus flows from a "termination point identified in the treaty itself." *Herrera*, 587 U.S. at 341. The Tribes got exactly what they bargained for: use of the lands for however long the government chose to keep them.

The Ninth Circuit transformed that expressly contingent right to use ceded lands *while* they are public lands into a dead-hand grip on federal public-land policy forcing the government to *keep* land in federal ownership. But "Indian treaties cannot be rewritten or expanded beyond their clear terms." *Arizona* v. *Navajo Nation*, 599 U.S. 555, 565 (2023) (citation omitted). Nothing in the 1898 Agreement "gives the Tribes the right to determine whether the ceded Fort Hall lands remain in the 'public domain.'" App., *infra*, 51a (Bumatay, J., dissenting); accord *id.* at 132a-133a (opinion of Tung, J.).

In any event, FLPMA would readily satisfy any clear-statement rule. Its broad definition of "public lands" applies "without regard to how the United States acquired ownership." 43 U.S.C. § 1702(e). FLPMA says that whether land was acquired by purchase, foreign wars, or tribal cession *does not matter*. And the exception for lands *currently* "held for the benefit of Indians, Aleuts, and Eskimos," 43 U.S.C. § 1702(e)(2), makes clear that more attenuated links to tribal interests are not enough. Even when a clear-statement rule applies, "Congress does not need to use 'magic words.'" *Exxon*, 146 S. Ct. at 1924 (citation omitted). The words Congress used in FLPMA unambiguously authorize the exchange in this case.

* * * * *

The Ninth Circuit should have stopped upon acknowledging that the land exchange here falls "clear[ly]" within FLPMA's four corners. App., *infra*, 14a. But the court circumvented FLPMA's text and thwarted its purpose with an implausible reading of an earlier cession law that breaks interpretive rules at every turn. That misguided reading of a comprehensive federal law for federal lands—now entrenched precedent in the circuit with the largest share of those lands—warrants review.

II. THE DECISION BELOW CREATES A CIRCUIT CONFLICT

Review is also warranted to resolve a circuit conflict the decision below created. The Ninth Circuit's refusal to harmonize FLPMA with the 1900 Act conflicts with *National Coal Association* v. *Hodel*, 825 F.2d 523 (D.C. Cir. 1987) (per curiam), where the D.C. Circuit rejected the same blast-from-the-past theory that a pre-FLPMA law could nullify FLPMA's land-exchange authority.

National Coal concerned the interaction of FLPMA and the Mineral Leasing Act of 1920. Like the 1900 Act, the Mineral Leasing Act used the word "only" to establish an initial means for disposing of a subset of public lands (those containing coal deposits): "only in the form and manner provided in [that] Act." Ch. 85, § 37, 41 Stat. 451. The Bureau determined shortly after FLPMA's enactment that it could dispose of federal coal lands under either FLPMA or the Mineral Leasing Act. H.R. Rep. No. 1635, 95th Cong., 2d Sess. 14 (1978). Still, some "questioned" whether the Mineral Leasing Act disabled FLPMA in that context. *Id.* at 4. Congress acted to disabuse the doubters by amending the Mineral Leasing Act to clarify that it did not hamper FLPMA's exchange authority. Act of Oct. 30, 1978, Pub. L. No. 95-554, § 4, 92 Stat. 2074.

Undeterred, plaintiffs challenged a FLPMA land exchange involving federal coal lands on the theory that the Mineral Leasing Act's limitations "must be read into the FLPMA." *National Coal Ass'n* v. *Hodel*, 617 F. Supp. 584, 590 (D.D.C. 1985). The district court declined to make that "substantial alteration" to "FLPMA's explicit statutory language." *Id.* at 591. The D.C. Circuit likewise upheld the Bureau's land exchange, reasoning that the subsequent amendment stating that the Mineral Leasing Act did not override FLPMA only confirmed what was already true about the relationship of the two statutes. *National Coal*, 825 F.2d at 527. As the court explained, the exchange opponents' "argument would be *implausible*," "*even in the absence of*" the amendment. *Ibid.* (emphases added). The two statutes, the D.C. Circuit held, "erected two [separate] schemes," each of which authorizes a distinct method of "disposition of federal coal interests." *Ibid.*

The decision below cannot be reconciled with *National Coal*. The Ninth Circuit held that the 1900 Act's restrictions "continue to govern disposal of the ceded lands," even when the Bureau exercises its exchange authority under FLPMA. App., *infra*, 20a. That is the precise argument that the D.C. Circuit deemed to be "implausible." *National Coal*, 825 F.2d at 527. That two circuits now disagree on whether a statute deliberately designed to provide coherence and uniformity means what it says is a red flag that review is warranted.

III. THE QUESTION PRESENTED IS EXCEPTIONALLY IMPORTANT

If allowed to stand, the Ninth Circuit's decision will be deeply destabilizing and wreak havoc on the Executive's management of public lands. The decision already ties the Bureau's hands in disposing of a significant portion of public lands (the ceded Fort Hall lands) and could be readily applied to other lands that once were made available for disposal only under now-obsolete laws, disrupting the Bureau's ability to manage public land throughout the western United States. And the Bureau's exchange with Simplot—which the Tribes will seek to unravel on remand in the district court—has national importance by itself. The "important question presented in this case" amply warrants this Court's review. App., *infra*, 117a (opinion of Collins, J.).

A. The Ninth Circuit's decision leaves the United States without any "viable method for disposing of the ceded lands" covered by the 1900 Act. App., *infra*, 38a (Bumatay, J., dissenting) (quoting *id.* at 72a). That cession alone encompassed 416,000 acres, and the portion that remains in the public domain is now locked up indefinitely. *Id.* at 121a-122a (opinion of Tung, J.). Anyone who seeks to challenge a land exchange involving the ceded lands can and will file suit in the Ninth Circuit, where the decision below will obstruct any attempt by the Bureau to dispose of the ceded lands under FLPMA. 28 U.S.C. § 1391(e).

The decision below warrants review because it "annull[ed]" an important federal statute in a significant area of its potential application. *United States* v. *Gainey*, 380 U.S. 63, 65 (1965). "[W]hen a lower court has invalidated a federal statute," this Court's "usual" practice is to grant review. *Iancu* v. *Brunetti*, 588 U.S. 388, 392 (2019). The Ninth Circuit has rendered FLPMA effectively inoperative on many thousands of acres of public lands. There is no real prospect that the Ninth Circuit will change course anytime soon. And there is no need for percolation because the issue was fully ventilated from every angle across six opinions joined by nine judges at the panel and en banc stages. At this point, only this Court can vindicate Congress's handiwork and preserve the Executive's ability to administer those lands in the public interest.

B. The decision below also unsettles federal public-lands law far beyond the ceded Fort Hall lands. Congress enacted FLPMA as "the first comprehensive, statutory statement of * * * authority for the use and management of about 448 million acres of federally-owned lands administered by [the Bureau]." S. Rep. No. 583, 94th Cong., 1st Sess. 24 (1975). That "comprehensive" and "uniform" scheme, 43 U.S.C. § 1701(a)(5), (10), brought order to what had been a "chaotic" hodge-podge of "miscellaneous" public-land laws, *Lujan* v. *National Wildlife Federation*, 497 U.S. 871, 876-877 (1990). Or so Congress thought. By "constru[ing] the pre-FLPMA patchwork of laws as *disabling* the operation" of FLPMA, the Ninth Circuit has reignited substantial uncertainty in the governing legal framework for the Executive's administration of vast swaths of public lands. App., *infra*, 138a (opinion of Tung, J.).

The majority's flawed reasoning will have "significant ramifications" for many other public lands. App., *infra*, 112a (opinion of Collins, J.). At least 16 other tribal-cession acts enacted to cover millions of acres use materially indistinguishable phrasing—including the word "only" or other expressly exclusive language. The Ninth Circuit's decision could turn those and other laws into wild deeds that call into question past sales and exchanges under FLPMA or displace any means of disposing of lands remaining in the government's possession. App., *infra*, 161a-168a; see *id.* at 136a & n.3 (opinion of Tung, J.). Absent this Court's intervention, the decision below could handcuff the Executive's ability to dispose of many public lands.

Nor is the Ninth Circuit's logic limited to tribal cession laws. It also reaches other, non-tribal statutes, including laws addressing disposal of military reservations. App., *infra*, 136a & n.3 (opinion of Tung, J.); see *id.* at 163a-165a. And it implicates the Reclamation Act of 1902, which directed Interior to withdraw massive amounts of arid lands from the public domain, reclaim them through irrigation projects, and restore them "subject to entry *only* under the provisions of the homestead laws" (unless the Secretary later decides against particular projects). Ch. 1093, § 3, 32 Stat. 389 (43 U.S.C. § 432) (emphasis added). Despite the Ninth Circuit's ipse dixit purporting to confine its "holding * * * to this particular exchange," App., *infra*, 29a, its reasoning turns many outdated land-disposal instructions into landmines poised to blow holes in FLPMA's (formerly) comprehensive scheme.

The challenges of tracing the provenance of public lands are precisely why Congress took the clean-slate approach in FLPMA of defining public lands "without regard to how the United States acquired ownership." 43 U.S.C. § 1702(e). By giving exclusive regard to the antiquated disposal methods that Congress originally authorized upon acquiring public lands, the Ninth Circuit has "trap[ped]" many public lands "in frontier amber." App., *infra*, 138a (opinion of Tung, J.). The decision below will thus "severely hamper" the government's ability to "pu[t] its own lands to higher and better uses," including in ways that "promote economic development or sustain jobs in local communities." *Id.* at 136a, 138a.

C. The Ninth Circuit's decision undermines the national interest. Domestic production of fertilizer ingredients and other key minerals is critical to avoiding dependence on foreign sources, and thus to national security. Exec. Order 14,241, 90 Fed. Reg. 13,673 (2025). Phosphate ore—which Simplot processes at the Don Plant—is a recognized critical mineral and crucial fertilizer ingredient. 90 Fed. Reg. 50,494, 50,495-50,496 (Nov. 7, 2025). And the Don Plant alone accounts for 5-6% of domestic phosphate-fertilizer production capacity. See p. 8, *supra*.

Because Simplot has substantial long-term ore reserves that could support another 80 to 100 years of operation, the land exchange will allow the Don Plant to contribute significantly to the domestic fertilizer market for decades to come. The Plant, in turn, would retain its "vital" role in the Idaho economy, supporting more than 3,500 manufacturing jobs and contributing more than $700 million in industrial activity across the region annually. App., *infra*, 31a, 34a (Bumatay, J., dissenting).

Without the exchange, however, Simplot will be compelled to curtail operations at the Plant in just a few years. Increased reliance on imports will raise food prices for Americans, could leave the United States at the mercy of foreign adversaries for fertilizer, and would hollow out the local economy.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court may wish to consider summary reversal.

Respectfully submitted.

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