UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL TORONGO and BLUERIBBON COALITION, INC.,

Plaintiffs,

v.

DOUGLAS BURGUM, in his official capacity as Secretary of the Interior; BUREAU OF LAND MANAGEMENT; and THE UNITED STATES DEPARTMENT OF THE INTERIOR,

Defendants,

and

CACTUSTOCLOUD INSTITUTE; CALIFORNIA NATIVE PLANT SOCIETY; CALWILD; CENTER FOR BIOLOGICAL DIVERSITY; CONSERVATION LANDS FOUNDATION; NATIONAL PARKS CONSERVATION ASSOCIATION; SIERRA CLUB; THE WILDERNESS SOCIETY; and VET VOICE FOUNDATION,

Defendant-Intervenor Applicants.

Case No. 4:25-cv-11263-FKB-EAS

Judge: Hon. F. Kay Behm
Magistrate Judge: Hon. Elizabeth A. Stafford

CACTUSTOCLOUD INSTITUTE, CALIFORNIA NATIVE PLANT SOCIETY, CALWILD, CENTER FOR BIOLOGICAL DIVERSITY, CONSERVATION LANDS FOUNDATION, NATIONAL PARKS CONSERVATION ASSOCIATION, SIERRA CLUB, THE WILDERNESS SOCIETY, AND VET VOICE FOUNDATION'S MOTION AND BRIEF IN SUPPORT OF MOTION TO INTERVENE AS DEFENDANTS

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MOTION TO INTERVENE AS DEFENDANTS

Pursuant to Federal Rule of Civil Procedure 24(a), defendant-intervenor applicants CactusToCloud Institute, California Native Plant Society, CalWild, Center for Biological Diversity, Conservation Lands Foundation, National Parks Conservation Association, Sierra Club, The Wilderness Society, and Vet Voice Foundation (collectively, Applicants) respectfully move this Court for leave to intervene as defendants in the above-captioned matter. In the alternative, Applicants move for permissive intervention pursuant to Federal Rule of Civil Procedure 24(b).

Pursuant to Local Rule 7.1(a), counsel for Applicants have met and conferred with counsel for the parties, during which counsel for Applicants explained the nature of the motion and its legal basis. Counsel for Plaintiffs Daniel Torongo and BlueRibbon Coalition, Inc. have given the following statement: "At this time, Plaintiffs take no position on the motions to intervene. Plaintiffs reserve the right to file responses after reviewing the motions in their entirety." Counsel for Defendants Bureau of Land Management et al. have represented that the federal defendants take no position on the motion.

Pursuant to Federal Rule of Civil Procedure 24(c), Applicants lodge with this motion Applicants' Proposed Answer in Intervention. Pursuant to Local Rule 7.1(d) and Local Electronic Filing Policy 5(f), Applicants also submit herewith

their brief in support of this motion, as well as the accompanying declarations of Ileene Anderson, Colin Barrows, Katherine Barrows, Jackie Feinberg, Janessa Goldbeck, Mark Green, Nicholas Jensen, Elyane Stefanick, Joan Taylor, Chance Wilcox, and Jose Witt.

CONCISE STATEMENT OF THE ISSUE PRESENTED

Should CactusToCloud Institute, CalWild, California Native Plant Society, Center for Biological Diversity, Conservation Lands Foundation, National Parks Conservation Association, Sierra Club, The Wilderness Society, and Vet Voice Foundation (Applicants) be allowed to intervene as a matter of right, pursuant to Federal Rule of Civil Procedure 24(a)(2), where Applicants have legally cognizable interests in the establishment of Chuckwalla National Monument and those interests may not be adequately represented by any of the parties to the proceeding; or in the alternative, should Applicants be granted permissive intervention pursuant to Rule 24(b)(1)?

CONTROLLING OR MOST APPROPRIATE AUTHORITY FOR THE RELIEF SOUGHT

Applicants seek to intervene as defendants in this proceeding pursuant to Federal Rule of Civil Procedure 24. The controlling and most appropriate authorities for the requested intervention as of right are Rule 24(a)(2), *Wineries of the Old Mission Peninsula Ass'n v. Twp. of Peninsula, Mich.*, 41 F.4th 767 (6th Cir. 2022), and *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240 (6th Cir. 1997). The controlling and most appropriate authority for the alternative requested permissive intervention is Rule 24(b). Additional authorities supporting the relief requested are set forth in the text of this brief and are identified in the Table of Authorities.

BRIEF IN SUPPORT OF APPLICANTS' MOTION TO INTERVENE AS DEFENDANTS

I. INTRODUCTION AND BACKGROUND

CactusToCloud Institute, California Native Plant Society, CalWild, Center for Biological Diversity, Conservation Lands Foundation, National Parks Conservation Association, Sierra Club, The Wilderness Society, and Vet Voice Foundation (Applicants) seek to intervene as defendants to defend President Biden's establishment of Chuckwalla National Monument (Chuckwalla or, alternatively, the Monument) through Proclamation 10881, dated January 14, 2025 (the Proclamation).

Chuckwalla National Monument is a unique and remarkable desert area in Southern California, located on lands managed by the Bureau of Land Management (BLM). It contains countless objects of historical and scientific interest and is a critical connector of habitat for native plants and wildlife, as well as migrating and resident birds. As President Biden explained in the Proclamation:

> [T]he Chuckwalla region is a place of wonder that lies within the traditional homelands of the Iviatim (Cahuilla), Nüwü (Chemehuevi), Pipa Aha Macav (Mojave), Kwatsáan (Quechan), Maara'yam and Marringayam (Serrano), and other Indigenous peoples. It is imbued with religious, spiritual, historic, and cultural significance for Tribal Nations that trace their origins to these lands. The area contains an abundance of artifacts attesting to its connection to diverse human communities over thousands of years. The region's mosaic of habitats is also home to a remarkable array of plant and animal species. The dramatic contortions of its mountain ranges embody a fundamental story about the shaping of our world that scientists are still learning to decipher. The cultural, geologic, and ecological resources on Federal lands

> in the Chuckwalla region will continue to inspire and fascinate people and provide a scientific research trove for generations to come.

Proclamation No. 10881, 90 Fed. Reg. 6715, 6715 (Jan. 17, 2025). The Proclamation directs BLM to manage the public lands within the Monument's boundaries for the protection and conservation of the objects identified in the Proclamation.

On May 1, 2025, Daniel Torongo and BlueRibbon Coalition, Inc. (Plaintiffs) filed this lawsuit seeking an order setting aside the creation and establishment of the Monument and an injunction prohibiting the government from enforcing the terms of the Proclamation. ECF No. 1, PageID.1. Their complaint alleges that (1) the designation of the Monument violates the Antiquities Act, (2) the Antiquities Act itself is an improper delegation of Congress's authority under the Property Clause of the U.S. Constitution, and (3) the designation is unlawful under the "major questions doctrine" as a "political matter for which there is no clear congressional authorization." ECF No. 1, PageID.25-29.

Applicants are local, state, and national non-profit groups with interests in conserving and protecting public lands and their native plants and wildlife, and in keeping them accessible to the public for recreation, wellness, education, and other enjoyment. In support of their missions and interests, Applicants, along with Tribal Nations and other local stakeholders, were centrally involved in advocating for the designation of the Monument. Their interests will be harmed if Plaintiffs are

granted the relief they seek, which would remove the permanent protections of Monument status.

Applicants respectfully ask this Court for leave to intervene as defendants so that they can protect their interests, and those of their members, in this proceeding. As explained below, Applicants fully satisfy the standard for intervention as of right under Rule 24(a) of the Federal Rules of Civil Procedure. In the alternative, Applicants satisfy the standard for permissive intervention under Rule 24(b).

II. ARGUMENT

The Court should grant Applicants' motion to intervene in this matter so they are able to protect and defend their interests in the Monument, which are threatened by this lawsuit. Federal Rule of Civil Procedure 24 provides two applicable pathways for intervention upon timely motion. First, Rule 24(a)(2) provides for intervention as of right when applicants "claim[] an interest relating to the property or transaction that is the subject of the action," and ". . . disposing of the action may as a practical matter impair or impede [their] abilities to protect [their] interests. . . ." Fed. R. Civ. P. 24(a)(2). Second, Rule 24(b)(1)(B) provides for permissive intervention when the applicants' claims or defenses share common questions of law or fact with the pending action. *Purnell v. City of Akron*, 925 F.2d 941, 950-51 (6th Cir. 1991). Applicants here satisfy the requirements for both

intervention as of right pursuant to Rule 24(a)(2) and permissive intervention pursuant to Rule 24(b)(1)(B).

A. Applicants are entitled to intervention as of right.

The Federal Rules of Civil Procedure provide:

> 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). Intervention as a matter of right is proper when the applicants demonstrate: "(1) the motion to intervene is timely; (2) the proposed intervenors have a significant legal interest in the subject matter of the pending litigation; (3) the disposition of the action may impair or impede the proposed intervenors' ability to protect their legal interest; and (4) the parties to the litigation cannot adequately protect the proposed intervenors' interest." *Jansen v. City of Cincinnati*, 904 F.2d 336, 340 (6th Cir. 1990) (citation omitted); *see also Wineries of the Old Mission Peninsula Ass'n v. Twp. of Peninsula, Mich.*, 41 F.4th 767, 771.

Applicants satisfy each of the criteria to intervene as a matter of right. The Sixth Circuit has explained that "Rule 24 should be broadly construed in favor of potential intervenors," *Stupak-Thrall v. Glickman*, 226 F.3d 467, 472 (6th Cir. 2000) (internal quotations omitted), as a lawsuit often "will have implications on those not named as parties," *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1245

(6th Cir. 1997) (internal quotations omitted). A party seeking intervention "need not have the same standing necessary to initiate a lawsuit in order to intervene in an existing district court suit where the plaintiff has standing." *Providence Baptist Church v. Hillandale Comm., Ltd*., 425 F.3d 309, 315 (6th Cir. 2005) (quoting *Associated Builders & Contractors v. Perry*, 16 F.3d 688, 690 (6th Cir. 1994)).

1. Applicants' motion to intervene is timely.

Applicants are filing this motion in a timely manner. In deciding whether a motion to intervene is timely, courts consider:

> (1) the point to which the suit has progressed; (2) the purpose for which intervention is sought; (3) the length of time preceding the application during which the proposed intervenors knew or should have known of their interest in the case; (4) the prejudice to the original parties due to the proposed intervenors' failure to promptly intervene after they knew or reasonably should have known of their interest in the case; and (5) the existence of unusual circumstances militating against or in favor of intervention.

Priorities USA v. Benson, 448 F.Supp.3d 755, 762–63 (E.D. Mich. 2020) (quoting *Stupak-Thrall*, 226 F.3d at 472–73). "The determination of whether a motion to intervene is timely should be evaluated in the context of all relevant circumstances." *Jansen*, 904 F.2d at 340 (citing *Bradley v. Milliken*, 828 F.2d 1186, 1191 (6th Cir. 1987)).

Applicants' motion to intervene is timely under all the relevant factors. This case remains in its very early stages. Plaintiffs filed their complaint on May 1,

2025, and Applicants are filing this motion to intervene just over three months later. No answer or substantive motion has yet been filed.

Granting this motion to intervene would not prejudice any party and, if the Court grants intervention, Applicants will comply with all court-ordered briefing schedules to serve the interest of efficiency. Further, there are no unusual circumstances that militate against intervention.

2. Applicants have substantial interests in this litigation.

Applicants and their members have substantial interests in this case. The Sixth Circuit has consistently recognized "a rather expansive notion of the interest sufficient to invoke intervention of right" under Rule 24(a)(2). *Wineries of the Old Mission Peninsula Ass'n*, 41 F.4th at 771–72 (quoting *Mich. State AFL-CIO*, 103 F.3d at 1245). An intervenor need not demonstrate Article III standing, and intervention does not require a "specific legal or equitable interest" in the proceeding. *Id.* at 772 (quotation omitted); *see also Grutter v. Bollinger*, 188 F.3d 394, 398 (6th Cir. 1999). "'[I]nterest' is to be construed liberally," *Bradley*, 828 F.2d at 1192 (citation omitted), and "close cases should be resolved in favor of recognizing an interest under Rule 24(a). . . ." *Mich. State AFL-CIO*, 103 F.3d at 1247.

In the declarations filed concurrently with this motion, Applicants' representatives and members detail Applicants' interests in the Monument, and

describe how this case may impact those interests. While Applicants have diverse, but overlapping, interests, they all have invested significant time and resources in advocating for the establishment of the Monument, and they all continue working to increase awareness about the Monument and promote equitable access to it. Further, many Applicants are member-based organizations with members that regularly use and enjoy the Monument and its protections. *See*, *e.g.*, Declaration of Joan Taylor ¶¶ 3, 5, 6–11; Declaration of Katie Barrows ¶¶ 1-2, 4–17; Declaration of Jose Witt ¶¶ 2, 8–15.

While the declarations contain much more detail, here are some examples of Applicants' interests:

CactusToCloud is a Coachella Valley-based non-profit organization working to promote understanding of, equitable access to, and appreciation for the desert lands within the Monument. Declaration of Colin Barrows ¶ 9. CactusToCloud is committed to fostering inclusive access to nature in local underserved communities; hosting and supporting recreational outings and educational programs in the Monument is a key component of that work. C. Barrows Decl. ¶ 10. On some of these outings, participants discuss the region's unique biodiversity amid native plant species that are found nowhere else on earth. C. Barrows Decl. ¶ 12. On other outings, they learn about geology while standing amid some of the oldest rocks in North America (approximately 1.7-1.8 billion

years old) and some of the youngest geological formations created by the San Andreas Fault (10,000 years-present) at the same time. C. Barrows Decl. ¶ 12. One of CactusToCloud's core activities has been running naturalist certification courses. The Nuestro Desierto program aimed to promote equitable access to, and education about, California's deserts. C. Barrows Decl. ¶ 11. The organization plans to continue similar activities in the future. C. Barrows Decl. ¶ 28. The Monument serves as a living classroom to inspire education and enthusiasm for the outdoors. C. Barrows Decl. ¶ 11. As a testament to the success of the program, many students have stayed involved in CactusToCloud outings and other activities after they have graduated. C. Barrows Decl. ¶ 11.

California Native Plant Society (CNPS) works to protect California's native plants and their natural habitats through science, education, stewardship, gardening, and advocacy. Declaration of Nick Jensen ¶ 4. CNPS collects information for and maintains the authoritative classification manual used by botanists, planners, and state and federal agencies to describe California's vegetation. Jensen Decl. ¶ 4. The Monument is important to CNPS and its members, as it is home to more than 400 species of plants, including many that are vulnerable to extirpation or extinction. Jensen Decl. ¶ 6; K. Barrows Decl. ¶¶ 10–12. Several of these plants, including Munz's cholla, Mecca-aster, and Orocopia sage, are endemic to Chuckwalla, which means they are found nowhere else in the

world. Jensen Decl. ¶ 6. The Monument is also home to specialized habitat, including extensive intact microphyll woodlands. Jensen Decl. ¶ 7. These plant communities occur in and around wash areas that transport water after rainfall and are critical to the desert ecosystem for numerous reasons, including seed transportation, transference of nutrients across the desert, provision of water, and habitat for migratory birds. Jensen Decl. ¶ 7.

CalWild is dedicated to protecting and restoring the wild places and native biodiversity of California's public lands and ensuring that everyone has equal access to these spaces. Declaration of Mark Green ¶ 4. CalWild and its members have been advocating for conservation and protection in the California desert for decades, and CalWild has been one of the leaders in the coalition to establish the Monument since 2019. Green Decl. ¶¶ 3, 6–7; K. Barrows Decl. ¶¶ 13–16. CalWild's interests in the Monument include protecting key habitats for imperiled and sensitive species—including the federally-listed Mojave desert tortoise—and preserving the incredible landscapes in Chuckwalla—including Painted Canyon and other important recreational areas. Green Decl. ¶ 17.

Center for Biological Diversity (the Center) works to secure a future for all species hovering on the brink of extinction, and one of the ways it does so is by protecting habitat on public lands. Declaration of Ileene Anderson ¶ 6. The Monument is particularly important to the Center because the Monument is home

to a unique ecology and mix of species, including genetically unique desert tortoise and endemic plant species; it is also a critical corridor protecting interconnected, unbroken desert ecosystems from interruption by development. Anderson Decl. ¶¶ 18–19. This habitat connectivity is critical to the survival of species by ensuring plants and animals have an opportunity to move into new areas that will support their ecological needs as climate change progresses. Anderson Decl. ¶ 18. The Center also has significant interests in Chuckwalla's microphyll woodlands and seasonal washes because they provide a means for water, seeds, and nutrients to move throughout the desert, supporting plants, animals, and ecosystems far beyond their borders. Anderson Decl. ¶ 20. Migratory birds, desert tortoises, and other key species rely on this habitat to survive and thrive. Anderson Decl. ¶ 20.

Conservation Lands Foundation's (CLF) interests lie in protecting, restoring, and expanding the National Conservation Lands System through education, advocacy, and partnerships. Declaration of Elyane Stefanick ¶ 6. The National Conservation Lands System includes federal lands and rivers with special designations that protect them for conservation purposes, such as national monuments. Stefanick Decl. ¶ 6. CLF advocated to protect the Monument because it includes many places popular for outdoor recreation, including Painted Canyon, Box Canyon, Corn Springs Campground, and the Bradshaw Trail. Stefanick Decl. ¶ 5. The Monument further helps ensure equitable access to nature for residents of

the eastern Coachella Valley and other local communities and is home to many native species and cultural and historical artifacts. Stefanick Decl. ¶ 5. CLF focuses on supporting conservation on public lands by building and mobilizing local grassroots support. Stefanick Decl. ¶¶ 7–14. CLF also hosts and participates in events to increase public awareness of the Monument and its values, and it meets with government officials to advance better land management policies. Stefanick Decl. ¶¶ 15–22.

National Parks Conservation Association's (NPCA) mission is to protect and enhance America's National Park System for present and future generations, and its core work includes preserving undeveloped public lands and preventing destructive impacts of extractive industries. Declaration of Chance Wilcox ¶ 4. NPCA seeks not only to protect national parks, but also public lands near National Park Service lands that comprise—and/or contribute to—intact cultural and ecological landscapes. Wilcox Decl. ¶ 4. Intact and connected landscapes allow wildlife to migrate to more suitable environments when conditions become untenable in their existing habitat due to climate change. Wilcox Decl. ¶ 9. Among other reasons, NPCA has strong interests in the Monument because of its close proximity to Joshua Tree National Park and location on a crucial wildlife corridor—the Moab to Mojave conservation corridor. Wilcox Decl. ¶¶ 9–10. NPCA has worked to protect this corridor, an expanse of connected habitat that

spans from California to Utah that has connected five national parks, for decades. Wilcox Decl. ¶¶ 9–10.

Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Declaration of Jackie Feinberg ¶ 3. To support this mission, Sierra Club staff and volunteers have spent decades advocating for the protection of public lands in the California desert, including securing the passage of the California Desert Protection Act (CDPA) in 1994 and supporting the designation of not just Chuckwalla, but also the Mojave Trails, Sand to Snow, and Castle Mountains National Monuments. Feinberg Decl. ¶¶ 8–11. In support of the Monument, Sierra Club staff and members engaged with elected officials and agency staff, conducted outreach and led trips to the Monument to build local awareness and support, and mobilized supporters to attend public meetings, rallies, and other events. Feinberg Decl. ¶¶ 14–19; Taylor Decl. ¶¶ 3–4, 12–14. Sierra Club prioritized this work to ensure enduring protections for the land and resources within the Monument's boundaries, including key wildlife corridors and unique landscapes. Feinberg Decl. ¶ 20. The Proclamation calls for co-stewardship and incorporation of indigenous knowledge and priorities into monument management, and requires a new land

planning process, which Sierra Club intends to participate in to secure additional protections, as it has with other monuments. Feinberg Decl. ¶¶ 21–25.

The Wilderness Society's (TWS) mission is to unite people to protect America's wild places. Witt Decl. ¶ 3. It works to ensure that public lands are a solution to the climate and extinction crises and that all people benefit equitably from the myriad ecological and social benefits that public lands provide. Witt Decl. ¶ 3. TWS works to defend and expand public land protections, and has adopted the goal of securing protections for thirty percent of the land in the United States by 2030. Witt Decl. ¶ 4. This goal aims to leave future generations with continued access to clean water, clean air, secure food supplies, and enduring access to wilderness. Witt Decl. ¶ 4. The designation of the Monument is an important step in meeting this goal.

Vet Voice Foundation (VVF) serves veterans by upholding the promises made to those who serve, supporting better livelihoods for veterans and their families, and safeguarding democracy, public lands, and national security. Declaration of Janessa Goldbeck ¶ 4. Protection of public lands is particularly important to veterans and VVF because outdoor engagement in places like Chuckwalla provides solitude, healing, and reconnection with nature, which has been proven to support veterans coping with PTSD and other trauma. Goldbeck Decl. ¶¶ 3, 5. Public lands also provide veterans with recreational opportunities and

employment, with many veterans going to work for BLM and the U.S. Forest Service after their military service. Goldbeck Decl. ¶ 6. The Monument is especially important to VVF because of its proximity to five military bases and because of the Monument's own links to military history. Goldbeck Decl. ¶¶ 10–11. From 1942 to 1944, the region was home to the Desert Training Center, established by General Patton to prepare troops for combat in North African deserts. Goldbeck Decl. ¶ 10. Physical evidence of this history remains today, including military ruins, remains of a chapel, roads, and artifacts. Goldbeck Decl. ¶¶ 10–11. Janessa Goldbeck, veteran and Chief Executive Officer of VVF, visits Chuckwalla because it provides peace and the chance to mentally reset. Goldbeck Decl. ¶ 15. Ms. Goldbeck visited the World War II-era sites and touched the handprint of a combat engineer in the stone and concrete ruins of a chapel. Goldbeck Decl. ¶¶ 16–17. This experience was deeply moving, connecting Ms. Goldbeck with the past and a shared lineage of service. Goldbeck Decl. ¶¶ 16–17.

These interests in the continued validity of the Monument designation's protections, as well as Applicants' years of advocacy in support of the Monument's designation, more than satisfy Rule 24(a)(2)'s interest requirement. *See Mich. State AFL-CIO*, 103 F.3d at 1245–47 (finding that defendant-intervenor applicants' advocacy for challenged action and "'direct contact'" with the subject of the

litigation constituted a cognizable interest) (citing *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995)).

3. Disposition of this case may impair or impede Applicants' interests.

Disposition of this action in the absence of Applicants' participation may impair or impede their ability to protect their unique interests in this matter. Once a proposed intervenor has shown that it has a sufficient interest in the case, it need demonstrate only "that impairment of its substantial legal interest is possible if intervention is denied." *Wineries of the Old Mission Peninsula Ass'n*, 41 F.4th at 774 (quoting *Grutter*, 188 F.3d at 399). This is a "minimal" burden and is satisfied whenever "disposition of the present action would put the movant at a practical disadvantage in protecting its interest." *Id.* (citations and internal quotation marks omitted).

Applicants easily satisfy this minimal burden. The establishment of the Monument increased protection of the land and its objects in numerous ways, including by prohibiting new mining claims, creating permanent restrictions constraining offroad vehicle (ORV) use to designated routes, prohibiting sale and disposition of Monument lands, and requiring a new management plan implementing protection and restoration requirements, among other substantive and procedural protections. Proclamation No. 10881, 90 Fed. Reg. 6715, 6715–24 (Jan. 17, 2025). The Proclamation's management planning provisions direct the

Secretary of the Interior to prepare a management plan that takes into account, to the maximum extent practicable,

> maintaining the undeveloped character of the lands within the monument; minimizing impacts from surface-disturbing activities; providing appropriate and, where consistent with the proper care and management of the objects of historic or scientific interest identified above, improving access for recreation, hunting, dispersed camping, wildlife management, scientific research, and the permissible casual collection of rocks; and emphasizing the retention of natural quiet, dark night skies, and scenic attributes of the region.

Proclamation No. 10881, 90 Fed. Reg. 6715, 6721.

If Plaintiffs are successful in obtaining an order invalidating the establishment of the Monument and enjoining the federal government from enforcing the Proclamation's provisions, Chuckwalla will lose these protections, protections for which Applicants spent years fighting. *See, e.g.,* Anderson Decl. ¶¶ 8–13; C. Barrows Decl. ¶¶ 8, 16–28; Green Decl. ¶¶ 10–15; Jensen Decl. ¶ 5; Stefanick Decl. ¶¶ 9–16, 20–25; Wilcox Decl. ¶¶ 14–17. Such a result would put the Monument's objects of historical, cultural, and scientific value at risk. *See, e.g.,* C. Barrows Decl. ¶ 17, 29–37; Feinberg Decl. ¶¶ 26–29; Goldbeck Decl. ¶¶ 19–21; Green Decl. ¶ 17; Jensen Decl. ¶¶ 14–17. It would impair Applicants' interests in preserving the Monument's incredible landscapes, plants, and wildlife; providing educational, therapeutic, and recreational opportunities to the public; and ensuring equitable access the Monument. *See, e.g.,* Anderson Decl. ¶¶ 30–38; C. Barrows Decl. ¶¶ 29–38; Feinberg Decl. ¶¶ 26–29; Goldbeck Decl. ¶ 14; Wilcox Decl.

¶¶ 24–25. As detailed in the attached declarations, some of the other ways loss of Monument protections may impair or impede Applicants' interests include:

- It may harm CactusToCloud's ability to continue fostering inclusive access to nature in local underserved communities and providing educational and recreational opportunities to visit the Monument. C. Barrows Decl. ¶ 10. It may make fundraising more difficult, which may mean CactusToCloud will have to cut its current and planned educational or recreational programs, such as its naturalist certification course offerings. C. Barrows Decl. ¶ 11.
- It may harm CNPS's interest in protecting the more than 400 species of native plants, including some found nowhere else on earth, by subjecting them to greater risk of damage due to habitat disturbing activities such as development and underregulated ORV use. Jensen Decl. ¶¶ 6, 14–17.
- It may weaken protections for California's wild places and native biodiversity, undermining CalWild's mission and core work. Green Decl. ¶ 16. It may harm CalWild's interests in preserving popular recreational areas, such as Painted Canyon, and protecting native species including desert tortoise. Green Decl. ¶ 17.
- It may harm the Center's interests in preserving the Monument's species hovering on the brink of extinction and the habitat upon which they rely by

increasing harmful activities such as improperly-managed ORV use, industrial mining, and inappropriate development. Anderson Decl. ¶¶ 6, 32.

- It may harm CLF's interests in protecting entire ecosystems and archaeological districts to truly conserve natural and cultural values and instead leave isolated tracts of public lands surrounded by development. Stefanick Decl. ¶ 6.
- It may harm NPCA's interests in protecting undeveloped public lands, preserving wildlife corridors on lands adjacent to national parks, and preventing destructive impacts of extractive industries on lands with significance to cultural and natural heritage. Wilcox Decl. ¶ 24.
- It may harm Sierra Club's interests in ensuring enduring protections for the land and objects within the Monument's boundaries, which include key wildlife corridors and unique landscapes. Feinberg Decl. ¶ 20.
- It may harm TWS's interests in confronting the rapid loss of America's natural places and wildlife and protecting future generations' access to clean water, clean air, secure food supplies, and an enduring resource of wilderness. Witt Decl. ¶ 4.
- It may harm VVF's interest in supporting veterans coping with PTSD and other trauma and supporting better livelihoods for veterans and their families

by jeopardizing the Monument's solitude, peace, healing powers of nature, and recreational opportunities. Goldbeck Decl. ¶¶ 3-6, 15.

Because the disposition of this action may impair Applicants' ability to protect their interests, Applicants satisfy Rule 24(a)'s impairment-of-interest requirement.

4. Applicants' interests may not be adequately represented by existing parties.

Finally, the existing parties to this litigation may not adequately represent the Applicants' unique interests. This is a minimal burden, only requiring Applicants show that their interests are not identical to another party's interests or that the interests do not fully overlap. *See Berger v. N. Carolina State Conf. of the NAACP*, 597 U.S. 179, 196–97 (2022). A proposed intervenor need not show that the representation of its interests "will in fact be inadequate," but only that such representation "*may* be inadequate," *Ne. Ohio Coal. for the Homeless & Serv. Emps. Int'l Union, Loc. 1199 v. Blackwell*, 467 F.3d 999, 1008 (6th Cir. 2006) (emphasis in original); *see also Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972), or that "there is a *potential* for inadequate representation," *Grutter*, 188 F.3d at 400 (emphasis in original). Applicants easily meet this standard.

Applicants have unique interests that no other party will adequately represent. Applicants are organizations whose interests focus on conservation,

recreation, education, and the well-being of communities, among other interests. *See supra* Sections II(A)(2)-(3). They seek to preserve public lands in their natural state and to protect native plants and wildlife. They seek to ensure that the public has equitable access to public lands and many of them provide recreational tours, educational opportunities, and healing excursions that bring people to the Monument to learn about and enjoy its resources.

Secretary Burgum, BLM, and DOI (Federal Defendants) cannot adequately represent Applicants' interests. The Sixth Circuit has found that because the government is required to represent the interests of the public in general, a governmental party is often not able to adequately represent an organization with more specific interests, *see Wineries of the Old Mission Peninsula Ass'n*, 41 F.4th at 775–77 (collecting cases from other circuits), and has "declined to endorse a higher standard for inadequacy when a governmental entity in [sic] involved," *see Grutter*, 188 F.3d at 400. The Applicants are conservation-focused organizations, and their interests lie in protection of the Monument's lands and objects. The government, representing the general public, has a broader range of interests to consider, including interests that conflict with or are in tension with conservation, such as extraction of minerals and development. Because there is not a complete overlap between Applicants' interests and the government's interests, Applicants

are likely to make arguments that government will not. This is enough to meet the minimal standard for inadequate representation.

Further, owing to the recent change in administration, it is especially important to allow intervention in case Federal Defendants do not adequately defend the Monument. The fact that the federal government designated the Monument during the last presidential administration does not necessarily mean it will adequately defend the Monument here. "[I]t is not realistic to assume that the agency's programs will remain static or unaffected by unanticipated policy shifts." *Utah Ass'n of Counties v. Clinton*, 255 F.3d 1246, 1256 (10th Cir. 2001) (granting intervention) (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 974 (3d Cir. 1998)); *see also WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 997 (10th Cir. 2009) (recognizing that coal mine owner should not be required to rely on government to protect its interests because government could shift policy to embrace environmental objectives); *Mausolf v. Babbitt*, 85 F.3d 1295, 1296–97 (8th Cir. 1996) (recognizing the concern the agency "might settle with the [plaintiffs] or back away from the rules" as a basis for intervention).

An agency policy shift is more likely in a case like this where there has been an administration change, and a new administration is tasked with defending a prior administration's action. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1106–07 (9th Cir. 2002) (noting George W. Bush Administration

stopped defending challenge to Roadless Rule promulgated by Clinton Administration), *abrogated on other grounds Wilderness Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173 (9th Cir. 2011); *see also Alsea Valley All. v. Dep't of Commerce*, 358 F.3d 1181, 1184 (9th Cir. 2004) (intervention granted to environmental groups after federal defendants declined to appeal adverse ruling).

Here, President Biden issued the Proclamation establishing the Monument, and the Trump Administration is tasked with defending it. While President Biden sought to conserve Chuckwalla's public lands, the Trump Administration has made no guarantee that it will do the same. Indeed, the first Trump Administration conducted a review of all national monuments and attempted to shrink the size of two of them. Proclamation No. 9681, 82 Fed. Reg. 58081 (Dec. 4, 2017) (modifying Bears Ears National Monument); Proclamation No. 9682, 82 Fed. Reg. 58089 (Dec. 4, 2017) (modifying Grand Staircase-Escalante National Monument). Some of the Applicants here filed lawsuits challenging those attempts, which are still pending in the District Court for the District of Columbia. *See, e.g., Wilderness Soc'y v. Trump*, No. 1:17-cv-02587, 2024 WL 4880449 (D.D.C. Nov. 25, 2024) (challenging modification of Grand Staircase-Escalante National Monument).

Additionally, on the first day of his second administration, President Trump ordered DOI to review public land withdrawals, including national monument

designations, for potential recission to allow mining and processing of non-fuel minerals. Exec. Order No. 14154, *Unleashing American Energy*, 90 Fed. Reg. 8353 (Jan. 20, 2025). In response, Secretary Burgum ordered Interior Assistant Secretaries to "review, and, as appropriate, revise all withdrawn public lands," including National Monuments designated under the Antiquities Act. U.S. Dep't of the Interior, Sec'y. Order No. 3418, *Unleashing American Energy* (Feb. 3, 2025).

Finally, the Department of Justice Office of Legal Counsel (OLC) recently issued an extraordinary legal opinion, concluding that the President has the authority to eliminate National Monuments. This opinion contradicts a century-old OLC opinion and body of legal precedent that consistently concludes that the president has the authority only to create monuments, not to revoke or reduce them. *See* U.S. Dep't of Justice, Office of Legal Counsel, Revocation of Prior Monument Designations, 49 Op. O.L.C. __ (May 27, 2025) (slip op.). This advisory opinion references communication between the White House and OLC, wherein Counsel to the President "asked [OLC] to examine whether the [Antiquities] Act permits the President to revoke President Biden's proclamation[] creating the Chuckwalla . . . National Monument[]." *Id.* at 2. This opinion suggests there is risk Federal Defendants may not robustly defend the Monument's status.

Accordingly, the Court should find that Applicants, whose interests focus on the conservation of the land and objects within the Monument's boundaries, have

met their minimal burden to show that the existing parties to the case may not adequately protect and represent their interests.

For all the above reasons, Applicants meet their burden to show they are entitled to intervention as a matter of right, and the Court should grant this motion.

B. In the alternative, the Court should allow Applicants to permissively intervene.

Applicants meet the requirements for intervention as of right under Rule 24(a). However, even if the Court determines that Applicants are not entitled to intervene as a matter of right, the Court should exercise its broad discretion to grant permissive intervention. A court may grant permissive intervention when the motion to intervene is timely and "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). Courts construe Rule 24(b) liberally in favor of intervention. *See, e.g.*, *Assoc. Builders & Contractors v. Perry*, 16 F.3d 688, 690 (6th Cir. 1994) (permissive intervenors need not show standing); *Purnell*, 925 F.2d at 950 ("Rule 24 is broadly construed in favor of potential intervenors."). In exercising its discretion, the Court must consider whether intervention will unduly delay or prejudice adjudication of the case. *Purnell*, 925 F.2d at 950–51; *Mich. State AFL-CIO*, 103 F.3d at 1248.

Applicants satisfy the requirements for permissive intervention. As discussed above, *supra* Section II(A)(1), this motion is timely and intervention would not unduly delay or prejudice adjudication of the rights of the parties.

Plaintiffs' and Applicants' claims and defenses also invoke common questions of law and fact regarding the validity of the Monument's designation. *See Mich. State AFL-CIO*, 103 F.3d at 1248 (finding that proposed defendant-intervenors' "claim that the [challenged statutory] amendments are valid presents a question of law common to the main action"). Thus, if the Court finds Applicants are not entitled to intervene as of right, the Court should grant Applicants permissive intervention.

III. CONCLUSION

For the foregoing reasons, Applicants respectfully request that the Court grant them leave to intervene as defendants in this case.

Dated: August 11, 2025

Respectfully submitted,

/s/ Sean B. Hecht

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2025, I electronically filed the foregoing document with the Clerk of the Court using the Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Sean B. Hecht
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