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13 *Pro Hac Vice Pending

14 Attorneys for Plaintiff Chris Heaton

15
16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Chris Heaton,

19 Plaintiff,

20 v.

21 Joseph R. Biden Jr., in his official capacity as
22 President of the United States; Tom J. Vilsack,
23 in his official capacity as Secretary of the U.S.
24 Department of Agriculture;
25 Deb Haaland, in her official capacity as
26 Secretary of the U.S. Department of the
27 Interior; and Tracy Stone-Manning,
28 in her official capacity as Director of the
Bureau of Land Management,

Defendants.

No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Cattle ranching is a paramount calling for many in the western United States. The 19,000 farms and ranches that practice this tradition in Arizona are no exception. And these Arizona farms and ranches provide the food people eat and are a vital source of economic benefits to local communities and the State.

1 2. Plaintiff Chris Heaton’s Y-Cross Ranch is a shining example. Mr. Heaton is a sixth-
2 generation cattle rancher in northern Arizona who prides himself on providing quality
3 products for consumers. His Ranch is 48,063 acres, including private land, land leased from
4 Arizona, and land leased from the Bureau of Land Management. Much of the Ranch’s land
5 has been in his family for over a century, and his grandfather homesteaded and fenced the
6 current core of the Ranch in the 1930s. In this way, the Y-Cross Ranch has been interwoven
7 into Mr. Heaton’s life from birth; he has worked the land since he was eight years old—it
8 is part of his heritage, and he hopes to pass it on to his children.

9 3. But the federal government is now threatening Mr. Heaton’s way of life and putting
10 his family’s future in doubt. After Congress failed to pass legislation forbidding natural
11 resource extraction around the Grand Canyon, the President, continuing “a trend of ever-
12 expanding antiquities,” *Mass. Lobstermen’s Ass’n v. Raimondo*, 141 S. Ct. 979, 980–81
13 (2021) (Roberts, C.J., statement respecting the denial of certiorari), took matters into his
14 own hands and issued a proclamation under the Antiquities Act. The Proclamation
15 established the Ancestral Footprints National Monument, which spans 917,618 acres—
16 including much of Mr. Heaton’s Ranch. This “is of no small consequence” for Mr. Heaton.
17 *See id.* With the flick of the President’s pen, the Proclamation has exposed him to severe
18 regulatory burdens and the threat of criminal penalties for engaging in everyday conduct on
19 his Ranch.

20 4. Mr. Heaton seeks relief for these injuries because the President’s Proclamation is
21 ultra vires, violates the major questions doctrine, and violates the Constitution’s separation
22 of powers. *First*, the Act delegates to the President the limited power to designate as national
23 monuments only: (1) “historic landmarks”; (2) “historic” or “prehistoric structures”; or (3)
24 “other objects of historic and scientific interest.” President Biden breached these careful
25 limitations by designating unprotectable “objects”—such as entire “landscapes”—as part
26 of the Monument.

27 5. *Second*, if the President declares a *legally valid* landmark, structure, or object a
28 national monument, he may “reserve parcels of land” to protect that monument. But

1 Congress strictly limited this authority to land reservations that are “the smallest area
2 compatible with the proper care and management” of the *legally valid* landmark, structure,
3 or object. Because the Proclamation designates “objects” beyond the Antiquities Act’s
4 textual limits, the Monument is not, and cannot be, “confined to the smallest area
5 compatible with the proper care and management of the objects to be protected.” Even so,
6 the Proclamation is also ultra vires because it fails to justify why nearly a million acres is
7 the “smallest area compatible” to protect the alleged “objects” listed. The Proclamation’s
8 conclusory statements provide no rational relationship between the specific designated
9 “objects” and the reserved area’s size. This does not satisfy the Antiquities Act’s “smallest
10 area compatible” requirement.

11 6. *Third*, the President’s asserted authority to designate amorphous landscapes (and any
12 other so-called “objects” within them) spanning nearly one million acres as “landmarks,”
13 “structures,” or “objects” under the Act’s limited language violates the major questions
14 doctrine. The President’s actions raise highly political and economic issues and transcend
15 any discernible limit on his authority under the Antiquities Act. Congress did not, and could
16 not, intend to grant the President this unheralded and unbounded power over public land
17 use.

18 7. *Finally*, if there are no discernable limits on the President’s authority under the
19 Antiquities Act to declare what “objects” are national monuments, and there are no
20 discernable limits over what is the “smallest area compatible” to protect those alleged
21 “objects,” then Congress delegated legislative power to the President with no intelligible
22 principle in violation of the nondelegation doctrine. Under the Constitution, the Antiquities
23 Act cannot delegate the President “power without any discernible limit to set aside vast and
24 amorphous expanses of terrain” as a national monument. 141 S. Ct. at 981.

25 8. This Court should therefore issue a declaratory judgment declaring the President’s
26 Proclamation as ultra vires, unconstitutional, and void. The Court should also enjoin the
27 U.S. Department of Agriculture, the U.S. Department of the Interior, and the Bureau of
28 Land Management (the agencies the Proclamation charges with carrying out the President’s

1 illegal directives) from enforcing any part of the Ancestral Footprints Monument
2 designation.

3 **JURISDICTION AND VENUE**

4 9. This Court has jurisdiction under 28 U.S.C. § 1331 (subject matter), § 2201
5 (declaratory relief), and § 2202 (injunctive relief).

6 10. This Court can award costs and attorneys’ fees under 28 U.S.C. § 2412.

7 11. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1) because a substantial part
8 of the events giving rise to the claims occurred within this judicial district, and a substantial
9 amount of the Y-Cross Ranch is the subject of this action and is within this judicial district.

10 **PARTIES**

11 *Plaintiff*

12 12. Plaintiff Chris Heaton is a cattle rancher who lives in Kane County, Utah. He owns
13 and runs his family’s 48,063-acre ranch, Y-Cross Ranch, in northern Arizona. Much of Y-
14 Cross Ranch is within the Ancestral Footprints Monument. Mr. Heaton’s activities on the
15 Ranch are thus subject to any rule, regulation, or criminal law that stems from the
16 President’s Proclamation under the Antiquities Act.

17 *Defendants*

18 13. Defendant Joseph R. Biden Jr. is the President of the United States. He is sued in his
19 official capacity. In that capacity, he issued Presidential Proclamation 10606, the federal
20 action challenged in this suit, designating the Ancestral Footprints National Monument
21 under the Antiquities Act of 1906. *See* Proclamation 10606 of August 8, 2023:
22 Establishment of the Baaj Nwaavjo I’tah Kukveni—Ancestral Footprints of the Grand
23 Canyon National Monument, 88 Fed. Reg. 55,331 (2023).

24 14. Defendant Tom J. Vilsack is the Secretary of the United States Department of
25 Agriculture and Proclamation 10606 charges him with administering the Monument. He is
26 sued in his official capacity.

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1 15. Defendant Deb Haaland is the Secretary of the United States Department of Interior
2 and Proclamation 10606 charges her with administering the Monument. She is sued in her
3 official capacity.

4 16. Defendant Tracy Stone-Manning is the Director of the Bureau of Land Management.
5 Defendant Bureau of Land Management is an agency within the U.S. Department of the
6 Interior. It is responsible for implementing the Proclamation and enforcing, implementing,
7 or administering a subset of statutes, regulations, and other executive-branch actions
8 relating to the Ancestral Footprints Monument. She is sued in her official capacity.

9 **BACKGROUND AND FACTUAL ALLEGATIONS**

10 **Congress's Past Legislation over Land Use in Arizona**

11 17. Congress has been delegated by the people the exclusive power to make rules and
12 regulations over federal lands. *See* U.S. Const. art. IV, § 3, cl. 2.

13 18. The State of Arizona totals 73 million acres, and the federal government controls
14 over 30 million acres—about 42% of the State.

15 19. Congress exercised its legislative power over federal lands when it wished to
16 establish rules and regulations over land use activity in Arizona. For example, Congress has
17 reserved the Grand Canyon as a national park since 1919. 16 U.S.C. § 221. The national
18 park designation restricts land use. For example, the government prohibits mining in Grand
19 Canyon National Park.

20 20. In 1934, Congress also reserved 1,542,791 acres of adjacent land to the north and
21 south of Grand Canyon National Park as the Kaibab National Forest. Before 2009, natural
22 resource extraction was allowed in the Kaibab National Forest, subject to specific
23 requirements and conditions imposed by federal statutes and regulations. U.S. Forest Serv.,
24 *Kaibab National Forest – About the Forest* (last visited Feb. 5, 2024).¹

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27
28 ¹ <https://www.fs.usda.gov/detail/kaibab/about-forest/?cid=STELPRDB5227350>.

1 21. The Kanab Creek Wilderness and the Saddle Mountain Wilderness areas are near
2 the north of Grand Canyon National Park. Congress has prohibited new mining claims in
3 federal wilderness areas since January 1, 1984. 16 U.S.C. § 1133(d)(3).

4 **Congress Declines to Legislate Over**
5 **Land Use in the Area that Makes up the Ancestral Footprints Monument**

6 22. Despite Congress passing legislation regulating some areas of public lands in
7 Arizona, it has not done so in other areas.

8 23. Northern Arizona is estimated to have at least 2.6 billion pounds of uranium, which
9 can be used for various beneficial uses like producing electricity. *See* U.S. Geological Serv.,
10 *Hydrological, Geological, and Biological Site characterization of Breccia Pipe Uranium*
11 *Deposits in Northern Arizona: Scientific Investigations Report 2010-5025*, at 36 (2010).
12 Even so, most of it is in areas where mining is prohibited. *Id.* at 5.

13 24. But rather than allow robust domestic production, under United States policy,
14 uranium is imported chiefly from foreign countries, including hostile powers like Russia
15 and areas of significant unrest like Niger. *See* U.S. Energy Info. Admin., *Nuclear*
16 *Explained: Where Our Uranium Comes From* (last updated Aug. 23, 2023).

17 25. All the same, significant uranium mining interests exist outside the existing national
18 park areas that Congress has regulated through legislation. And beginning in 2004, interest
19 in uranium increased, and by 2009, over 10,000 mining claims had been staked outside
20 Grand Canyon National Park. DOI, *Record of Decision Northern Arizona Withdrawal 3*
21 (2012).

22 26. The increased interest in Arizona's natural resources led to opposition and proposals
23 within Congress to ban natural resource extraction—including mining in certain
24 unregulated areas. For example, Members of Congress proposed the Grand Canyon
25 Watersheds Protection Act of 2008 (H.R. 5583), the Grand Canyon Watersheds Protection
26 Act of 2009 (H.R. 644), and the Grand Canyon Watersheds Protection Act of 2011 (H.R.
27 855). Congress passed none of these bills.

1 27. Because Congress could not pass legislation to change the land designation around
2 the Grand Canyon, in 2009, the Secretary of the Interior unilaterally banned location and
3 entry to a 993,569-acre area with the highest concentration of mining claims. 74 Fed. Reg.
4 35,887 (July 21, 2009).

5 28. In 2011, the Secretary of the Interior also exercised his emergency authority to
6 withdraw 1,010,776 acres from location and entry under the 1872 Mining Law for six
7 months. 76 Fed. Reg. 37,826 (June 28, 2011).

8 29. Then, in 2012, the Secretary of the Interior withdrew 1,006,545 acres from location
9 and entry under the General Mining Law for 20 years—the maximum period allowed by
10 statute—subject to valid existing rights. 77 Fed. Reg. 2317 (Jan. 17, 2012); 77 Fed. Reg.
11 2563 (Jan. 18, 2012).

12 30. Because of the Secretary of the Interior’s decision, no new action on mining claims
13 could begin until 2032.

14 31. The Secretary of the Interior’s decision, however, was not permanent. So some
15 members of Congress again tried to restrict natural resource use but failed to pass legislation
16 that would permanently change land use around the Grand Canyon. *See* The Grand Canyon
17 Watersheds Protection Act of 2013 (H.R. 1350); The Greater Grand Canyon Heritage
18 National Monument Act of 2015 (H.R. 3882); The Greater Grand Canyon Heritage National
19 Monument Act of 2017 (H.R. 360); The Grand Canyon Centennial Protection Act of 2019
20 (H.R. 1373, S. 3127); The Grand Canyon Protection Act in 2021 (H.R. 1052, S. 387).

21 32. Despite these repeated attempts, none of the several Grand Canyon bills became law.
22 Only one bill even passed a committee vote.

23 33. In the wake of these legislative defeats, advocates against natural resource use in the
24 area called on the President to do what Congress refused to do and use the Antiquities Act
25 to broadly regulate land use in the area. *See* Timothy Puko, *Biden expected to create Grand*
26
27
28

1 *Canyon national monument to block new mining, sources say*, The Washington Post
2 (Aug. 4, 2023, 2:32 p.m.).²

3 **The President’s Antiquities Act Workaround**

4 **The Antiquities Act**

5 34. When Congress passed the Antiquities Act, it did not delegate presidents a broad
6 power to control public lands and land use. Instead, Congress’s goal was modest: it passed
7 the Act so that presidents could quickly establish protections for ancient and prehistoric
8 Native American archeological sites on federal lands from theft and destruction. *See* Ronald
9 F. Lee, *The Antiquities Act, 1900-06, in The Story of the Antiquities Act* (2019).³

10 35. The Act’s text reflects Congress’s limited purpose, which places identifiable limits
11 on presidential authority to declare monuments.

12 36. **The Designation Provision.** The Act first gives presidents the authority to declare
13 by “public proclamation historic landmarks, historic and prehistoric structures, and other
14 objects of historic or scientific interest that are situated on land owned or controlled by the
15 Federal Government to be national monuments.” 54 U.S.C. § 320301(a). Thus, these three
16 identifiable and limited categories of physical objects situated on federal land may qualify
17 as the basis for a national monument designation.

18 37. **The Reservation Provision.** If a president designates a valid “object” as a national
19 monument, he may “reserve parcels of land as a part of the national monuments.” But the
20 “limits of the parcels shall be confined to the smallest area compatible with the proper care
21 and management of the objects to be protected.” 54 U.S.C. § 320301(b). Put differently, the
22 land reservation’s limit is explicitly cabined by the valid “object” to be protected.

23 38. **The Enforcement Provision.** The Act further provides that any “person that
24 appropriates, excavates, injures, or destroys any historic or prehistoric ruin or monument or
25

26 _____
27 ² <https://www.washingtonpost.com/climate-environment/2023/08/04/arizona-national-monument-uranium-mining/>.

28 ³ <https://www.nps.gov/articles/lee-story-antiquities.htm>.

1 any other object of antiquity” situated on the national monument “shall be imprisoned not
2 more than 90 days, fined under this title, or both.” 18 U.S.C. § 1866(b); 54 U.S.C. § 320105.

3 **President Biden Establishes the Ancestral Footsteps National Monument:**
4 **Presidential Proclamation 10606**

5 39. Despite the Antiquities Act’s limited scope, after Congress failed to pass legislation
6 over natural resource use and heeding advocacy groups’ calls to prevent productive activity
7 in the area, President Biden reserved 917,618 acres—a land area larger than the State of
8 Rhode Island—as the Ancestral Footprints Monument.

9 40. The Proclamation designates the nearly one million acres of northern Arizona,
10 including landscapes and everything in them, as “objects of historic or scientific interest.”
11 *See* 88 Fed. Reg. at 55,338.

12 41. The Proclamation states that “the entire landscapes within the boundaries of each
13 area reserved by this proclamation are themselves objects of historic and scientific interest
14 in need of protection under section 320301 of title 54, United States Code” and that “all the
15 objects” identified in the Proclamation are objects of historic or scientific importance
16 “regardless of whether they are expressly identified as objects of historic or scientific
17 interest in the text of this proclamation.” *Id.*

18 42. The Ancestral Footprints Monument is larger than most national parks. It is 150,000
19 acres larger than Yosemite National Park. It is also over 75,000 acres larger than the Great
20 Smoky Mountains and Grand Teton National Parks—combined.

21 43. The Proclamation also designates as protectable “objects”: plateaus, canyons,
22 tributaries, remnants of homes, storage buildings, pottery, tools, other physical remnants of
23 human habitation, 50 species of plants, groundwaters that flow into the Colorado River,
24 different geological features such as Redwall Limestone, red cliffs of the Grand Canyon,
25 Kaibab Formation, the Toroweap Fault, Colorado Plateau, Kanab Plateau, House Rock
26 Valley, deserts, grasslands, woodlands, forests and old growth, riparian vegetation, and
27 endangered species such as the western yellow-billed cuckoo, southwestern willow
28 flycatcher, and northern leopard frog. *Id.* at 55,333–37.

1 44. This list is not exhaustive and includes alleged “objects” as part of the Monument
2 that the Proclamation does not identify. The Proclamation states that all objects identified
3 in the Proclamation “are objects of historic or scientific interest . . . regardless of whether
4 they are expressly identified as objects of historic or scientific interest in the text of this
5 proclamation.” *See id.* at 55,338.

6 45. It is thus impossible to determine how many “objects” the Monument protects.

7 46. Indeed, the Proclamation also states: “Some of the objects in these areas are sacred
8 to Tribal Nations; are sensitive, rare, or vulnerable to vandalism and theft; or are unsafe to
9 visit. Therefore, revealing their specific names or locations could pose a danger to the
10 objects or to the public.” *Id.* at 55,332.

11 47. The Proclamation isolates monument lands by preventing “entry” into the Ancestral
12 Footprints Monument, *see id.* at 55,339. For example, the Proclamation prohibits motor
13 vehicle use unless on an existing road or trail. *See id.* at 55,341.

14 48. The Proclamation purports to exclude certain activities by declaring that it should
15 not be “construed to alter” any valid existing water rights, nor shall it “be deemed to prohibit
16 grazing pursuant to existing leases or permits within the monument, or the renewal or
17 assignment of such leases or permits.” *Id.* at 55,339; 55,341.

18 49. But the Proclamation also justifies the designation by reserving the “groundwater
19 dynamics of the region” and the “hydrologic features” of the Monument—including
20 features dependent on groundwater flow—as “objects” suggesting that certain water rights
21 will be affected. *See id.* at 55,334.

22 50. Finally, the Proclamation also warns “all unauthorized persons not to appropriate,
23 injure, destroy, or remove *any feature of the monument* and not to locate or settle upon any
24 of the lands thereof.” *Id.* at 55,342 (emphasis added).

25 **The Proclamation’s harms to Ranching and Plaintiff Chris Heaton**

26 51. The Proclamation’s broad sweep and its effect on ranching and farming—an
27 essential aspect of Arizona’s heritage and economy—is readily apparent.
28

1 52. The first significant cattle ranch in Arizona was founded in 1872. Heather Roberts,
2 *C Is for Cattle – A History of Ranching in Arizona*.⁴

3 53. By the 1890s, the Arizona Territory was home to 1.5 million cattle.

4 54. Today, Arizona has 19,000 farms and ranches, many used for cattle ranching, which
5 now account for \$6.73 million in cash receipts, and the cattle community contributes more
6 than \$431 million to Arizona’s gross domestic product.⁵

7 55. Mr. Heaton is one representative rancher injured by the Monument. He owns and
8 runs the Y-Cross Ranch, a 48,063-acre cattle ranch in northern Arizona. (“Heaton Decl.”)
9 ¶¶ 3–4, 10.

10 56. Chris Heaton’s grandfather, Fred E. Heaton, homesteaded a plot of land in 1938 and
11 began building fences, water ponds and drilling wells, some of which were built and fenced
12 before the creation of the Bureau of Land Management. *Id.* ¶¶ 7–8.

13 57. The Ranch’s 48,063 acres is made up of private land, land leased from Arizona, and
14 land leased from BLM. *Id.* ¶ 10. The Ranch consists of three private-deeded pastures—the
15 Moonshine Pasture, the Thomas Place Pasture, and the Y Ranch Pasture—composed of
16 3,840 acres. *Id.* ¶ 12.

17 58. He has three grazing permits with the federal government: one on Gramma Spring,
18 one on Head of Hacks, and one on Loco Point. These specific permits are fenced off into
19 multiple grazing pastures. *Id.* ¶ 13.

20 59. The Ranch is organized around Mr. Heaton’s 47 private water rights, and his grazing
21 permits run with those private water rights. *Id.* ¶¶ 14–15.

22 60. Mr. Heaton, his family, friends and hired ranch hands work on the Monument up to
23 multiple times a week. They rotate cattle to different grasslands, doctor, brand, and ship
24 calves, chop ice, fix fences, drop salt and minerals for the cows, check on the welfare of the
25 animals and water, repair water diversion ditches, repair roads, build and maintain water
26 catchments and waterlines, and perform other ranch activities. *Id.* ¶ 16.

27 _____
28 ⁴ <https://heritagesquarephx.org/news/c-is-for-cattle> (Apr. 1, 2023, 1:30 AM).

⁵ <https://www.arizonabeef.org/the-beef-story/cattle-in-arizona> (last visited Feb. 10, 2024).

1 61. He runs around 200 head of cattle on the Ranch, and his cows graze on land
2 designated for the Monument every day of the year. *Id.* ¶ 17.

3 62. Generally, in the spring, the cows give birth to calves, and when the calves hit the
4 ground, they are cared for, nurtured, and milked by their mother. *Id.* ¶ 20.

5 63. The calves are sold in the fall, and a few are kept for breeding. *Id.* ¶ 21.

6 64. Throughout the year, cows and bulls graze and breed. *Id.* ¶ 23.

7 65. The following spring, the cycle begins anew with the birth of new calves. *Id.* ¶ 24.

8 66. Proclamation 10606’s monument designation covers much of Mr. Heaton’s Ranch,
9 where his calves graze and where he raises and cares for the cattle. *See id.* ¶ 40–41.

10 67. Mr. Heaton has private water rights on the Monument, including twenty-three stock
11 ponds, two wells, and three springs. *Id.* ¶ 42.

12 68. The Proclamation lists several alleged “objects” that are on Mr. Heaton’s Ranch. *Id.*
13 at 41.

14 69. Creating the Ancestral Footprints Monument automatically exposes individuals like
15 Mr. Heaton to criminal liability who violate existing regulations applicable to monument
16 land, *see, e.g.*, 54 U.S.C. § 320105; 43 C.F.R. subtitle A, part 3.

17 70. The Antiquities Act states: “A person that appropriates, excavates, injures, or
18 destroys any historic or prehistoric ruin or monument or any other object of antiquity that
19 is situated on land owned or controlled by the Federal Government without the permission
20 of the head of the Federal agency having jurisdiction over the land on which the object is
21 situated, shall be imprisoned not more than 90 days, fined under this title, or both.”
22 18 U.S.C. § 1866(b).

23 71. The Proclamation also warns “all unauthorized persons not to appropriate, injure,
24 destroy, or remove any feature of the monument and not to locate or settle upon any of the
25 lands thereof.” 88 Fed. Reg. at 55,342.

26 72. Proclamation 10606 exposes Mr. Heaton to the criminal penalty provisions under
27 the Antiquities Act and other laws.

1 73. If Mr. Heaton appropriates, injures, destroys, or removes any feature of the
2 Monument, which includes any object listed—or listed but undisclosed—within the
3 917,618-acre designation, including landscapes and anything on those landscapes, he is
4 subject to criminal penalties.

5 74. For example, Mr. Heaton maintains several springs and regularly removes tamarack
6 trees to prevent the roots from siphoning the water supply. Removing the trees could trigger
7 criminal penalties under the Antiquities Act and subject Mr. Heaton to criminal prosecution.
8 Heaton Decl. ¶ 43.

9 75. Mr. Heaton also maintains and cleans earth ponds with heavy equipment, to remove
10 the silt/mud out of them to prevent the cattle from getting stuck in the mud and to allow for
11 more water storage. Cleaning the silt/mud could trigger criminal penalties under the
12 Antiquities Act and subject Mr. Heaton to criminal prosecution. *Id.* ¶ 44.

13 76. The Proclamation names Kanab Creek, Kanab Creek Drainage Basin, and Kanab
14 Creek Tributaries, as objects. These objects are on the Y-Cross Ranch, and Mr. Heaton uses
15 the water sources, and his cattle regularly graze these areas. *Id.* ¶ 45.

16 77. Similarly, Mr. Heaton's cattle also graze the Kanab Creek riparian vegetation listed
17 in the Proclamation. *Id.* The grasslands and riparian vegetation named as "objects" in the
18 Proclamation are on the Y-Cross Ranch. Mr. Heaton's cattle regularly graze on those
19 grasslands and regularly graze the saltbush listed in the Proclamation. *Id.* ¶ 46.

20 78. The Proclamation also names Moonshine Ridge as an "object," which is located on
21 the Y-Cross Ranch and some of the Ridge is on Mr. Heaton's private property. His cattle
22 regularly graze on it. *Id.* ¶ 47.

23 79. The Siler Pincushion Cactus found on Moonshine Ridge is also on the Y-Cross
24 Ranch and listed as an object in the Proclamation. *Id.* ¶ 48. If any cactus is appropriated,
25 injured, destroyed, or removed, then Mr. Heaton could be exposed to criminal penalties.

26 80. A portion of Kanab Creek's Hack Canyon is on the Y-Cross Ranch and named as an
27 object in the Proclamation. *Id.* ¶ 49. On New Year's 2024, Mr. Heaton took his family, wife,
28 children, sister, and brother-in-law hiking down into Kanab Creek. *Id.* ¶ 52.

1 81. In a few locations on the Ranch, there are chips of broken pottery scattered on the
2 ground. *Id.* ¶ 51. If he, a family member, or one of his children picks up a piece of pottery,
3 they are appropriating a part of the Monument, which could trigger criminal penalties.

4 82. Moreover, the Proclamation states: “entire landscapes” within the designation are
5 “themselves objects of historic and scientific interest in need of protection” and that “all the
6 objects identified” in the Proclamation “are objects of historic or scientific interest . . .
7 regardless of whether they are expressly identified as objects of historic or scientific interest
8 in the text.” 88 Fed. Reg. at 55,338. Thus, if Mr. Heaton injures, destroys, or removes any
9 item—rock, shrub, or even blade of grass—identified or unidentified in the Proclamation,
10 he is exposed to criminal penalties.

11 83. Even if it is possible to avoid injuring, destroying, or removing many of the “objects”
12 the Monument lists, Mr. Heaton must spend monetary and other resources and change his
13 behavior to conform with both the Antiquities Act’s criminal provision and the regulatory
14 burdens placed on him by the Proclamation’s requirement that no one may, unless
15 authorized, “appropriate, injure, destroy, or remove any feature of the monument.” *Id.* at
16 55,342.

17 84. An actual and substantial controversy, therefore, exists between Mr. Heaton and the
18 Defendants over Proclamation 10606’s failure to comply with the Antiquities Act and the
19 United States Constitution. The Proclamation’s illegality is causing Mr. Heaton actual and
20 imminent injury. Unless a declaration is issued declaring Proclamation 10606 void, Mr.
21 Heaton will continue to be injured and face possible criminal prosecution.

22 85. Unless a permanent injunction is issued to forbid the implementation of
23 Proclamation 10606, Mr. Heaton will remain irreparably harmed.

24 86. Because of Proclamation 10606’s regulatory burdens, Mr. Heaton will suffer
25 decreased income, ranching opportunities, and opportunities to use his Ranch—including
26 his existing grazing permits and water rights.

27 87. Mr. Heaton will also remain subject to criminal sanctions for his ongoing activity on
28 his Ranch without a declaration and injunction.

1 88. Mr. Heaton has no plain, speedy, and adequate remedy at law.

2 89. If not enjoined by this Court, Defendants will continue to have authority to enforce
3 Proclamation 10606 and the Antiquities Act’s criminal-penalty provision. They will also
4 adopt regulations further restricting activities within the Ancestral Footprints Monument,
5 which will exacerbate the continuing harm to Mr. Heaton.

6 90. This case is justiciable because Proclamation 10606 is self-executing and
7 immediately subjects Mr. Heaton to criminal penalties and regulatory burdens for
8 appropriating, injuring, destroying, or removing any object within the Ancestral Footprints
9 Monument, including his property within the Monument.

10 91. Declaratory and injunctive relief are needed to resolve this controversy.

11 **CLAIMS FOR RELIEF**

12 **Count I:**

13 ***Ultra Vires Executive Action in Violation of the Separation of Powers:***
14 ***Proclamation 10606 Exceeds the President’s Power Under the Antiquities Act***
(Antiquities Act, 54 U.S.C. § 320301(a))

15 92. All preceding paragraphs are incorporated by reference.

16 93. Executive Branch actions, including those by the President, must come from and
17 conform to a valid statutory delegation from Congress or come from the President’s powers
18 delegated by Article II of the Constitution.

19 94. The Antiquities Act places discernible limits on the President’s power to declare
20 national monuments. Courts must thus determine whether the President has violated
21 statutory restrictions.

22 95. Under the Antiquities Act, the President has the authority to declare only (1) “historic
23 landmarks,” (2) “historic and prehistoric structures,” and (3) “other objects of historic or
24 scientific interest” as national monuments. 54 U.S.C. § 320301(a).

25 96. Proclamation 10606 exceeds the President’s power under the Antiquities Act and the
26 Constitution because the Monument includes items designated as “objects” that are not
27 landmarks, historic and prehistoric structures, or “objects of historic or scientific interest”
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1 (or are not objects at all) within the ordinary meaning of the Antiquities Act. 54 U.S.C.
2 § 320301(a).

3 97. In declaring the Ancestral Footprints Monument, Proclamation 10606 relied on the
4 claim that unprotectable items are “objects of historic or scientific interest.” 88 Fed. Reg.
5 at 55,338. But entire “landscapes,” “grasslands,” and the sweep of all things and
6 characteristics within them are not objects of historic or scientific interest under the
7 Antiquities Act’s ordinary meaning. Such “objects” must be physical “objects of antiquity”
8 with historic or scientific interest.

9 98. Proclamation 10606 thus exceeds the President’s authority under the Antiquities Act,
10 is an ultra vires executive action, violates the separation of powers, and is void.

11 **Count II:**

12 ***Ultra Vires Executive Action in Violation of the Separation of Powers:***
13 ***Proclamation 10606 Exceeds the President’s Power Under the Antiquities Act***
(Antiquities Act, 54 U.S.C. § 320301(b))

14 99. All preceding paragraphs are incorporated by reference.

15 100. Under the Antiquities Act, the President may only reserve parcels of land as a
16 national monument if that land is “the smallest area compatible with the proper care and
17 management of the objects to be protected.” 54 U.S.C. § 320301(b).

18 101. Because Proclamation 10606 uses alleged “objects” that the President cannot
19 declare as, or as part of, a national monument under the Act as justification for the Ancestral
20 Footprints Monument’s size, the Monument necessarily cannot satisfy the Antiquities Act’s
21 “smallest area compatible” requirement.

22 102. Proclamation 10606 also provides no reasoned, factual justification, based on any
23 analysis or any other supporting evidence for each object designated, other than conclusory
24 statements, for why the Ancestral Footprints Monument’s boundaries require nearly one
25 million acres of northern Arizona to protect the Monument.

26 103. The Proclamation is thus an ultra vires executive action, violates the separation of
27 powers, and is void.

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Count III:

Violation of the Major Questions Doctrine
(Antiquities Act, 54 U.S.C. § 320301(a)–(b))

104. All preceding paragraphs are incorporated by reference.

105. Under the Act's limited language, the President's asserted authority to designate a landscape and many objects that do not conform to the Antiquities Act's ordinary meaning as a nearly one-million-acre monument, violates the major questions doctrine.

106. The major questions doctrine requires the Executive Branch to show "clear congressional authorization" when it claims highly consequential authority through a delegation over politically and economically significant issues.

107. Proclamation 10606's designation of the Ancestral Footprints Monument and the regulatory power that comes with it is a significant political issue with significant economic effects.

108. Proclamation 10606's restriction on land use in the Monument area has been the subject of much debate and failed legislation.

109. Proclamation 10606's designation of the Ancestral Footprints Monument and the reservation of land within it creates severe economic impacts for ranching, other industries, the communities surrounding the Monument's area, and the State of Arizona.

110. There is no clear statement in the Antiquities Act that the President may assert the power to declare nearly a million acres, landscapes, and everything on those landscapes as "objects" as a national monument, and thus Proclamation 10606 violates the major questions doctrine.

Count IV:

Violation of the Nondelegation Doctrine
(U.S. Const. art. IV)

111. All preceding paragraphs are incorporated by reference.

112. If there are no judicially reviewable statutory limits on the President's power to declare national monuments under the Antiquities Act, Congress has given him

1 unreviewable, unlimited discretion with no limiting or intelligible principle. That is
2 unconstitutional as an improper delegation of legislative power.

3 113. Under the Constitution’s Property Clause, the people vested Congress, not the
4 Executive Branch, with the power to make laws regulating federal lands. *See* U.S. Const.
5 art. IV, § 3, cl. 2.

6 114. Like any other law, laws passed under the Property Clause must follow the
7 Constitution’s bicameralism and presentment procedures outlined in Article I of the
8 Constitution.

9 115. The Executive Branch is vested with the power only to execute the law as Congress
10 has prescribed by statute. And actions by the Executive Branch—including presidential
11 actions—exceeding congressional delegations are lawmaking, are *ultra vires*, and violate
12 the Constitution’s separation of powers.

13 116. Under the nondelegation doctrine, Congress thus must provide an “intelligible
14 principle” to cabin and guide the exercise of executive discretion.

15 117. And those statutory standards must have definitive meaning that enables courts and
16 the public to determine whether the Executive Branch has adhered to Congress’s guidelines
17 for executing rather than making the law. Congressional statutes thus may not leave the
18 President with unfettered discretion with no judicially enforceable limits to determine a
19 law’s meaning.

20 118. Under the Antiquities Act, the President has the authority to declare only certain
21 objects as national monuments within the statute’s textual limits and the authority to reserve
22 the smallest area compatible with protecting those textually limited objects. *See* 54 U.S.C.
23 § 320301(a)–(b). But if Congress has delegated to the President unlimited discretion to
24 declare all objects or nonobjects, such as landscapes, as national monuments with no
25 limiting or intelligible principle—despite the Act’s limitations—then it has unlawfully
26 delegated its power under the Property Clause.

27 119. The nondelegation doctrine also has particular force here, where the President’s
28 *ultra vires* and unconstitutional actions trigger criminal sanctions.

1 120. If the President has unlimited power, with no intelligible principle, to regulate the
2 public lands under the Antiquities Act, then Congress has violated the Constitution's
3 nondelegation doctrine and the Act is void.

4 **REQUESTED RELIEF**

5 Plaintiff Mr. Heaton requests the following relief:

6 1. Entry of a declaratory judgment that:

7 a. Presidential Proclamation 10606 is an ultra vires executive action under
8 Antiquities Act § 320301(a) and violates the Constitution's separation of powers because
9 "landscapes," "grasslands," and everything within them, are not "historic landmarks,
10 historic and prehistoric structures, and other objects of historic or scientific interest" that
11 can be designated as, or as part of, a national monument;

12 b. Presidential Proclamation 10606 is an ultra vires executive action under
13 Antiquities Act § 320301(b) and violates the Constitution's separation of powers because
14 the Ancestral Footprints Monument's area is not "the smallest area compatible with the
15 proper care and management of the objects to be protected"; Presidential Proclamation
16 10606 is an ultra vires executive action under Antiquities Act § 320301(b) and violates the
17 Constitution's separation of powers because the President does not justify his conclusory
18 assertion that the Ancestral Footprints Monument's area is "the smallest area compatible
19 with the proper care and management of the objects to be protected";

20 c. Presidential Proclamation 10606 violates the major questions doctrine because
21 there is no clear congressional authorization to declare "landscapes," "grasslands," and
22 everything within them as national monuments. Nor is there clear congressional
23 authorization for the President to use these unprotectable objects to justify the Monument
24 as "the smallest area compatible with the proper care and management of the objects to be
25 protected" that can be designated as, or as part of, a national monument;

26 d. The Antiquities Act, as construed to establish the Ancestral Footprints
27 Monument, does not place a limiting intelligible principle on the President's authority under
28

1 the Act, and Congress has unconstitutionally delegated the President its power under Article
2 IV of the Constitution, the Act is void, and Proclamation 10606 is unlawful.

3 2. Entry of a permanent injunction against Defendants, Tom J. Vilsack, in his official
4 capacity as the Secretary of the United States Department of Agriculture; Deb Haaland in
5 her capacity as the Secretary of the United States Department of Interior; Tracy Stone-
6 Manning in her official capacity as the Director of the Bureau of Land Management; and
7 any of the Defendants’ agents, representatives, and employees from enforcing or giving
8 effect to Presidential Proclamation 10606;

9 3. An award of Mr. Heaton’s reasonable attorneys’ fees, costs, and expenses under 28
10 U.S.C. § 2412, or any other authority; and

11 4. An award of any further relief this Court deems just and proper.

12 DATED February 12, 2024.

13
14 /s/ Aditya Dynar
15 Aditya Dynar
16 Frank D. Garrison*
17 Paige E. Gilliard*
18 Adam Griffin*
19 Attorneys for Plaintiff Chris Heaton

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**Pro Hac Vice Pending*