

### Ecosystem Management Coordination



#### Court Decisions

1. Nothing to report

#### Litigation Update

1. Minerals | Region 3

The American Exploration & Mining Association filed a petition for writ of certiorari to the Supreme Court challenging the Ninth Circuit's decision to allow the Secretary of the Interior to withdraw over one million acres of land in and around Grand Canyon National Park and the Kaibab National Forest from new uranium mining claims for up to twenty years in *American Exploration & Mining Association v. Zinke, et al.* Finding an unconstitutional congressional veto provision severable from the statute, the Ninth Circuit found the Secretary of Interior has the power to authorize large land withdrawals for up to 20 years under the Federal Land Policy and Management Act (FLPMA). (14-17350, 9<sup>th</sup> Cir.) This decision was included in the December 15, 2017, Litigation Weekly. In its writ, Plaintiff claims Congress passed FLPMA to constrain Interior's ability to withdraw federal lands and provide a level of congressional oversight. By severing Congress' veto power, Plaintiff argues, the circuit court made it so this provision in FLPMA "cannot possibly function in a manner consistent with the intent of Congress" and as such review by the Supreme Court is warranted. (U.S.)

#### New Cases

1. Nothing to report

#### Notices of Intent

1. Nothing to report

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## Natural Resource Management Decisions Involving Other Agencies

### 1. U.S. Fish and Wildlife Service (FWS) | Endangered Species Act (ESA) listing

**The Center for Biological Diversity (CBD) filed a complaint in the District of Alaska challenging the FWS' decision to not list the Pacific walrus as threatened or endangered under the ESA in *Center for Biological Diversity v. Zinke, et al.*** In 2011, according to the complaint, the FWS determined the Pacific walrus warranted ESA protection based on the conclusion climate change would destroy the walrus's sea ice habitat and cause a substantial population decline. However, due to other listing priorities, the Pacific walrus at that time was only listed as a candidate species. Then **in 2017, the FWS reversed its 2011 determination and concluded the Pacific walrus did not warrant listing under the ESA.** Plaintiffs argue that since 2011 the case for listing the species has only grown stronger in light of continued disappearance of walrus's sea ice habitat. **Plaintiffs claim the FWS are in violation of the ESA by failing to explain its change in position,** failing to consider the best available science and reaching conclusions contrary to the best available science, and improperly treating scientific uncertainty as a reason for not listing the pacific walrus. (D. Alaska)

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