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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MONTANA, GREAT FALLS DIVISION**

<p>EAGLE BEAR, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>THE BLACKFEET INDIAN NATION and DARRYL LaCOUNTE, DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Cause No. 4:22-cv-00093-BMM</p> <p style="text-align: center;">PLAINTIFF’S REPLY IN SUPPORT OF MOTION FOR ADDITIONAL TIME TO COMPLETE SUPPLEMENTAL DISCOVERY AND BRIEFING</p>
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Eagle Bear’s goal in these proceedings has always been to acquire a complete record from the BIA so that a decision can be made on the merits. Eagle Bear has never attempted to take advantage of the “federal government’s continued lack of diligence” or to otherwise delay these proceedings. Since filing Eagle

Bear's motion seeking supplemental discovery, it has become clear that the production from the BIA is still not complete. Rather than proceed with supplemental depositions and briefing on what is admittedly an incomplete record, Eagle Bear has proposed a short extension of the Court's deadline to avoid future delays, not to cause them.

The BIA has indicated it has as many as 1,000 additional and responsive emails. As of the time of this filing, not one of those documents has been produced. Three weeks to obtain the documents, review the documents, notice and schedule the depositions, take the depositions, obtain the deposition transcripts, and prepare and file supplemental briefs seems unreasonable. Neither Eagle Bear nor the Blackfeet Nation caused this situation, but the situation nevertheless exists. What happened in 2008 and 2009 and for the dozen years thereafter is critical to the Nation's argument that Eagle Bear has no lease and is a trespasser. The documents produced on March 31, 2023 unmistakably support Eagle Bear's position. Eagle Bear is justifiably interested in what the additional documents might reveal.

Eagle Bear has operated the campground, and paid royalties and rents under the lease, for decades. A decision on lease validity will impact Eagle Bear's investment of millions of dollars and thousands of hours. Lives on and off the Reservation will be irrevocably changed by the decision. Waiting a few more

weeks to complete the record upon which such an important decision is made is reasonable.

This Court is:

invested with inherent powers that are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases. This inherent power includes broad discretion to make discovery and evidentiary rulings conducive to the conduct of a fair and orderly trial It is an abuse of this discretion to deny a motion to reopen discovery if the movant diligently pursued previous discovery opportunities, and if the movant can show how allowing additional discovery would have precluded summary judgment. . . . Rule 56(d) requires, rather than merely permits further discovery where the nonmoving party has not had the opportunity to discovery information that is essential to its opposition.

(Dkt. 98 at 2-3 (quoting *Unigard Sec. Ins. Co. v. Lakewood Eng'g & Mfg. Corp.*, 982 F.2d 363, 368 (9th Cir. 1992); *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1026 (9th Cir. 2006); *Matabolife Intern., Inc. v. Wornick*, 264 F.3d 832, 846 (9th Cir. 2001)) (internal quotation marks and alterations omitted)). Despite the additional time that the Court gave the parties to complete discovery and despite the best efforts of Eagle Bear, the BIA's actions have left Eagle Bear without sufficient time and opportunity to complete reasonable discovery necessary to fair adjudication of this case.

For these reasons, Eagle Bear respectfully requests that its motion extending the deadline to complete supplemental discovery and file supplemental briefs to July 14th be granted.

Dated this 11th day of May, 2023.

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By /s/ Neil G. Westesen

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of May, 2023, a true and correct copy of the foregoing was delivered by the following means to the following:

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