

Archaeology Southwest * Conservation Lands Foundation * Environment America * National
Parks Conservation Association * New Mexico Wild * The Wilderness Society

House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
1324 Longworth House Office Building
Washington, DC 20510

July 12, 2023

**Re: H.R. 4374 to nullify Public Land Order No. 7923, withdrawing certain land in San Juan
County, New Mexico, from mineral entry**

To whom it may concern:

On behalf of our organizations' millions of members and supporters, we write today to strongly oppose H.R. 4374, introduced by Representative Elijah Crane. Our organizations have been working to protect the Greater Chaco landscape for decades, and we fully support the Department of the Interior's (DOI) recently finalized withdrawal of public lands from future mineral development on federal lands within 10 miles of Chaco Culture National Historical Park (CCNHP) for the next 20 years.

The approximately 336,404 withdrawn acres of federal public lands and minerals create a buffer around CCNHP, which protects approximately 4,000 prehistoric and historic archaeological sites, representing more than 12,000 years of human cultural history in Chaco Canyon. The park also protects key plants and wildlife within the Colorado Plateau ecosystem and presents an important opportunity to safeguard the region's biodiversity and monitor its environmental quality. CCNHP is an International Dark Sky Park and is part of a UNESCO World Heritage Site. Chaco Canyon was a center of Pueblo culture between the 9th and 13th centuries, and has sixteen buildings within the park: the largest, best preserved, and most complex prehistoric architectural structures in North America.¹

While Chaco Canyon was once the center of a thriving ancient society, today, Chaco Canyon and the surrounding Greater Chaco Landscape remain a living cultural and ancestral landscape of great spiritual significance and traditional lifeways to the Pueblo Tribes of New Mexico and the Navajo Nation.² The national park helps to protect the structures and stories of people whose descendants maintain deep spiritual and cultural ties to the landscape. Visitors can also enjoy the quiet and peace found in the park's scenic vistas, night skies, and clean air.

Unfortunately, extensive oil and gas development threatens the natural and cultural resources in the park and surrounding Greater Chaco Landscape, air and water quality, and public health in

¹ <https://www.nps.gov/chcu/learn/historyculture/significance-of-the-park.htm>

² <https://www.archaeologysouthwest.org/wp-content/uploads/chaco-10-mile-primer.pdf>

the region. BLM has already leased over 90% of the federal lands surrounding Chaco for drilling, and oil and gas companies have drilled more than 37,000 wells in the area and built a sprawling network of roads – 15,000 miles – five times longer than the distance from Los Angeles to New York.³ Permanent protections and an assessment of the cumulative impact of oil and gas on health, culture, and climate are needed to ensure the resources and stories at CCNHP and in the Greater Chaco Landscape are protected, and the recently finalized administrative withdrawal is a crucial first step.

Many Chacoan sites exist outside the Park's official boundaries, so lease sales by BLM in the surrounding area almost always result in the loss of artifacts, history, and sacred sites as well as wildlands, habitat, and dark skies. The proposal to create a 10-mile buffer zone around CCNHP was developed through a robust stakeholder process which demonstrated the significance of protecting this portion of the Greater Chaco Landscape. Recent archaeological surveys and reconnaissance work by Archaeology Southwest revealed more than 4,000 archaeological and historic sites in the northern portion of the withdrawal zone. Additionally, because less than 20 percent of the area enclosed by the 10-mile zone has been archaeologically surveyed, the actual site count is undoubtedly much higher.⁴ The Final Environmental Assessment for the withdrawal reflects that “there are 4,730 archaeological sites within the proposed 10-mile withdrawal but outside the CCNHP” and that “[t]here are also an unknown number of undocumented archaeological sites within the withdrawal boundary.”⁵ Moreover, the cultural resources important to Pueblos and Tribes exist at a landscape scale and are not all archeological in nature. The 10-mile zone protects much of CCNHP's viewshed and dark skies as well, meaning visitors from all over the world can continue to experience the historic and sensitive landscape without the encroachment of energy development.

Public Land Order No. 7923 is limited in scope. It respects valid existing mineral development rights and private property rights. It applies only to future leasing of federal lands and minerals. It does not apply to pre-existing leases or affect the rights of individuals or entities that possess an interest in non-federal lands or minerals within the proposed withdrawal area, including allotment lands and minerals. It does not preclude the issuance of permits to drill pursuant to existing leases, the issuance of rights of way, or infrastructure expansion.

Due to its limited scope and related actions that have prevented new leasing, Public Land Order No. 7923 retains the status quo that has been in effect for over a decade. Since 2011, the Bureau of Land Management (BLM) has not issued any leases within the withdrawal area, and has deferred nominated lease parcels within the withdrawal area around CCNHP pending

³ <https://www.abqjournal.com/2477783/buffer-zone-a-vital-first-step-to-protecting-chaco.html>

⁴ <https://www.archaeologysouthwest.org/wp-content/uploads/chaco-10-mile-primer.pdf>.

⁵ U.S. Dep't of Interior, Proposed Chaco Area Withdrawal Environmental Assessment, DOI-BLM-NM-F010-2022-0011, at 1-1, 4-13 (May 2023) [hereinafter Final EA], *available at* https://eplanning.blm.gov/public_projects/2016892/200507928/20079943/250086125/20230531_ChacoWithdrawal_EA_Final_508.pdf.

completion of Tribal consultation and other legal obligations.⁶ Additionally, Congress has withheld funding since 2019 for any oil and gas leasing activities on federal lands within the withdrawal area.⁷ Yet, oil and gas development in the withdrawal area has continued. BLM has approved approximately nineteen drilling permits since 2012 for previously-issued leases within the withdrawal area.⁸ Over the same period, oil and gas companies drilled at least thirty-three new wells in the withdrawal area, including at least four that access Navajo-owned oil and gas resources.⁹

The Department of Interior issued Public Land Order No. 7923 pursuant to the authority and process that Congress enacted in the Federal Land Policy Management Act of 1976 (FLPMA). In FLPMA, Congress made an express delegation of withdrawal authority to the executive branch and provided that the Secretary of the Interior is authorized to make, modify, extend, or revoke withdrawals, but only in accordance with the provisions and limitations of FLPMA, Section 204.¹⁰ Consistent with FLPMA, the Department of Interior evaluated the environmental impacts of the current uses of the land, the economic impact of the withdrawal, and the effects of the withdrawal on impacted individuals and groups; consulted with sovereign Pueblo and Tribal nations, local governments, and impacted individuals and groups; and conducted a robust public engagement process that garnered widespread support for the proposal, including over 110,000 public comments in support.

The administrative mineral withdrawal adopted through Public Land Order No. 7923 provides temporary protection for sensitive cultural and natural resources surrounding CCNHP until permanent protection can be secured legislatively. Our organizations began advocating for legislative protection long before the Chaco Cultural Heritage Area Protection Act (S. 2907)¹¹ was first introduced in the 115th Congress by Senators Tom Udall (D-NM) and Martin Heinrich (D-NM) in 2018, over five years ago. In the 116th Congress, this legislation was reintroduced in both the House (H.R. 2181)¹² and the Senate (S.1079).¹³ The House Bill, sponsored by then-Representative Ben Ray Luján, had cosponsors from both sides of the aisle, and the bill passed the House in 2019 with bipartisan support. The legislation was reintroduced in the 117th

⁶ See, e.g., BLM, July 2013 Competitive Oil and Gas Lease Sale EA 12 (deferring multiple parcels within the proposed withdrawal area because “Tribal Consultation in Progress”).

⁷ See Press Release, NM Delegation Secures Protections for Chaco Canyon Area in Government Funding Bill (Dec. 19, 2019); BLM, Petition/Application for Withdrawal 3.

⁸ Based on data downloaded from BLM’s AFMSS on Apr. 13, 2022.

⁹ Based on data downloaded from the New Mexico Oil Conservation Division’s website on Apr. 13, 2022

¹⁰ 43 U.S.C. § 1714.

¹¹<https://www.congress.gov/bill/115th-congress/senate-bill/2907?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=95>

¹²<https://www.congress.gov/bill/116th-congress/house-bill/2181?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=32>

¹³<https://www.congress.gov/bill/116th-congress/senate-bill/1079?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=33>

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Congress (S. 5124¹⁴; H.R. 9344¹⁵) and most recently in the 118th Congress (S.1404¹⁶;
H.R.3062¹⁷), sponsored by Senator Ben Ray Luján and Representative Teresa Leger
Fernández, and cosponsored by New Mexico's full congressional delegation.

Both Public Land Order No. 7923 and the pending legislation strike a balance between the
preservation of existing rights to use and develop non-federal lands and minerals, including
those held in Trust or by allottees, and the need to protect the array of cultural and ecological
resources, as well as public health, in the region. Adjacent non-federal lands and federal lands
with existing leases will continue to experience development. The analysis set forth in the
Environmental Assessment for Public Land Order No. 7923 concluded that the action will result
in approximately forty-seven fewer oil and gas wells being drilled in the withdrawal area.¹⁸
Although the withdrawal represents a compromise, the reduction in oil and gas development will
positively impact the Chaco region's cultural, ecological, scenic, and recreational values.¹⁹

Public Land Order No. 7923 reflects a robust public process and thousands of public comments,
honors New Mexico's history and culture, and recognizes that some places are just too special
to lose. Therefore, we strongly oppose H.R. 4374, which would undermine the values and
resources protected by the withdrawal.

Thank you for your consideration.

Sincerely,

Emily Wolf
New Mexico Senior Program Coordinator
National Parks Conservation Association
314 S. Guadalupe St., Suite D North
Santa Fe, NM 87501

¹⁴<https://www.congress.gov/bill/117th-congress/senate-bill/5124?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=4>

¹⁵<https://www.congress.gov/bill/117th-congress/house-bill/9344?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=3>

¹⁶<https://www.congress.gov/bill/118th-congress/senate-bill/1404?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=2>

¹⁷<https://www.congress.gov/bill/118th-congress/house-bill/3062?q=%7B%22search%22%3A%5B%22Chaco+Heritage%22%5D%7D&s=1&r=1>

¹⁸ Final EA at 2-14.

¹⁹ Final EA at 1-9, 1-10, 1-11; 2-14, 2-15, 3-1, 4-12, 4-13, 4-16, 4-35, 4-39 (reflecting that the withdrawal would have a positive impact on the Chaco region's scenic and cultural values, with accompanying benefits to the quality of experiences for recreational users; provide improvements to the visual setting of the area, including enhanced visibility for night sky viewing, decreased noise and traffic from drilling and production operations, and improved regional air quality; decrease greenhouse gas emissions; minimize disturbance to paleontological resources; prevent negative impacts to wilderness areas and characteristics; reduce the spread of invasive species and noxious weeds; prevent erosion that could impact wetlands and riparian zones; improve water quality and availability; avoid disturbance and damage to soils, vegetation, and wildlife; and improve the quality of life and public health in local communities, including communities of environmental justice concern).

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505-423-3550

ewolf@npca.org

Sally Paez

Staff Attorney

New Mexico Wilderness Alliance

317 Commercial St. NE, Ste. 300

Albuquerque, NM 87102

505-843-8696

sally@nmwild.org

Ellen Montgomery

Public Lands Campaign Director

Environment America

1543 Wazee Street, Suite 410

Denver, CO 80203

(303) 801-0581

emontgomery@environmentamerica.org

Paul F. Reed

Preservation Archaeologist

Archaeology Southwest

300 N. Ash Alley

Tucson AZ 85701

505-486-4107

preed@archaeologysouthwest.org

Michael Casaus

New Mexico State Director

The Wilderness Society

317 Commercial St. NE, Suite 313

Albuquerque, NM 87102

505-247-0834

michael_casaus@twc.org

Romir Lahiri

New Mexico Associate Program Director

Conservation Lands Foundation

835 E. 2nd Avenue #314

Durango, Colorado 81301

575-386-3475

romir@conservationlands.org