

**House Natural Resources Committee
Subcommittee on Energy and Mineral Resources
July 13th, 2023**

Written Testimony on H.R. 4374 - “Energy Opportunities for All Act”

Daniel E. Tso

**Chair of the Counselor Health Impact Assessment - K’ée Bee Hózhooogo Iná Silá Committee
and Navajo Nation Council Delegate (1986-1995 and 2019-2023)**

Dear Chairman Stauber, Ranking Member, Ocasio-Cortez, and Honorable Subcommittee Members:

My name is Daniel Tso and I am a citizen of the Navajo Nation. I was born in the Torreon/Starlake area near the headwaters of the Chaco Wash and currently reside in Flora Vista, New Mexico, in the Greater Chaco Landscape. I am the Chair of the Counselor Health Impact Assessment - K’ée Bee Hózhooogo Iná Silá Committee, which is a committee of researchers that monitors the public health, cultural, and spiritual impacts of fracking in the Navajo Nation Chapters of Counselor, Ojo Encino, and Torreon/Starlake, in the Greater Chaco Landscape. I have served as Council Delegate to the Navajo Nation Council from 1986-1995 and from 2019-2023, representing Eastern Navajo communities in the Greater Chaco Landscape. I also hold shares in fourteen allotments in the region, all within 10 miles of Chaco Culture National Historical Park.

I am grateful for the opportunity to provide written testimony to the Subcommittee in support of landscape-level protections for the Greater Chaco region. I urge you to oppose House Resolution 4374 and direct the Department of the Interior to move forward with the Honoring Chaco Initiative.

As a Diné person, a lifelong resident of the Greater Chaco Landscape, an allottee, and as a formal Council Delegate to the Navajo Nation Council, I hope to convey to this subcommittee the importance of protecting the Greater Chaco Landscape and people who live there. For too long, the American Federal Government has facilitated and benefited from the destruction of our sacred lands. I ask today that you uphold Secretary Haaland’s important decision to protect a small part of our homelands so that our future generations may continue to revere our sacred places and practice our traditional ways.

There are nearly 40,000 oil and gas wells across the Greater Chaco Landscape, and the vast majority of federal lands have already been leased for extraction. Over the years, I have experienced the devastating effects of oil and gas extraction on the land, air, water, sacred places, and the public health and wellbeing of our communities. I have watched our community roads

get completely torn up by oil and gas traffic, endangering public safety. I have witnessed the ruinous aftermath of countless explosions, spills, and leaks at fracking sites that cause irreversible damage to our lands. I have suffered headaches and sore throats from breathing in the oil and gas fumes, and I have noticed an increase in health problems, like cancers and respiratory issues, among our community members. Children in my family who live in Counselor Chapter have had to make the difficult decision to attend school in Cuba, New Mexico, outside of their community, because the Lybrook Elementary School is surrounded by oil and gas wells.

Sadly, the federal government did not disclose to our communities how oil and gas extraction on our homelands would cumulatively impact our wellbeing. Groups like Diné Citizens Caring for our Environment (Diné C.A.R.E.) have sued the Bureau of Land Management (BLM) over oil and gas leasing in the Greater Chaco region, arguing that the BLM was signing off on oil and gas development without doing the proper analysis of the health impacts that we knew that we were experiencing. In February 2023, the 10th Circuit Court of Appeals affirmed this claim, and ordered the BLM to re-analyze the health impacts of oil and gas development in the region.¹

Given the lack of attention paid to the concerns of Eastern Diné communities, the late Dr. Larry Emerson and I helped form the Counselor Health Impact Assessment– K'é Bee Hózhqogo Iiná Silá Committee (HIA-KBHIS Committee), of which I am the Chair. The HIA-KBHIS Committee assembled community researchers and medicine people to examine the impacts of oil and gas through a Diné Lens, incorporating Diné traditional stories and teachings. Our study protocol was approved by the Navajo Nation Human Research Review Board, as was the final study, which was published in 2021.

The results of the HIA-KBHIS were alarming. Air monitoring showed that Diné residents in Counselor Chapter are exposed to dangerous levels of hazardous air pollutants. Almost all residents surveyed reported health symptoms consistent with exposure to oil and gas pollution. For example, over 90% of residents suffer from a sore throat and sinus problems, while 80% reported coughs, headaches, itching or burning eyes, joint pain, fatigue, and sleep disturbance.² Residents are exposed regularly to volatile organic compounds (VOC) present at gas and oil wells. Short-term exposure to VOCs can cause eye and respiratory tract irritation, headaches, dizziness, visual disorders, fatigue, loss of coordination, allergic skin reaction, nausea, and memory impairment or inability to concentrate. Long-term effects include loss of coordination and damage to the liver, kidney, and central nervous system.³

¹ *Diné C.A.R.E. vs. Haaland*, 59 F.4th 1016 (8th Cir. 2023).

² Tsosie et al. 2021; Atencio et al. 2022. Federal Statutes and Environmental Justice in the Navajo Nation: The Case of Fracking in the Greater Chaco Region. *American Journal of Public Health*. 112, 116_123, <https://doi.org/10.2105/AJPH.2021.306562>

³ *Ibid.*

The HIA-KBHIS further found that community members in Counselor, Ojo Encino, and Torreon/Starlake Chapters have suffered significant cultural, spiritual, and social harms, which were exacerbated with the introduction of multi-staged horizontal fracturing, or fracking, beginning around 2010. Fracking has eroded balance and harmony in the community, deeply affecting Diné lifeways. Survey respondents reported experiencing familial and community conflicts due to oil and gas. They expressed concern that sacred sites had been desecrated, the land had been degraded, oil companies did not respect their sovereignty, and traditional medicines and herbs were disappearing. Community members also expressed fear that they would no longer be able to sustain a livelihood from the land if it continued to be degraded by oil and gas.⁴

When fracking hit the Greater Chaco region, oil and gas companies began targeting allotment owners to lease their lands. Oil and gas companies sent representatives to Chapter Houses and into communities to encourage allotment holders to sign leases, incentivizing them with promises of lease bonuses and royalties. Lease contracts were always presented in English, a language not spoken or read by many of our elderly community members. Community members were not explained the terms of the agreements, the potential impacts of extraction, or how their allotments could be unitized with other parcels of different jurisdictions. Allottees were not informed that they could negotiate, as co-owners, on their royalty rates.⁵ In short, oil and gas companies took advantage of many allottees.

It is important to understand that due to the fractionation of allotment land holdings, many allotments in the regions have hundreds of co-owners.⁶ Allotment tracts with 20 co-owners or more only require 51% of shareholder consensus to lease (25 C.F.R. 162.012). In our community, where economic opportunities are few, disagreements within families about whether or not to lease have caused deep divisions. Moreover, the extent of fractionation means that while some leased parcels yield significant payments for co-owners, others receive only pennies.

Oil and gas is not the future of a thriving Eastern Navajo Agency. Instead, our communities need support investing in and developing non-extractive economic opportunities and transitioning

⁴ Ibid.

⁵ The Bureau of Land Management Environmental Assessment on the Chaco Area Withdrawal (DOI-BLM-NM-F010-2022-0011) states that “Allotted lease royalty rates range from 2 percent to 20 percent of production with the most common active rates being 12.5 percent, 16.67 percent, 16.7 percent, 18.75 percent, and 20 percent. These rates increase in complexity depending on whether the lease is a participating area in a communitization or unitization agreement. Rental rates vary from \$1.25 to \$11 with the current value being \$7 per acre, such that the average rental for a standard 160-acre allotment is roughly \$1,120 per year; however, it could be significantly more or less depending on the rental rate and acreage” (4-15). Compare page 4-7 for federal rates. ⁶Shoemaker, Jessica. 2016. “Emulsified Property.” *Pepperdine Law Review* 43 (945); “Indian Land Consolidation Act Amendments: And To Permit The Leasing of Oil and Gas Rights on Navajo Allotted Lands”. United States Congress Senate Committee on Indian Affairs. S. HRG 106-282. . Statement of Shenan Atcitty, Nordhaus Law Firm, for the Shii Shi Keyah Association. November 4, 1999

away from the fossil fuels that have harmed our health and lands for too long. Through Secretary Haaland's Honoring Chaco Initiative, we can collaborate with Tribes, Pueblos, impacted Indigenous community members, and other stakeholders to devise solutions that will ensure environmental and economic justice for our region.

As a Diné person, my lifeways and spiritual ways are profoundly connected to the landscape. Like many members of my community, my cultural traditions depend on being able to visit sacred places in the Greater Chaco region and on being able to live in harmony and co-existence with the land and animals. My community suffers a deep injury when the land, air, and water are degraded by oil and gas pollution.

As evidenced by numerous resolutions and statements passed by Navajo Nation Chapters, the Eastern Navajo Agency Council, the Navajo Nation Office of the President and Vice President, the All Pueblo Council of Governors, the National Congress of American Indians, and other groups and advocates, there has been an outpouring of support and solidarity for the protection of the Greater Chaco Landscape over the last decade.⁷ I add my voice to this resounding call in support of broad landscape-level protections for this region and the people, of which Secretary Haaland's administrative withdrawal is a crucial first step.

⁷Resolution of Torreon Star Lake Chapter passed on March 9, 2015; Counselor Chapter Resolution passed on March 10, 2015; and Ojo Encino Chapter Resolution 03-09-15/002 passed on March 9, 2015; OLC-7-01.

<http://www.dineresourcesandinfocenter.org/wp-content/uploads/2017/02/0025-17.pdf>; Eastern Navajo Agency Council BLM Resolution. Resolution No. ENAC 12-2016-03; Begaye, Russel, and Jonathan Nez. 2017. "Re: Concerns Regarding Chaco Canyon Cultural Historic Park," February 6, 2017.

<https://www.sanjuancitizens.org/wp-content/uploads/2017/03/NN-Moratorium-request-2017-02-23-.pdf>;

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<https://www.nhnews.com/news/2017/feb/28/fracking-and-drilling-near-chaco-canyon-challenged/>; Riley, Kurt, 2017, "To Support Moratorium on Leasing and Permitting In Greater Chaco Region." Resolution, Cultural Protection & NAGPRA, Milwaukee: National Congress of American Indians,

<http://www.ncai.org/resources/resolutions/to-support-moratorium-on-leasing-and-permitting-in-greater-chacoregion>;

Resolution of Counselor Chapter, #COUN-2019-02-001. All Pueblo Council of Governors, 2019, "Tribal Leaders Host Historic Summit to Support the Protection of the Greater Chaco

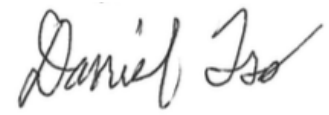
Landscape," <https://www.apcg.org/uncategorized/historic-joint-convening-between-the-all-pueblo-council-of-governors-and-navajo-nation-2019/>;

Lizer, Myron. 2019. Testimony of Navajo Nation Vice President Myron Lizer for the U.S. House Committee on Natural Resources Field Hearing on, "Oil and Gas Development: Impacts on Air Pollution and Sacred Sites." Santa Fe.

<https://www.congress.gov/event/116th-congress/house-event/LC63888/text?s=1&r=21410>; New Mexico State Land Office Executive Order No.2019-002, "Moratorium on New Oil and Gas and Mineral Leasing in Greater Chaco Area", April 27, 2019.

https://www.nmstatelands.org/wp-content/uploads/2019/06/SLO_EO-2019-002.pdf; TSL #12/2019-35, passed December 8, 2019.

Sincerely,

A handwritten signature in black ink that reads "Daniel Tso". The signature is written in a cursive style with a large, looped 'D' and a long, sweeping tail on the 'o'.

Daniel Tso

Chair, Counselor Health Impact Assessment - K'é Bee Hózhqoggo Iná Silá Committee
Navajo Nation Council Delegate, 1986-1995 and 2019-2023