

**H.R. 4374, “ENERGY OPPORTUNITIES
FOR ALL ACT”**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

Thursday, July 13, 2023

Serial No. 118-47

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.govinfo.gov>
or
Committee address: <http://naturalresources.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON NATURAL RESOURCES

BRUCE WESTERMAN, AR, *Chairman*
DOUG LAMBORN, CO, *Vice Chairman*
RAÚL M. GRIJALVA, AZ, *Ranking Member*

Doug Lamborn, CO	Grace F. Napolitano, CA
Robert J. Wittman, VA	Gregorio Kilili Camacho Sablan, CNMI
Tom McClintock, CA	Jared Huffman, CA
Paul Gosar, AZ	Ruben Gallego, AZ
Garret Graves, LA	Joe Neguse, CO
Aumua Amata C. Radewagen, AS	Mike Levin, CA
Doug LaMalfa, CA	Katie Porter, CA
Daniel Webster, FL	Teresa Leger Fernández, NM
Jennifer González-Colón, PR	Melanie A. Stansbury, NM
Russ Fulcher, ID	Mary Sattler Peltola, AK
Pete Stauber, MN	Alexandria Ocasio-Cortez, NY
John R. Curtis, UT	Kevin Mullin, CA
Tom Tiffany, WI	Val T. Hoyle, OR
Jerry Carl, AL	Sydney Kamlager-Dove, CA
Matt Rosendale, MT	Seth Magaziner, RI
Lauren Boebert, CO	Nydia M. Velázquez, NY
Cliff Bentz, OR	Ed Case, HI
Jen Kiggans, VA	Debbie Dingell, MI
Jim Moylan, GU	Susie Lee, NV
Wesley P. Hunt, TX	
Mike Collins, GA	
Anna Paulina Luna, FL	
John Duarte, CA	
Harriet M. Hageman, WY	

Vivian Moeglein, *Staff Director*
Tom Connally, *Chief Counsel*
Lora Snyder, *Democratic Staff Director*
<http://naturalresources.house.gov>

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

PETE STAUBER, MN, *Chairman*
WESLEY P. HUNT, TX, *Vice Chair*
ALEXANDRIA OCASIO-CORTEZ, NY, *Ranking Member*

Doug Lamborn, CO	Jared Huffman, CA
Robert J. Wittman, VA	Kevin Mullin, CA
Paul Gosar, AZ	Sydney Kamlager-Dove, CA
Garret Graves, LA	Seth Magaziner, RI
Daniel Webster, FL	Nydia M. Velázquez, NY
Russ Fulcher, ID	Debbie Dingell, MI
John R. Curtis, UT	Raúl M. Grijalva, AZ
Tom Tiffany, WI	Grace F. Napolitano, CA
Matt Rosendale, MT	Susie Lee, NV
Lauren Boebert, CO	<i>Vacancy</i>
Wesley P. Hunt, TX	<i>Vacancy</i>
Mike Collins, GA	
John Duarte, CA	
Bruce Westerman, AR, <i>ex officio</i>	

CONTENTS

	Page
Hearing held on Thursday, July 13, 2023	1
Statement of Members:	
Westerman, Hon. Bruce, a Representative in Congress from the State of Arkansas	1
Ocasio-Cortez, Hon. Alexandria, a Representative in Congress from the State of New York	3
Stauber, Hon. Pete, a Representative in Congress from the State of Minnesota	4
Panel I:	
Crane, Hon. Elijah, a Representative in Congress from the State of Arizona	6
Statement of Witnesses:	
Panel II:	
Culver, Nada Wolff, Principal Deputy Director, Bureau of Land Management, Washington, DC	7
Prepared statement of	8
Questions submitted for the record	11
Nygren, Hon. Buu Van, President, Navajo Nation, Window Rock, Arizona	12
Prepared statement of	13
Questions submitted for the record	18
Ashland, Anita, Senior Land Consultant, Enduring Resources, Centennial, Colorado	18
Prepared statement of	20
Questions submitted for the record	25
Atencio, Mario, Vice President, Torreón/Star Lake Chapter, Navajo Allottee Spokesperson, Cuba, New Mexico	30
Prepared statement of	32
Questions submitted for the record	47
Hesuse, Delora, Navajo Tribal Member and Allottee, Nageezi Chapter, New Mexico	48
Prepared statement of	50
Questions submitted for the record	52
Additional Materials Submitted for the Record:	
Submissions for the Record by Representative Westerman	
NABIAP Resolution-11-23	70
Navajo Nation, Letter to Secretary Haaland, dated May 3, 2023	72
EPA e-mail, dated June 15, 2023	73
Eastern Navajo Land Commission, Letter dated July 6, 2023	74
COLT Resolution: 06-02-2023-Resolution #02-2022 (WR-Las Vegas) ..	78
Eastern Navajo Land Commission, Letter to Chair Stauber, dated July 24, 2023	80
Eastern Navajo Agency Council, Letter to Chair Stauber, dated July 24, 2023	83
Submissions for the Record by Representative Grijalva	
Tó Nizhóní Aní, Letter to Committee, dated July 12, 2023	87
Coalition, Letter dated May 6, 2022, in Support of the Proposed Mineral Withdrawal	88
Environment America, Letter to the Committee, dated July 12, 2023 .	108
E-mail Messages from 956 Constituents	108
Letter to Committee from 6 Organizations, dated July 12, 2023	109

IV

	Page
Additional Materials Submitted for the Record—Continued	
Submissions for the Record by Representative Leger Fernández	
Pueblo of Acoma, Governor Brian Vallo, Statement for the Record	112
Greater Chaco Coalition Members & Supporting Organizations, Letter to Sec. Haaland, dated July 13, 2023	117
Letter to Committee from 29 Navajo Nation citizens, dated July 11, 2023	123
David Tsosie, Navajo Nation Nahata Dziil Chapter, Statement for the Record	127
Cheyenne Antonio, Greater Chaco Coalition, Statement for the Record	130
23rd Navajo Nation Council, Hon. Lorenzo C. Bates, Memorandum dated October 13, 2016	132
Resolution of Counselor Chapter—#COUN-2015-03	133
Daniel Tso, Chair of the Counselor Health Impact Assessment, Statement for the Record	135
Diné Medicine Men’s Association—Resolution	138
State of New Mexico Commissioner of Public Lands, Executive Order No. 2019-002	141
Gadii’ahi-To’koi, Navajo Nation, Letter to Committee, dated July 11, 2023	145
Kendra Pinto, Navajo Nation Counselor Chapter, Statement for the Record	146
Myron Lizer, Navajo Nation Vice President, Statement for the Record	147
Ojo Encino Chapter—Resolution OJOE-03-09-15/002	149
Navajo Nation, Letter to Senate from President Begaye, dated August 22, 2018	151
Navajo Nation Dilkon Chapter—Resolution DIL-07-075-15	152
Sam Sage, Navajo Nation Enrolled Citizen, Statement for the Record	154
National Congress of American Indians—Resolution MKE-17-008	157
Torreón/Star Lake Chapter—Resolution 2015	159
Torreón/Star Lake Chapter—Resolution TSL 04/2016-027	161
Wendy Atcitty, Navajo Nation Enrolled Citizen, Statement for the Record	164

**LEGISLATIVE HEARING ON H.R. 4374, TO
NULLIFY PUBLIC LAND ORDER NO. 7923,
WITHDRAWING CERTAIN LAND IN SAN
JUAN COUNTY, NEW MEXICO, FROM MIN-
ERAL ENTRY, “ENERGY OPPORTUNITIES
FOR ALL ACT”**

**Thursday, July 13, 2023
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 2:28 p.m. in Room 1324, Longworth House Office Building, Hon. Pete Stauber [Chairman of the Subcommittee] presiding.

Present: Representatives Stauber, Gosar, Fulcher, Collins, Westerman; Ocasio-Cortez, and Grijalva.

Also present: Representatives Crane; Leger Fernández, and Stansbury.

Mr. WESTERMAN [presiding]. The Subcommittee on Energy and Mineral Resources will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairmen of the Subcommittee and the Full Committee, and the Ranking Minority Member.

I ask unanimous consent that the gentleman from Arizona, Mr. Crane, be allowed to participate in today’s hearing.

Without objection, so ordered.

I will be filling in for Mr. Stauber until he gets here, but I now recognize myself for opening remarks.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. WESTERMAN. I would like to start by thanking our witnesses for taking the time to be here today, and would also like to thank Representative Crane for introducing this important piece of legislation.

In his first 2 years of office, President Biden broke a record for leasing the fewest acres for oil and gas drilling offshore and onshore than any other administration dating back to the end of World War II.

Additionally, in his first year in office, oil production on tribal lands experienced its first decrease in several years, dropping from 11 percent, from 101.8 million barrels in 2020 to 90.8 million barrels, and down again in 2022 to 80.8 million barrels. This war

on American energy has sent prices at the pump and utility bills unnecessarily soaring. Since President Biden took office, energy prices have gone up 37.2 percent, which is the larger increase than any of the last seven presidents.

Last year, nearly 34 percent of American households reduced or skipped basic expenses to pay energy bills. And not only is this attack on American energy costly, it is also misguided. Global energy consumption is on track to grow by nearly 50 percent by 2050. And conventional energy sources like petroleum will remain the largest energy source over that time. Natural gas and oil are projected to provide nearly 50 percent of the world's energy by 2050, with petroleum usage growing through 2050.

Since 1995, total world energy use rose by 50 percent as the world's population grew by just over 2 billion. The world is expected to add 2 billion more people by 2050, which will result in a similar increase in energy use, the point being that we need to produce more energy, not less.

We also need to be doing it here, not overseas, as it is safer and cleaner and produced more efficiently here in America. For example, Russian natural gas to Europe has an emission profile that is 41 percent greater than U.S. LNG exported to Europe. And minerals mined overseas by China involve forced labor and even child slave labor.

We have heard claims in this Committee by those opposed to oil and natural gas that companies have too many leases, and are operating on too much land. But just the opposite is true. Leased acreage is at an all-time historic low. Only 23.8 million acres of leases are currently leased, down 80 percent of the high of 120.7 million acres in 1995. In fact, the onshore acres under lease has almost dropped in half over the past decade, while production has greatly increased.

Actions by this Administration to lock up Federal lands for mineral development like the one we are discussing today and like the one in Chairman Stauber's district are moving our country in the wrong direction. What is worse is that these actions will have significant negative impacts on local communities. Navajo Nation allottees stand to lose roughly \$194 million in revenue due to this withdrawal, and the Administration appears to not care about that.

Last month, we had a hearing on the BLM's recently released Public Lands Rule. In that hearing, we heard the same thing we are hearing today. The Department of the Interior refused to listen to the people on the ground, and instead decided to steamroll those who don't agree with them in the name of climate change. I am in strong opposition to these actions and will do all I can to stop them.

With that, I look forward to hearing our witnesses and to discuss these important issues.

I now recognize the Ranking Member of the Subcommittee, Ms. Ocasio-Cortez, for her opening statement.

STATEMENT OF THE HON. ALEXANDRIA OCASIO-CORTEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. OCASIO-CORTEZ. Thank you, Chairman, and thank you to our witnesses here today, particularly those traveling great distances to be here with us.

President Nygren, it is also good to see you. Thank you for coming from New Mexico.

Today, the Subcommittee is holding a hearing on legislation to nullify the Chaco Canyon withdrawal, which was put in place by the Biden administration to protect the integrity of sacred sites in and around the Chaco Culture National Historical Park. The withdrawal prohibits new oil and gas leasing on Federal land within a 10-mile radius of the park for 20 years. H.R. 4374 would undo that progress.

I strongly oppose this legislation, and I am grateful for the opportunity to weigh in. I know many of my colleagues have been working to protect Chaco Canyon from further fossil fuel development for many years. So, let's start by taking a step back.

Long before our modern extractive industries came to be, the Greater Chaco Region in what is now New Mexico was the heart of Chacoan culture. Today, the sovereign Pueblo nations of New Mexico and the Navajo Nation have intimate connections with the Greater Chaco Region, recognizing the area as a spiritual place to be honored and respected.

Chaco Canyon also sits nearly at the center of the San Juan Basin in northwest New Mexico, a hotspot for oil and gas development. Over the last decade, U.S. oil production has more than doubled, due in large part to operations in New Mexico and the San Juan Basin in particular. And we are now producing more oil and natural gas than ever before.

While oil and gas development has created jobs and supported economies, it has also had the impact of significantly harming local air and water quality, health, wild natural places, and sacred sites. On top of that, it is contributing to our climate crisis.

In the San Juan Basin, the relationship with oil and gas development is particularly complex. Local governments, including tribal governments and citizens, receive royalties from extraction, which helps support government services and boost the economy. But the story of oil production also has a grim underbelly.

First, oil and gas is a volatile industry, and that prosperity does not always last: a pattern that has repeated itself many times in different regions over the past several decades.

Second, there were also at least 1,400 oil spills in New Mexico last year alone, a record since 2018, and the San Juan Basin also has the unfortunate distinction of having some of the highest concentrations of methane pollution in the United States. Methane pollution is linked to airway damage, aggravates lung diseases, causes asthma attacks, increases rates of pre-term births, and much more.

Oil spills can pollute clean water sources already in short supply for our communities. With nearly 140,000 people living and 30,000 children attending school within half a mile of an active well or

other oil and gas facilities in New Mexico, this pollution significantly affects public health.

The Federal Government has a significant role to play here. Oil and gas development in New Mexico disproportionately takes place on Federal land, and for far too long the Bureau of Land Management failed to consider the impacts of such development on nearby communities, especially tribal communities. More than 90 percent of the Federal land in northwest New Mexico has already been leased. Communities are suffering unknown consequences because we have thus far failed to adequately understand the cumulative impacts of so much development on public health, cultural resources, and the environment.

The Administration's actions to end further leasing near Chaco Canyon is a meaningful step in the right direction. It is the result of decades of efforts from tribes, elected officials, and the public.

Some places are too special to drill. Even the Trump administration recognized this, proposing to sell oil and gas leases near Chaco Canyon three times over the 4-year term, but canceling the sales in each instance due to opposition, instead committing to further cultural consultation. In fact, no leasing has taken place within the 10-mile boundary of this withdrawal in at least 10 years.

I do understand that BLM has found that there would be 47 fewer oil and gas wells drilled in the region over the 20-year life of the withdrawal, and 4 percent of allotments could experience high to moderate impacts on the future ability to lease oil and gas. I do not want to downplay these very real impacts on the local economy, but with these impacts also come improvements to health and safety.

As we look to the future, we must make sure that frontline communities, such as those testifying today, and energy communities see new forms of investment and diversified economies. We must strike a balance for all needs of our Federal lands, and make sure we are making decisions informed by science, consultation, and community input, as the Administration has with the Chaco Canyon withdrawal.

Make no mistake, I am committed to continuing to working with the Navajo Nation, allottees, and other impacted individuals on the economic challenges of this proposition.

Again, I am opposed to this legislation, and firmly support the Administration's actions to protect this landscape.

To close, I would like to submit for the record written testimony from the All Pueblo Council of Governors, a Puebloan leadership organization and political entity, and the Hopi Tribe in opposition to this legislation.

Mr. STAUBER [presiding]. Without objection.

Ms. OCASIO-CORTEZ. I yield back. Thank you.

Mr. STAUBER. Thank you, Representative Ocasio-Cortez.

STATEMENT OF THE HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. STAUBER. Today, the Subcommittee on Energy and Mineral Resources will discuss H.R. 4374, sponsored by Representative Crane, which would nullify the Bureau of Land Management's Public Land Order 7923.

This decision removed nearly 336,000 acres for mineral development in the San Juan Basin in New Mexico, which will prevent Navajo Nation allottees in the area from accessing oil and gas reserves underneath their lands that they rely on for their livelihoods. We will hear from the Navajo allottee today about how this withdrawal will severely restrict development in the area, and how the lack of development will affect the livelihoods of local allottees.

The Navajo Nation clearly expressed their opposition to this withdrawal throughout the public comment process. Earlier this year, the Navajo Nation Council passed a resolution opposing any buffer zone around the Chaco Culture National Historical Park. The resolution states, "The 25th Navajo Nation Council is concerned that any buffer zone, in addition to the withdrawal of public land, will have a detrimental impact to the Navajo Nation allottees by preventing the development of new oil and gas resources on allotments as a result of the allotments being landlocked."

I would like to submit this resolution to the record.

The resolution was followed by a letter from Navajo Nation President Buu Van Nygren, who is testifying with us today, and Speaker of the Navajo Nation Council, Crystalyne Curley. The letter details their opposition to the withdrawal, as it would have a significant negative impact on, "elderly culture bearers who rely on income from oil and gas royalties to meet their basic needs."

I would like to submit this letter for the record, as well.

Unfortunately, but not surprisingly, these concerns were ignored by the Department of the Interior under this Administration. And I know very well the frustration and concerns of those affected by unilateral mineral withdrawals, as this same Administration and Secretary of the Interior took over 225,400 acres of copper, nickel, cobalt, and platinum-rich lands off the table in my home state of Minnesota, the biggest copper-nickel find in the world.

What is worse is that Secretary Haaland didn't even know what minerals were there before she took this action. She had no idea there were valuable critical minerals in that find. In an appropriation hearing earlier this year, when asked if she banned critical minerals mining in northeastern Minnesota, the Secretary said, and I will repeat it, "I don't know what kind of minerals were there. I don't think they were critical minerals."

These withdrawals demonstrate a clear fact, that the Department and this Administration do not care for local voices and will stop at nothing to push their agenda to appease their radical and extreme anti-mining and anti-fossil fuel special interest groups.

Even more concerning is that these actions will leave the United States more dependent on China, Saudi Arabia, Russia, and other countries who perpetuate forced and child slave labor.

Yet, again, the Biden administration's motto holds up: Anywhere but America; any worker but American.

Public lands play an important role in rural economies in the West and across the country. We must ensure that we fully understand the impacts of these decisions before they are taken.

With that, I look forward to the discussion today, and I thank the witnesses for taking the time to be here, including Representative Crane, in order to discuss this important piece of legislation.

Now, I will begin our Member panel, and I would like to recognize Mr. Eli Crane from the 2nd District of Arizona for his testimony.

Representative Crane.

STATEMENT OF THE HON. ELIJAH CRANE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. CRANE. Thank you, Mr. Chairman, for allowing me to be here today.

Thank you, President Nygren. I appreciate it.

I want to take a minute to welcome the entire panel, and, again, President Nygren, to the Committee today. For those of you that don't know, I am proud to represent over half the tribes in Arizona, including Navajo Nation. They are great partners in preserving American history and culture, and I have had many conversations with them on the importance of tribal self-sufficiency.

In June, the Biden administration issued a Public Land Order banning hundreds of thousands of acres of Federal mineral estate surrounding the Chaco Culture National Historical Park for 20 years. This effectively prevents all private landowners and Navajo allottees from the mineral leasing land in this area. The ban will have significant negative economic impacts on both Navajo Nation and the American taxpayer, severely limiting tribal revenue, economic development, self-sufficiency, and American energy production.

I understand Chaco Canyon carries both cultural and historical significance for communities in the region, but the development of this land should be determined by those with lawful sovereignty and the 20,000 Navajo allottees who would be affected by this policy.

I introduced the Energy Opportunities for All Act because the Biden administration did not properly seek out tribal input and have effectively implemented a destructive choke hold on tribal revenue and economic prosperity. I am happy that President Nygren is testifying on how this Public Land Order affects Navajo Nation, and I encourage you all to listen to his counsel and co-sponsor my legislation.

Thank you. I yield back.

Mr. STAUBER. I thank you for your testimony, Representative Crane.

The Subcommittee will now move into our second panel of witnesses to speak on the legislation before us today. I will now introduce our panel.

The Honorable Nada Wolff Culver is Principal Deputy Director for the Bureau of Land Management; the Honorable Buu Van Nygren is the 10th President of the Navajo Nation, and was elected last November; Ms. Anita Ashland is Senior Land Consultant with Enduring Resources in Centennial, Colorado; Mr. Mario Atencio is a Navajo Nation allottee, and is Vice President of the Torreon/Star Lake Chapter in Cuba, New Mexico; and Ms. Delora Hesuse is a Navajo Nation tribal member and allottee in the Nageezi Chapter in New Mexico.

I now recognize the Honorable Wolff Culver for 5 minutes.

**STATEMENT OF NADA WOLFF CULVER, PRINCIPAL DEPUTY
DIRECTOR, BUREAU OF LAND MANAGEMENT, WASHINGTON,
DC**

Ms. CULVER. Good afternoon, Chair Stauber, Ranking Member Ocasio-Cortez, and members of the Subcommittee. I am Nada Wolff Culver, the BLM's Principal Deputy Director. I appreciate the opportunity to provide testimony on the Department of the Interior's 20-year withdrawal of public lands around Chaco Culture National Historical Park from mineral development.

Public Land Order 7923, signed by Secretary Haaland on June 2, 2023, responds to decades of efforts from Tribal Nations, elected officials, and the public to better protect sacred and historic sites, as well as the health and welfare of local tribal communities in northwest New Mexico. The order protects more than 4,700 documented sites outside the national park from the impacts of oil and gas and solid mineral development.

Engagement with the Department of the Interior has shown a widespread, deep concern regarding the impacts of oil and gas development on tribal cultural resources within the area around the national park, culminating in direct advocacy that includes a 2014 resolution from the All Pueblo Council of Governors and a 2017 resolution from the National Congress of American Indians seeking protection for the Greater Chaco landscape.

Members of the New Mexico delegation have introduced legislation protecting the area encompassed by the recent order since 2018. Congress has included language in multiple annual appropriation bills prohibiting the BLM from oil and gas leasing. Across the last three administrations, the BLM has not issued an oil and gas lease within the 10-mile buffer for about 10 years. The state of New Mexico halted leasing of state lands in the same area in 2019.

The development of PLO 7923 continues the long-standing history of engagement with those seeking enhanced protections for the Greater Chaco Region, and those seeking clarity on what protections would mean on the ground. This Administration's discussion with tribes commenced in 2021, including visits to the region and meetings with the Navajo Nation and allottees.

The Bureau of Land Management published a notice of proposed withdrawal in June 2022, opening a 120-day public comment period that included six public meetings with meetings in Farmington, Nageezi, and Albuquerque, New Mexico. More than 110,000 verbal and written comments were received during the initial public outreach and review period.

The BLM then provided a comment period and public meetings for a draft environmental assessment. The BLM invited 24 Tribal Nations to conduct government-to-government consultations on the proposal. Department leadership and the BLM met with Navajo allotment holders several times in 2022 and 2023. Secretary Haaland also engaged directly with tribal leaders and Navajo allottees.

In evaluating the effects of the withdrawal, the BLM responded to historic concerns and more recent questions. The withdrawal will significantly increase protections for cultural sites. Within the Chaco Culture National Historical Park there are 2,800

documented archeological sites. There are an additional 4,730 documented sites within the 10-mile withdrawal radius around the park.

In its environmental review, the BLM considered several alternatives, including no withdrawal, a 5-mile withdrawal radius, and the 10-mile withdrawal radius. The BLM found that a 5-mile withdrawal would protect approximately 1,900 documented sites, significantly less than the 10-mile withdrawal.

The withdrawal applies to oil and gas and certain mining activities on Federal minerals. All other uses of these lands continue, as well as valid existing rights such as oil and gas leases. The BLM estimates 47 new Federal wells in the context of the 3,200 projected in the area could be forgone in the 20 years of the withdrawal.

The BLM also estimated potential impacts on allotment lands. While the legal rights of allotment owners are not changed by the withdrawal, BLM responded to concerns by estimating the indirect effects of the withdrawal of Federal minerals. The BLM's evaluation found that the lease ability of the vast majority, over 90 percent, of unleased allotments would be unaffected by the withdrawal, and that seven new wells would be forgone.

While the BLM has not leased Federal lands within 10 miles of the park over the last decade, the Department has continued to issue drilling permits and hold lease sales on nominated allotment parcels, including a sale held in January 2022. The protections provided by the Public Land Order, the result of years of ongoing engagement with Tribal Nations, elected officials, and regional and local communities offer meaningful benefits for cultural protection, air quality improvements, and reduced disturbance from oil and gas development.

H.R. 4374 would undermine these bipartisan efforts and the crucial safeguards provided by the withdrawal. The Administration strongly opposes H.R. 4374.

Thank you again for the opportunity to testify today. I am happy to answer any questions.

[The prepared statement of Ms. Culver follows:]

PREPARED STATEMENT OF NADA WOLFF CULVER, PRINCIPAL DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to provide testimony on H.R. 4374, the Energy Opportunities for All Act, which would nullify the force and effect of Public Land Order (PLO or Order) No. 7923, a withdrawal of certain public lands in northwest New Mexico to protect important Puebloan and Tribal cultural sites in the Greater Chaco Region.

Pursuant to Section 204 of the Federal Land Policy and Management Act (FLPMA), Secretary Haaland signed PLO 7923 into effect on June 2, 2023, withdrawing the public lands within a roughly 10-mile buffer around the Chaco Culture National Historical Park (the Park) from location and entry under the U.S. mining laws and from leasing under the mineral leasing laws for 20 years, subject to valid existing rights. The Order, which responds to decades of efforts from Tribal Nations, elected officials, and the public to better protect the sacred and historic sites and Tribal communities currently living in northwest New Mexico, would protect more than 4,700 documented sites within the withdrawal area from the impacts of new oil and gas leasing and solid mineral development. These protections are essential to ensure the integrity of irreplaceable cultural sites, which are of continual cultural and religious significance to regional Tribal communities.

H.R. 4374 would undermine these crucial protections within the Greater Chaco region, leaving sites, objects, and landscapes vulnerable to impacts from oil and gas and solid mineral extraction. The Administration strongly opposes H.R. 4374.

Overview

The tremendous cultural and religious importance of the Greater Chaco landscape has long been recognized nationally and internationally. President Theodore Roosevelt first protected the lands now known as the Chaco Culture National Historical Park in 1907, and the park and six other nearby sites were designated as a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site in 1987. The broader landscape of the Greater Chaco Region contains important cultural resources, sites sacred to many Native people, and is of high value to local and regional communities.

Between approximately AD 850 and 1150, the Chacoan peoples flourished, with Chaco Canyon serving as a social, cultural, and religious center. The Chacoan peoples erected great houses, astronomical sites, and ceremonial kivas, set in a landscape of sacred mountains, mesas, and shrines that continue to have deep spiritual meaning to this day.

However, this important cultural landscape is at significant risk from impacts associated with oil and gas development and solid mineral development. The Greater Chaco Region sits within the San Juan Basin, which contains several heavily developed oil and gas bearing formations, and the potential for expanded exploration and development poses risks to the region and its important cultural landscapes.

Greater Chaco Landscape Cultural Resources

The richness of the Chacoan culture is clearly visible in the grand scale of the architecture set in a landscape of mountains, mesas, and shrines that are sacred to and have deep spiritual meaning for many people to this day. UNESCO has recognized increased threats to Chaco Canyon's "integrity from adjacent development (including associated utilities and roads), energy exploration, extraction, as well as transportation projects and proposals."

There are 2,800 documented archaeological sites in the Park and an additional 4,730 documented sites within the 10-mile withdrawal radius outside the Park. In conducting its environmental review, the Bureau of Land Management (BLM) considered several alternatives, including no withdrawal, a 5-mile withdrawal, and a 10-mile withdrawal. The BLM found that a 5-mile withdrawal would protect approximately 1,900 documented sites. The 10-mile withdrawal affords substantially greater protections, protecting approximately 2,830 more documented archaeological sites than the 5-mile withdrawal. In addition, the 10-mile withdrawal would afford greater protection to Chacoan outliers, which are archaeological sites, such as roads and structures like those in Chaco Canyon that were constructed in and around the San Juan Basin.

The 4,730 documented sites protected by the 10-mile withdrawal area around the Park would otherwise be potentially impacted by additional mineral development. Fluid mineral development activities that cause ground disturbance, such as the construction of roads, pipelines, processing facilities, and earthworks have the potential to physically alter these cultural and historic sites. Where avoidance measures are not possible, these ground disturbing activities could destroy, displace, or otherwise physically alter aspects of integrity that qualify these sites for listing on the National Register of Historic Places. It can be especially challenging arid landscape. While the BLM seeks to minimize the impacts of mineral development on cultural sites, depending on where future mineral development occurred, it may not be possible for BLM stipulations to mitigate all adverse impacts to cultural resources.

Regional Oil & Gas Development

As noted previously, the Greater Chaco Region sits within the San Juan Basin, an area of significant oil and gas development. Currently, there are 79 existing oil and gas leases encompassing approximately 94,010 acres of Federal mineral estate within or partially within the proposed withdrawal area; approximately 71,260 of the leased acres lie within the proposed withdrawal area. As of April 1, 2023, 78 of the 79 leases are held by production (meaning there is one or more economically producing well on the lease, so the lease can continue to produce and remains valid beyond its primary term).

Given the long-standing interest in protecting the cultural sites of the Greater Chaco landscape, the BLM, under several administrations, has not issued an oil and gas lease within the 10-mile buffer for approximately 10 years. This approach has

been reaffirmed by Congress over the past several years with the inclusion of language in annual appropriation bills prohibiting the Bureau from oil and gas leasing in same area. A moratorium on new mining claims has been in place since January 2022 while the BLM undertook the assessment of the proposed withdrawal.

This withdrawal does not affect existing leases, nor does it apply to minerals owned by private, State, or Tribal entities. During the term of the withdrawal, production from existing wells could continue, and additional wells could and would likely be drilled on existing leases and non-Federal land.

Significantly, much of the acreage in the withdrawal area identified as high or medium potential for oil and gas development is already under lease, and therefore not subject to the withdrawal. The BLM estimates that the larger region of the Mancos Gallup geologic formation in New Mexico is expected to have more than 3,200 new oil and gas wells drilled over the next 20 years, in addition to the 37,300 past and present wells. As a result of the withdrawal, operators might be expected to forgo the development of 47 new oil and gas wells on Federal minerals and 7 wells on allotments. The BLM conservatively estimates that the withdrawal would result in a roughly 2.5 percent decrease of oil production in the San Juan Basin, and an even smaller decrease in production of natural gas. At the same time, the BLM's analysis found a benefit to the health and quality of life of local communities from the reduction of development of Federal minerals in this area.

Navajo Allottee Mineral Development

The BLM recognizes the particular concern regarding the withdrawal's potential impacts on Navajo Allottee Mineral Owners, and takes those concerns seriously; however, the Bureau's analysis demonstrates the withdrawal under PLO 7923 will have a relatively small and indirect impact on Navajo Allottees and other non-Federal mineral owners.

The withdrawal under PLO 7923 only applies to Federal lands and minerals and would have no significant impact on the rights associated with lands and minerals owned by the State of New Mexico, Tribal Nations, private landowners, or individual allotment holders.

The BLM's environmental analysis of the withdrawal considered the potential impact of limiting development of Federal lands and minerals. The BLM analyzed 1,233 base allotments within or intersecting the proposed withdrawal area boundary as well as 35 base allotments adjacent to, but outside of, the withdrawal area. These 1,268 base allotments consist of 1,358 simple, geographic, and resource fractionated allotments. Overall, 98, or just over 8 percent, of the unleased 1,186 allotments analyzed may see a high or moderate impact on future leaseability. The proposed withdrawal would likely not adversely affect the leaseability of the vast majority (over 92 percent) of these allotments within or adjacent to the withdrawal area. The Department of the Interior (Department) has continued to hold lease sales for allottee minerals in the area, including most recently on January 13, 2022. Of the 40 tracts up for lease, a single tract received a market value lease. Six other leases were issued after negotiations for below market value.

Consultation, Outreach & Engagement

The withdrawal under PLO 7923 is the result of nearly a decade of continual BLM and Department engagement with Tribal Nations, regional communities, and elected officials, many of them seeking elevated protections for the important cultural sites and landscapes of the Greater Chaco Region. Since at least 2014, resource management planning efforts have demonstrated a deep concern regarding the impacts of oil and gas development on Tribal cultural resources within the region, culminating in direct advocacy, including a 2014 resolution from the All Pueblo Council of Governors seeking protections for the landscape, a 2017 request from the Navajo Nation seeking a moratorium on leasing and activities related to hydraulic fracturing in the Greater Chaco area, and a 2017 resolution from the National Congress of American Indians seeking explicit protections from oil and gas development within the withdrawal area.

The development of PLO 7923 reflects and continues this long history of engagement with those seeking enhanced protections for the Greater Chaco Region and those seeking clarity on what protections would mean on the ground. In July 2021, political leadership from the Department visited the Greater Chaco Region to tour the Chaco Culture National Historical Park, meet with Pueblo leadership, and meet with Navajo Nation leadership and allottees. After concluding these meetings, BLM published a notice of proposed withdrawal in the Federal Register in January 2022, opening a 120-day public comment period that included 6 public meetings, including meetings in Farmington, Nageezi, and Albuquerque, New Mexico. More than 110,000 verbal and written comments were received during the public outreach and

review period. The BLM continued that engagement, including two in-person public meetings during a 30-day review period of the environmental assessment. The BLM also invited 24 Tribal Nations to conduct government-to-government consultations on the proposal. Department leadership and the BLM also met with Navajo allotment holders several times in 2022 and 2023, and Secretary Haaland engaged directly with Tribal leaders, including President Nygren of the Navajo Nation.

The All Pueblo Council of Governors, representing the 19 Pueblos in New Mexico, has consistently called for the withdrawal of Federal lands in the Greater Chaco region that hold immense cultural significance to them. Since 2018, the New Mexico Congressional delegation has introduced legislation to permanently protect Federal lands around Chaco Canyon with a 10-mile buffer. The State of New Mexico halted leasing of their minerals around Chaco Canyon through a state-level moratorium in 2019.

In addition to the 20 year withdrawal under PLO 7923, the Department is undertaking a broader assessment of the Greater Chaco cultural landscape to ensure that public land management better reflects the importance of sacred sites, stories, and cultural resources in the region. The BLM and the Bureau of Indian Affairs are co-leading discussions with Tribes, communities, elected officials, and interested parties to explore ways the Department can manage existing energy development, honor sensitive areas important to Tribes, and build collaborative management frameworks toward a sustainable economic future for the region. The first phase of this larger effort, known as the Honoring Chaco Initiative, included a set of 45 broader interviews, as well as planning sessions that culminated in 2.5 days of meetings with approximately 30 participants comprised of Tribal Historic Preservation Officers, Tribal organizations, Tribally-led non-governmental organizations, and representatives of the State of New Mexico to discuss the future of management in the Greater Chaco region.

Conclusion

The Greater Chaco region protects sites and landscapes of unique cultural and religious significance for Tribal Nations. The area remains an ancestral homeland and a place of continued spiritual practice and connection for many. However, thousands of sites within this region remain at risk from the impacts of oil and gas development. PLO 7923 would provide this landscape with 20 years of protection, responding to community calls for protection for the cultural landscape, as well as health and safety, while providing space to consider the appropriate and ongoing management of this unique region. These protections, the result of nearly a decade of ongoing engagement with Tribal Nations, elected officials, and regional and local communities, offer meaningful benefits for cultural protection, air quality improvements, and reduced disturbance from oil and gas development.

H.R. 4374 would inappropriately undermine these important protections, putting this irreplaceable landscape at risk once again. For these reasons, the Department strongly opposes H.R. 4374. Thank you again for the opportunity to present this testimony, and I look forward to your questions.

QUESTIONS SUBMITTED FOR THE RECORD TO NADA CULVER, PRINCIPAL DEPUTY
DIRECTOR, BUREAU OF LAND MANAGEMENT

Ms. Culver did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Westerman

Question 1. Before Secretary Haaland issued Public Land Order 7923 withdrawing thousands of acres of land around Chaco Park from mineral development, did she meet and consult with the Navajo allottees whose lands will be negatively affected by the Order?

1a) Can you tell us when those meetings or consultations took place?

1b) Can you state when, where and who was hired as Navajo language interpreter when DOI, or its departments met with Navajo individuals? Please provide the record.

1c) Was Chaco Buffer Zone discussed in any meetings by Secretary Haaland's family members, individually or in their capacities as consultants? Please provide the record.

Question 2. President Biden and Sec. Haaland have repeatedly stressed the importance of the Federal Trust Responsibility to Indian tribes.

2a) Is it the Administration's position that Public Land Order 7923 is consistent with the Trust Responsibility when it comes to the Navajo Nation and its tribal members?

Questions Submitted by Representative Grijalva

Question 1. Ms. Culver, can you expand on the Bureau of Land Management's outreach to the Navajo Nation and Navajo Allottees prior to issuing Public Land Order No. 7923?

Mr. STAUBER. Thank you for your testimony.
I will now recognize President Buu Van Nygren for 5 minutes.

**STATEMENT OF THE HON. BUU VAN NYGREN, PRESIDENT,
NAVAJO NATION, WINDOW ROCK, ARIZONA**

Mr. NYGREN. [Speaking Native language] Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the Subcommittee. My name is Buu Nygren, President of the Navajo Nation.

[Speaking Native language.]

This past November, I was honored to be elected as the youngest president ever of the Navajo Nation. Today, the Navajo Nation provides governmental services to more than 400,000 members. Our on-reservation population is about 200,000, and makes up one-third of all Natives living in Indian Country. Our reservation is more than 17.5 million acres. Our 110 chapters span portions of 11 counties across states of Arizona, New Mexico, and Utah.

Joining me today is Navajo Nation Council Delegate Danny Simpson, who represents the eight chapters and the withdrawal areas.

Thank you for the opportunity for me to testify today on H.R. 4374, the Energy Opportunity for All Act. This Act addresses the Public Land Order creating a 10-mile buffer zone around Chaco Canyon.

Chaco Canyon and the Chaco Wash Region has been home to the Navajo people since time immemorial. We, the Navajo people and the Navajo Nation Government, take our role as stewards of Chaco Canyon very seriously. We have preserved and protected Chaco Canyon since our ancestors' time, well before the park was created. We will continue to do so forever.

I boiled down my testimony today in two major points: (1) respect for sovereignty and (2) the impact of the allottees.

The Navajo Nation Government is in the best position to know what is best for the Navajo people. We have proven over hundreds of years that our Nation and our Navajo people are good stewards of land and cultural resources, including Chaco Canyon. The legislative body of the Navajo Nation Council and I are unified in our opposition to the 10-mile buffer.

The withdrawal was done without meaningful consultation, and fails to honor the Navajo Nation's sovereignty. Respect for tribal sovereignty must be consistent, even when it is not convenient.

The Nation offered compromise that honored Navajo sovereignty and the rights of our allottees, but that was rejected with inadequate explanation from the Administration. The lack of meaningful consultation is deeply concerning. The Navajo concept of [Speaking Native language], which is translated as “respect,” means listening to each other, compromising, and working together.

The withdrawal elevates outside special interest groups, and disregards the sovereign interests of the Navajo Nation and the livelihoods of our allottees. I heard directly from the Navajo people who feel that they were not being heard, and their fears for their livelihoods were not being addressed.

The 10-mile buffer zone includes numerous allotments, and negatively affects the interests of over 20,000 allottees. Navajo allottees rely heavily on the royalty payments and the infrastructure development from oil and gas activities. Many derive their income from mineral development. Impacted allottees say that they receive royalties averaging around \$20,000 a year. The disadvantaged communities in this region have a median income below \$27,000, which is below the Federal poverty guidelines.

Having grown up with very little, I seek to maximize economic opportunities and be a voice for our most vulnerable. These tribal members have been able to get by due to their royalties received and ancillary benefits derived from resource development. We are concerned about the future livelihoods of the allottees.

The Secretary provided no meaningful response to our repeated concerns that the withdrawal will have negative impacts on the allottees who rely on the oil and gas revenues. Nonetheless, we remain ready to work with the Secretary to re-evaluate the withdrawal and ensure a balanced approach.

In conclusion, the Nation supports the protection of both Chaco Canyon and the ability of Navajo allottees to make a living for their rightful mineral interests. The Navajo Nation therefore supports this bill, and urges its passage.

[Speaking Native language.]

[The prepared statement of Mr. Nygren follows:]

PREPARED STATEMENT OF THE HONORABLE DR. BUU V. NYGREN, PRESIDENT OF THE
NAVAJO NATION

Yá’át’ééh, Chairman Stauber, Ranking Member Ocasio-Cortez and Members of the Subcommittee. My name is Dr. Buu Nygren, President of the Navajo Nation (“Nation”). I represent over 400,000 enrolled tribal members, almost half of whom live on the Navajo Nation and collectively represent about one-third of all Native people living on Indian reservation lands in the United States. The territorial reach of the Nation extends more than 27,000 square miles and spans portions of 11 counties across the states of Arizona, New Mexico and Utah. The Nation makes up almost a third of all tribal trust lands in the United States. We are the largest Indian Nation in the country by both constituency and sovereign territory.

Thank you for convening this hearing to discuss the Energy Opportunities for All Act, an important bill to the Nation and its members. And thank you for inviting me to testify about this bill, tribal sovereignty, and the United States’ trust responsibility to tribes and allottees. The Nation urges the Subcommittee and the broader Congress to pass the Energy Opportunities for All Act to honor and respect the Navajo Nation’s sovereignty and ensure that Navajo allottees are able to receive the value of the resources they were allotted by the United States in exchange for lands throughout the Southwest.

Chaco History is Navajo History

Chaco Canyon and the Chaco Wash region have been home to the Navajo people since time immemorial. The Chaco Culture National Historical Park (“CHCU” or “Park”) is located between Albuquerque and Farmington, New Mexico in a canyon cut by the Chaco Wash, spanning 30,000 acres. Although it has not been used as a societal center for Chacoan people for nearly 800 years, Chaco Canyon has served as an important area to the Navajo people continuously since that time. Indeed, a number of modern Navajo clans trace their ancestry to the Chacoan people and many Navajo families were forcibly relocated off Park lands, even as recently as 1947.

The National Park Service’s website for Chaco Canyon recognizes that “[Chacoan] descendants are the modern Southwest Indians. Many Southwest Indian people look upon Chaco as an important stop along their clans’ sacred migration paths—a spiritual place to be honored and respected.” Chaco Canyon features prominently in Navajo creation as the place where many of our people were enslaved by Nááhwilbiihi, the gambler, until they were freed through divine intervention. Many present-day Navajo Holy Way ceremonies trace part of their origins to Chaco Canyon or Chacoan Outliers. Today, the Navajo families that remain living close to CHCU continue to access the Park to make offerings, pray, and conduct ceremonies. Our people also continue to gather firewood, plants, and pinyon nuts from the Park, and conduct educational and ceremonial camps there.

We, the Navajo people and the Navajo Nation government, take our role as stewards of Chaco Canyon very seriously and have continuously preserved and protected Chaco Canyon since our ancestors’ time, well before the United States created a Historical Park, and we will continue doing so indefinitely. Hence the continued strong preservation of structures and artifacts in the region.

CHCU was designated by President Theodore Roosevelt as a National Monument in 1907 and became a U.S. National Historical Park in 1980. The CHCU is protected from development and interference by Federal law. The lands and cultural resources surrounding CHCU that fall within the jurisdiction of the Navajo Nation are protected by an extensive network of Federal and Navajo statutes and regulations, including the Navajo Cultural Resources Protection Act, the National Historic Preservation Act, and the Archaeological Resources Protection Act among others.

Recent efforts by the Nation to preserve Chaco Canyon and related resources include the National Park Service-funded Chaco Sites Protection Program administered by the Navajo Nation Historic Preservation Department through a cooperative agreement with the National Park Service between 1992 and 2014. Through this agreement, the Nation and the Park Service worked collaboratively to “coordinate and mutually assist in protection and resource management actions” both within the Chaco Canyon Park Service Unit and on Navajo lands outside the Park. The resources at issue included 39 Chaco “great houses,” over half of which are located on Navajo lands. The National Park Service stopped funding the Program in 2014. Since then the Navajo Nation Historic Preservation Department has used the information from the Program to continue protecting Chacoan sites on Navajo land and have made multiple requests to the National Park Service to reinstate the Program.

Underlying the CHCU and the San Juan Basin, the Mancos Shale formation is a highly productive source of natural gas, with nearly 40,000 oil and gas wells drilled in the last sixty years—23,000 of which remain active.

Public Lands Order 7923 Disregards the Voice of the Navajo Nation and Fails to Honor Navajo Sovereignty

This brings me to the Secretary of the Interior’s withdrawal of a 10-mile “buffer” area around CHCU that will be prohibited from future mineral development through issuance of Public Lands Order 7923. This Order was issued over the objections of the Navajo Nation, the Indigenous sovereign most directly impacted by the Order, and with inadequate consultation with the Navajo Nation government.

I think we can all agree that Chaco Canyon and related cultural and historical resources should be protected. Indeed, we, the Navajo Nation and Navajo people, have been protecting and preserving those resources since time immemorial. But we don’t all agree on how to go about doing this. There is a right way, and that includes meaningful sovereign-to-sovereign consultation with the Navajo Nation government, whose jurisdiction extends to Park boundaries and is interspersed throughout the 10-mile buffer zone imposed by the Secretary, and that has taken into consideration the perspective of the descendants of the Chacoan people who continue to live near the Park.

Indeed, the Nation worked hard to broker a compromise with the administration that would honor Navajo sovereignty and the historic and cultural ties our people

have to Chaco, and balance the rights of our allottees to maximize the productive value of their land and provide for their families in an economically challenged region. We did so by offering a 5-mile buffer zone that addressed some of our deepest concerns by carving out the most productive oil and gas development zone even while providing additional protections to Chacoan resources. Notably, this was based on the geology of the region and cognizant of the fact that oil and gas development any closer than six miles from the Park boundary is largely infeasible.

However, this minimally disruptive and reasonable compromise was rejected by the administration with very little nation-to-nation engagement and discussion. This is an affront to Navajo sovereignty and is not what should have happened. Instead, there should have been meaningful sovereign-to-sovereign consultation to ensure that the Nation's sovereign status was honored and respected, and that the interests of Navajo tribal members directly impacted by the Park and the proposed buffer zone were fully considered and taken into account. The disregard and disrespect shown to the Navajo Nation here sets a deeply disturbing precedent for how this administration will engage with Indigenous Nations going forward on issues that matter deeply to us.

The history of engagement between the Nation and the administration on Chaco has been challenging. The Department of the Interior met with the Navajo Nation on a handful of occasions to discuss its views of the proposed withdrawal but failed to truly consider the impacts to vulnerable communities when rejecting the Nation's reasonable alternative. The Nation offered viable compromise solutions that would protect Chaco Canyon beyond the boundaries of the CHCU while still providing viable economic development and self-determination to the Nation and its members. As a people who are Indigenous to this area and landscape, we are deeply committed to its preservation and protection, and believe that there are several alternative solutions that protect Chaco Canyon while also providing a livelihood to our tribal members.

On November 15, 2021, without advance consultation with the Navajo Nation, President Biden announced a new effort by the Department of the Interior to protect the area around CHCU that included swaths of Navajo Indian Country. Navajo Nation's then-President Jonathan Nez sent a letter to President Biden requesting consultation on the shared sovereign land interests and the significant expected impacts on lands allotted to Navajo tribal members.

Over the Nation's objections, on January 6, 2022, the Bureau of Land Management ("BLM") formally proposed to withdraw approximately 351,000 acres of public lands surrounding CHCU for a 20-year term. Following the proposed withdrawal, BLM initiated a 90-day comment period from January 6, 2022 to April 6, 2022, which was subsequently extended to May 6, 2022. BLM held two in-person public meetings in urban communities off the Navajo Nation and outside of the directly impacted Navajo communities, and one virtual meeting, which the Nation and allottees attended. The Navajo Nation's Resources and Development Committee also attended a leadership meeting with the Farmington BLM Field Office on March 11, 2022 to raise concerns about the proposed withdrawal, during which the Nation requested a meeting with Secretary Haaland. In March, 2022, then-President Nez met with Secretary Haaland requesting a reduction of the buffer zone from 10 miles to five. After that meeting, the Nation submitted comments opposing the proposal on May 6, 2022.

As part of the regulatory review process, in accordance with the National Environmental Policy Act ("NEPA"), BLM completed an Environmental Assessment ("EA"). The 30-day public comment period for the Chaco Canyon Withdrawal EA began on November 10, 2022. On December 10, 2022, the allottees submitted comments opposing the withdrawal and explaining in detail how the draft EA arbitrarily refused to consider any alternatives that would be less impactful to vulnerable communities, including the five-mile compromise buffer zone proposed by the Nation. The comments also pointed out that BLM failed to consider economic impacts to the region and Navajo tribal members and allottees, ignored the actual geography of the region, and was completed without any meaningful effort to consult with the Navajo Nation. Although Navajo allottees and the Nation raised their concerns and offered compromise solutions throughout the notice and comment process, the draft Withdrawal EA neglected to address a viable alternative that would not destroy tribal members' mineral interests and, for many, a primary means of income.

On April 25, 2023, Speaker Crystalynne Curley and Members of the 25th Navajo Nation Council met virtually with the Secretary to voice the Nation's concerns about a 10-mile buffer, explaining that the affected allottees and surrounding Navajo communities did not support any buffer zone at all, and conveying that the Nation's position had changed from supporting a five-mile buffer to withdrawing support for any buffer zone.

On June 2, 2023—with no advance notice and over numerous and consistent Navajo objections—the Department of the Interior issued Public Lands Order 7923 withdrawing 336,404.42 acres of public lands surrounding CHCU from location and entry under the mining laws and from leasing under the Mineral Leasing Act for a 20-year term “in order to protect these public lands . . . from the potential impacts associated with oil and gas development activities and from adverse effects of locatable mineral exploration and mining, subject to valid existing rights.” The final EA resulted in a Finding of No Significant Impact that contained sparse analysis of the economic impacts to Navajo allottees and the Navajo Nation, and estimated the withdrawal would cause just \$588,831 in foregone royalties over the 20-year withdrawal period.

The withdrawal disregards and fails to honor the Navajo Nation’s sovereignty. Our requests and eminently reasonable solutions were not responded to in a meaningful way. It also ignores that Navajo people have protected Chaco Canyon for many hundreds of years, since before the Department of the Interior existed. For the Navajo Nation, this is an issue of great significance because it elevates outside special interest groups’ agendas over the sovereign interests of the Navajo Nation and the economic interests of our directly impacted allottees and local community members. Navajo leaders are in the best position to know what is best for our people, and we have proven over several hundred years that our Nation and our people are good stewards of land and cultural resources, including Chaco Canyon.

The withdrawal is not in line with President Biden’s stated commitment to honor the nation-to-nation relationship with Indian tribes and respect that tribes are in the best position to determine for themselves what is in their own best interest. The manner by which the Order was issued over the objections of the Nation, with little meaningful consultation, and with no effort to find a mutually agreeable compromise solution suggests that the Department of the Interior was intent on creating the 10-mile buffer, regardless of any impacts to the Nation or its members, and regardless of whether the 10-mile buffer would be the least disruptive way to protect Chaco Canyon. The Department still has not demonstrated that the solutions presented by the Navajo Nation were less effective at protecting Chaco Canyon than the 10-mile buffer. Indeed, prior to the withdrawal, BLM and all tribes with an interest in Chaco Canyon spent many years developing a new Resources Management Plan, EIS, and Programmatic Agreement addressing development of natural resources and protection of our lands and cultural resources. The withdrawal does not address the Management Plan, EIS, or Programmatic Agreement, which involved several tribes. Significant time, effort, and tax dollars were spent on preservation plans and agreements that now seem to be moot, with no guidance or explanation.

This is not the meaningful consultation or respect for tribal sovereignty and self-determination tribes are due. And it completely ignores the impact the withdrawal will have on Navajo allottees, people the Department has an obligation to protect. Under meaningful consultation, an effort to mitigate adverse impacts to the Nation’s allottee members would have been pursued. Additionally, when soliciting public comments from Navajo allottees, those meetings should have been held on the Nation in the directly impacted Chapters, technical resources should have been on hand to answer questions, and Navajo translation should have been provided. Going forward, the Nation is willing to work with Interior on a way to provide for meaningful consultation with the Nation and the Navajo people.

Navajo Allottees Will Bear Disproportionate and Significant Adverse Impacts

The 10-mile withdrawal area includes numerous allotments and negatively affects the mineral interests of over 20,000 allottees. In addition, the withdrawal area overlaps with Navajo trust land and includes four Navajo Chapters (local units of Navajo government similar to counties). It is immediately adjacent to an additional five Navajo Chapters. Six of these Chapters as well as the Eastern Navajo Agency (which includes 33 Chapters in the area immediately adjacent to CHCU) supported by formal resolution and vote a five-mile buffer zone when they thought a compromise with the Department was possible. The five-mile buffer would have only impacted an estimated 2,111 allottees. When it became clear in 2023 that a compromise was not likely to be broached by the Department, four of the local Chapters withdrew their support of any buffer and opposed imposition of any buffer through new resolutions.

The voice of the local Navajo governments and residents to the region directly impacted by the withdrawal is of utmost import to the Nation. Eastern Navajo Agency lies within a portion of New Mexico that remains one of the least economically developed places in the United States. Navajo allottees living in this rural

region rely heavily on the royalty payments and infrastructure development from oil and gas activities for their livelihoods—with many deriving the lion’s share of their income from mineral development. According to impacted allottees, they receive royalties averaging around \$20,000 per year. This is in a region with a median income below \$27,000. For many in this country, it is difficult to imagine existing on \$27,000 per year, or even less. These tribal members have been able to get by due to royalties received from their mineral interests and the ancillary benefits derived from resource development in the region.

It is deeply disheartening to read the Department’s EA estimating that royalty losses for Navajo allottees will be only \$588,831. This is a gross underestimation of the losses that will be sustained by Navajo allottees, and completely discounts the impact the withdrawal is already having on them. Enduring Resources, one of the active resource developers in the region, estimates that Navajo allottees actually stand to lose nearly \$200 million in royalties over the next 20 years due to the withdrawal, which was not addressed in the EA. It is as if the United States hit allottees with a bus and is saying “actually, it was a Matchbox car.”

As we stated in our May 6, 2022 comments, allottees’ interests will be completely nullified in areas where allotted lands are not contiguously aligned or grouped in such a way that allows a company to extract minerals through horizontal drilling. This will result in minerals remaining stranded, stagnating future development. The EA barely addressed this necessary consequence of the withdrawal, or the devastating economic impacts on allottees. In addition to the pure financial impacts, we also indicated in our comments that much of the infrastructure—such as roads and electric and water lines—in the area has been put in place by mineral development companies, not the United States or the State of New Mexico. Without these companies, the infrastructure in the region will deteriorate, potentially cutting off residents from access to critical services. The EA paid little attention to these significant impacts to Navajo allottees. This failure is incredibly disappointing considering the level of poverty in that region and the United States’ trust obligations to tribes and Indian allottees for whom it manages mineral interests. These deficiencies cannot be ignored, and the Navajo people living on and around these lands cannot be erased.

Conclusion

Given the extensive federal and tribal statutory and regulatory framework that already protects Chaco Canyon and related resources, Public Lands Order 7923 is unnecessary. Furthermore, the manner by which it was issued—with no advance notice to the Nation and a mere handful of government-to-government meetings over the strong objections of the Nation and an offer of a compromise that would have met all interested parties’ goals—fails to honor Navajo and tribal sovereignty. For this to happen to the largest Indigenous Nation in the country in its own backyard is deeply disturbing. Tribal sovereignty must be respected even when it is not politically expedient. We expect more of our trustee and this administration. Nonetheless, despite these disappointing actions, we have been and remain ready to work with the Secretary should she choose to reevaluate the withdrawal and work with the Nation to ensure a balanced approach that protects both cultural heritage as well as Navajo allottees’ ability to make a living from their rightful mineral interests. The Nation supports the protection of Chaco Canyon, and in protecting Chaco those human beings who have continued to live in the area cannot be left behind. Indigenous Nations are not relics; our people remain living and breathing and have complex human needs. Elected tribal leaders are best positioned to strike the balance between cultural continuity, adaption into modernity, and preservation of economic opportunity for our constituents. As Indigenous sovereigns, our perspective should matter greatly, and guide our trustee in its actions that bear directly upon us and our people. That was not done here. Absent a change of heart by the Secretary and Department, we believe that enacting the Energy Opportunities for All Act is critical to ensure that tribal sovereignty is respected, and that tribal members do not suffer crippling economic losses due to the withdrawal. The Nation supports this bill and urges its passage.

QUESTIONS SUBMITTED FOR THE RECORD TO THE HON. BUU VAN NYGREN,
PRESIDENT, NAVAJO NATION

The Honorable Buu Van Nygren did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Westerman

Question 1. In your testimony you mention how the Nation worked hard to broker a compromise with the administration that protects the historic and cultural ties to Chaco while also allowing allottees to maximize the productive value of their land and provide for their families.

1a) The Administration was clearly not open to this compromise, did they provide you with their rationale?

Question 2. We have heard how the withdrawal will prevent Navajo Allottees from obtaining significant revenues from energy production, but you also mentioned in your testimony that the withdrawal will also have a significant impact on the local infrastructure.

2a) Will this withdrawal cut residents off from access to critical services?

Mr. STAUBER. Thank you very much for your testimony.
We will now recognize Ms. Ashland for 5 minutes.

**STATEMENT OF ANITA ASHLAND, SENIOR LAND CONSULTANT,
ENDURING RESOURCES, CENTENNIAL, COLORADO**

Ms. ASHLAND. Chairman Westerman, Ranking Member Grijalva, Chairman Stauber, and Ranking Member Ocasio-Cortez, thank you for the opportunity to speak on behalf of Enduring Resources today, and the oil and gas industry operating in the San Juan Basin of northwestern New Mexico.

Enduring Resources is in a uniquely qualified position to offer its expertise on this topic because we operate 247 Mancos oil wells right in this Lybrook area outside of Chaco Canyon and outside of the withdrawal area. We appreciate the opportunity to call your attention to some little known facts about the oil and gas development in this area.

Fact No. 1, we would like to concur with President Nygren that the allottees are neither confused nor misinformed about the impact of the Chaco buffer withdrawal on their unleased minerals. There are 418 unleased allotments that affect over 16,000 allottees with mineral resources that will never be developed because of the Federal minerals that surround them.

[Slide.]

Ms. ASHLAND. I would like to show you Exhibit No. 1, which is a map of the San Juan Basin, and it shows in purple the allottee tracks. It also shows, from the number of black dots, that the San Juan Basin, as a result of drilling since the 1950s, has been largely developed, except in the southwestern portion where the allottee lands are located, and where the Chaco buffer withdrawal is located.

The currently producing and proposed Federal units are shown on the map, and the area highlighted in yellow is the area that is prospective in Enduring's analysis for development.

The green fruitland outcrop that you can see on the map marks the extent of the Mancos formation reservoir. And how this

resource is developed is with large Federal units of consolidated minerals with long laterals. The Mancos oil wells are about a mile deep, and we now have the ability to drill 2- to 3-mile laterals, four to eight laterals per pad, and each pad takes up only about 3 acres of surface disturbance.

The withdrawal will prevent the development of a significant amount of an allottee fee mineral oil and gas. And although there are no operations near Chaco, nor any geologic potential for future development within a 6-mile radius of Chaco Park, significant oil reserves will be lost as a result of the withdrawal.

[Slide.]

Ms. ASHLAND. The map marked Exhibit 2 is a zoom-in of the previous map, and it illustrates the potential future development that will be lost as a result of the withdrawal. And you will note from the map that there is no oil and gas development anywhere within a 6-mile radius of the park because, geologically, the area does not contain developable oil and gas reserves.

Enduring used an industry-accepted tool to predict oil in place in two separate reservoirs of the Mancos formation, the Gallup and the silt. And this map illustrates how the outermost area of the Chaco buffer withdrawal could be developed if Federal minerals were available to be leased. The green horizontal sticks depicted on the map illustrate the long lateral wells that would reach out from the large well pads into the Gallup and silt formation.

Enduring disagrees with the BLM's environmental assessment stating that only 47 wells would be prevented from development. This map shows otherwise. Over 233 wells could be developed in that area, translating into over 86 million barrels of oil, and 25.85 billion cubic feet of natural gas lost as a result of the buffer withdrawal.

Enduring estimates that approximately 56,320 acres outside of the currently existing Mancos Gallup's Federal units could be economically developed if the buffer withdrawal had not occurred. Of that, 10,720 acres, or 19 percent, are Navajo allotments. Therefore, the impact of the withdrawal falls largely on the allottees. Without the Federal leases, we are unable to create Federal units and drill long laterals, and their minerals will not be developed.

[Slide.]

Ms. ASHLAND. Fact No. 3 is that the Chaco buffer withdrawal is well protected by current statutes and BLM policies. The issuance of the withdrawal failed to consider the role of the other Federal environmental laws that are protecting culturally important sites such as Chaco. The Mineral Leasing Act, the Federal Land Protection and Environmental Protection Policy Act, Historical Preservation Act, they all direct the BLM to consider the environment and historic and cultural resources before approving any drilling locations. This is an area that is heavily regulated now, has many checks and balances built into it, and many protections for sensitive sites.

Thank you.

[The prepared statement of Ms. Ashland follows:]

PREPARED STATEMENT OF ANITA ASHLAND, SENIOR LAND CONSULTANT,
ENDURING RESOURCES, LLC

Introduction

I am here today on behalf of Enduring Resources, LLC (Enduring). We are part of the oil and gas industry operating in the San Juan Basin, located in northwestern New Mexico and southwestern Colorado. We want to testify to some of the little-known facts regarding the issuance of Public Land Order No. 7923 (“Chaco Buffer Withdrawal”), withdrawing over 336,000 acres of federal minerals from development in a greater than ten-mile buffer surrounding the Chaco Culture Historical National Park (“CCHNP”). As we will explain, the impact of the withdrawal falls most heavily on the adjacent Navajo allottee mineral owners, making unleased allottee minerals worthless from the standpoint of energy development.

Since 2018, Enduring has been operating in the San Juan Basin producing oil and natural gas from a leasehold consisting of federal minerals (59%), Navajo allottee fee minerals (24%) and state and fee minerals (17%). Of the allottee leasehold, 91% of the leases have been drilled and are currently being produced. The remaining undeveloped allottee leases lie within the Chaco Buffer Withdrawal, where Enduring holds approximately 18,000 net acres of federal and allottee leasehold. Existing undeveloped federal and allottee leases will expire due to the inability to develop allottee minerals without leased federal minerals. No new federal leases mean no future lease bonus payments, rentals or royalties will be paid to allottees because without federal leases, it is uneconomic and infeasible to lease or to develop only allottee leases.

Enduring produces in the Mancos shale formation using horizontal drilling and multi-stage hydraulic fracturing completions. The Mancos formation is developed by drilling wells approximately one mile below the surface, with laterals up to three miles in length. Drilling long laterals requires large blocks of minerals. Four to eight laterals can be drilled from one 3-acre well pad. Each lateral costs an average of \$6.5 MM and on average returns \$6 million in revenue per year, with a projected 20-year life cycle.

Enduring has invested over \$25.5 million in a water handling system to eliminate the need to vent or flare methane. Most significantly, this system allows Enduring to eliminate the use of scarce fresh water in completions and instead to use recycled water. This water system not only reduced the operational need for fresh water, but also reduced the air emissions and safety concerns resulting from water truck traffic.

Enduring works closely with its allottee lessors and understands the significant economic and quality of life challenges faced by the allottees. The conditions of poverty that exist on the Navajo Reservation and, particularly in the Eastern Agency Chapters, are shocking. Revenues from oil and gas production constitute the principal economic activity that sustains the Navajo allottees, whose family members and elders continue to reside without electricity or running water in pre-fabricated homes or in hógáns (traditional round or hexagonal dwellings with a wood- or coal-burning stove) in the Navajo Nation’s Nageezi, Huerfano, and Counselor Chapters. Oil and gas royalty income can double modest incomes. Allottees in the Eastern Navajo Agency whose mineral rights have been so developed typically receive royalty payments totaling about \$20,000 per year, in a region where the median annual income is below \$27,000.

Current total revenue earned by 20,000 allottees in the San Juan Basin from Enduring:

- 2020: \$13,225,686.08
- 2021: \$22,009,596.50
- 2022: \$39,908,770.64
- 2023 first quarter: \$4,930,600.61

Total for less than 3.5 years : \$80,085,795.83 paid to 20,000 allottees.

Shortly after I joined Enduring in January 2020, Enduring was forced to shut in its oil wells as result of the COVID-19 pandemic and the precipitous drop in oil prices to a negative value. I was responsible for sending a letter to all of its allottee lessors telling them that the wells were being shut in and that their royalty payments would be suspended until production could be restored. After the letter went out, many allottees called Enduring in great distress. I personally talked to dozens of allottees who were desperate to know when the company might be able to resume production. I heard first-hand heart-wrenching descriptions of the widespread illness and loss of family members to COVID, that they didn’t know how they would

pay rent, buy food or make their car payments without their oil money, and how much they depended on their checks. Fortunately, Enduring was able to begin turning wells back on after about 60 days, but the low oil prices kept their royalties low for the rest of that year, creating extreme hardship.

I. Fact #1: Allottees are neither confused nor misinformed about the impact of Public Land Order No. 7923 on their unleased minerals—there are 418 unleased allotments, affecting 16,615 allottees, with mineral resources that will never be developed because of the federal minerals surrounding them.

Navajo allotments were created when Congress passed the General Allotment Act in 1887. The act stated that the head of each family would receive 160 acres of tribal land and each single person would receive 80 acres. Title to the land would be held in trust by the government for 25 years. After 25 years each individual would receive United States citizenship and fee simple title to their land and minerals. Tribal lands not allotted to Native Americans on the reservation were to be sold to the United States and the land would be opened for homesteading. As a result, the allotments are located today in a checkerboard pattern with federal minerals.

This mixed ownership is shown on Exhibit “1”, which is a map illustrating mineral and surface ownership and showing the extent of the impact of the ten-mile Chaco Buffer Withdrawal on allottee lands and minerals (shown in purple). The map also shows that the San Juan Basin, as a result of drilling since the 1950s (black dots are wells), has largely been developed *except* in the southwestern portion where the allottee lands are located and where the Chaco Buffer Withdrawal is located. There are 53 leased allotments within the Chaco Buffer Withdrawal, each generating roughly \$6.2 MM per year in royalties for an average of 5,462 individuals.

The area highlighted in yellow is the area prospective for the development of Mancos formation oil, and the green Fruitland Outcrop marks the extent of the Mancos formation reservoir. To develop oil and gas in this area requires long laterals and large units of consolidated minerals; this is the challenge in the checkerboard area. Without federal oil and gas right-of-way access, long (2–3 mile) lateral wells will not be able to pass through federal minerals to allottee minerals. Without federal oil and gas minerals there are insufficient allottee minerals to justify the expense of modern oil and gas development. It is impossible to access, or economically develop, Navajo allotments without federal minerals and rights-of-way. Without federal oil and gas the allottee minerals will not be developed. It is an obvious fact that there will be an impact on the allottees from the Chaco Buffer Withdrawal. The withdrawal will prevent the development of a *significant* amount of allottee fee oil and gas minerals.

II. Fact #2: Although there are no oil and gas operations near Chaco, nor any geologic potential for future development within a 6-mile radius of Chaco, significant oil reserves will be lost as a result of Public Land Order No. 7923.

The map marked Exhibit “2” illustrates the *potential future development* that will be lost as a result of the Chaco Buffer Withdrawal, the outline of which is shown on the map. Currently producing and proposed federal units are shown on the map. The yellow illustrates currently leased minerals. Allottee lands are shown in purple, the Fruitland Outcrop in green marks the end of the unconventional Mancos formation potential. *You will note that there is no oil and gas development, nor future potential for development, within a 6-mile radius of CCHNP because geologically, the area does not contain developable oil and gas reservoirs.*

No oil and gas company has studied the Mancos shale more comprehensively or has the operational experience than Enduring. Using an industry-accepted tool to predict oil in place in two separate reservoirs of the Mancos formation, the Gallup and the Silt, this map illustrates how the outermost area of the Chaco Buffer Withdrawal could be developed if federal minerals were available to be leased. The green horizontal “sticks” depicted on the map illustrate the long lateral wells that would reach out from large well pads into the Gallup and Silt formations.

The BLM asserted in its Chaco Withdrawal Environmental Assessment (“EA”) that only 47 wells will be prevented from development by the Chaco Buffer Withdrawal (4MM bbl oil and 3.8 bcf gas, with lost royalty revenue of \$4.8MM). We think that is a lowball estimate and we pointed out in our comments where, based on our research and experience, BLM went wrong in making this estimate.

This map shows otherwise—in fact, over **233 wells** (39 in the Silt and 194 in the Gallup) will not be developed. This translates into *over* 86MM barrels of oil and 25.85 BCF of natural gas lost as the result of the Chaco Buffer Withdrawal. Enduring estimates that approximately 56,320 acres outside of currently existing Mancos/Gallup units could be economically developed in the Chaco Buffer Withdrawal area if the Withdrawal had not occurred. Of that, 10,720 acres, or 19%, of those acres are Navajo allotments, and the remaining 45,600 acres (81%) are federal, state or privately-owned fee minerals. Therefore the impact of the Chaco Buffer Withdrawal falls largely on the allottees because without the federal leases and rights-of-way, their minerals will not be developed, as shown on the next exhibit.

Based on these estimated production numbers and a royalty rate of 16.66%, the combined (federal and allottee) royalties forgone would be **\$51,122,997 per year** for a **total of \$1,022,459,948** for the **20-year withdrawal**. The **forgone royalties for the Navajo allottees tracts** would be **\$194,267,390** over the **20-year** withdrawal. Thus, the BLM's predicted impacts in the Chaco Withdrawal EA on revenue, jobs and environmental justice communities, primarily the Navajo allottees, are much greater than disclosed in the Withdrawal EA.

The illustration marked Exhibit "3" is a cross-section that depicts the development of the Mancos Formation through long laterals drilled in large federal units consisting of federal and allottee minerals. The cross-section clearly shows how without the federal minerals and federal rights-of-way (to drill through federal minerals) it would not be physically possible, nor economically possible, to develop the allottee minerals alone.

Our perspective as a member of the oil and gas industry operating on federal lands is that the development of federal oil and gas is an essential part of BLM's multiple use mission and supported in federal law. *See, e.g.*, Mineral Leasing Act of 1920, Mining and Minerals Policy Act of 1970, Federal Oil and Gas Royalty Management Act of 1982, Energy Policy Act of 2005 and the Inflation Reduction Act of 2022. Federal oil and gas revenue support state budgets and the U.S. Treasury. Oil and gas development creates good-paying jobs in rural areas. The energy produced on federal lands reduces our dependence on foreign suppliers and enhances our national security, as well as providing significant revenues to both the federal government and the State of New Mexico.

Most significant to the subject of the hearing, the U.S. Department of the Interior bears a legal responsibility to act as a fiduciary to Indian Tribes and allottees; a role the BLM understands requires the agency to "maximize economic gain for tribes/allottees . . ." Yet, the result of the Chaco Buffer Withdrawal is to foreclose the allottee's ability to develop their minerals.

III. Fact #3: The Chaco Buffer Withdrawal Area is well protected by current statutes and BLM policies regarding surface use.

The issuance of the Chaco Buffer Withdrawal fails to consider the role of other federal environmental laws in protecting culturally important sites such as Chaco. The FLPMA, the Mineral Leasing Act and federal environmental laws contain substantive requirements to protect the environment—air, water, fish and wildlife resources, endangered species, birds and raptors, historic and cultural resources. Procedural statutes like National Environmental Policy Act and National Historic Preservation Act direct BLM to consider the environment and historic and cultural resources before approving any drilling locations. BLM routinely uses these federal laws to manage the environmental impacts of authorized actions, like oil and gas, on BLM public land resources. The oil and gas industry fully accepts its shared responsibility to protect the landscape, air and water resources and the public health.

The oil and gas industry has not leased or developed oil and gas resources within a 6 mile-radius of CCHNP and has no reason to do so in the future. The industry recognizes that the Puebloan and Navajo peoples have strong cultural and spiritual ties to the CCNHNP and respects the importance of preserving it for future generations. If an archeological survey identifies any cultural resource in the outer 4-mile radius around the CCHNP, current law will protect that site by requiring the potential drilling location to be moved to avoid the resource. Existing federal substantive and procedural laws and the regulations administered by the BLM minimize adverse impact from oil and gas operations to the surface.

Summary

To summarize my testimony today, there are no present nor future oil and gas operations that will disturb the CCHNP or affect the 40,000 citizens who visit this great cultural legacy each year. Current law and geological facts on the ground will

continue to protect the CCHNP. The Chaco Buffer Withdrawal is not necessary to protect that national resource.

Unfortunately, the impact of the withdrawal will fall on the least able to withstand it—Navajo allottees who rely on oil and gas revenues for basic needs. With the Chaco Buffer Withdrawal of federal minerals, Navajo allottees are being denied the right to develop their minerals in the outer 4-miles of the 10-mile Chaco Buffer Withdrawal. As we explained, that is because of the checkerboard ownership of the minerals and the necessity of creating large federal units for the drilling of 2–3-mile-long horizontal wells.

Any culturally important archaeological sites located on the surface of unleased public lands in the remaining undeveloped portion of the Mancos formation are fully protected by existing federal laws and regulations as well as BLM policies and lease stipulations. The only actual impact of the Chaco Buffer Withdrawal is to deny Navajo allottees and the nation the potential to develop remaining Mancos oil reserves that could potentially provide much needed income to the allottees and contribute to our nation's energy independence and national security.

EXHIBIT 1

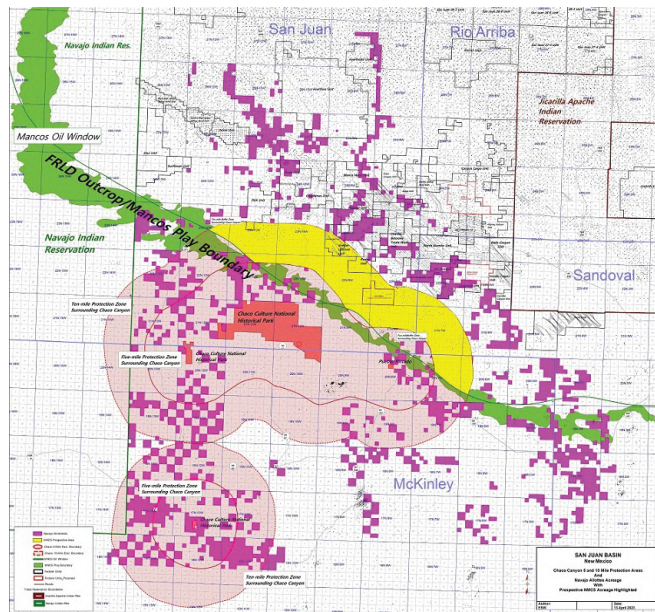


EXHIBIT 2

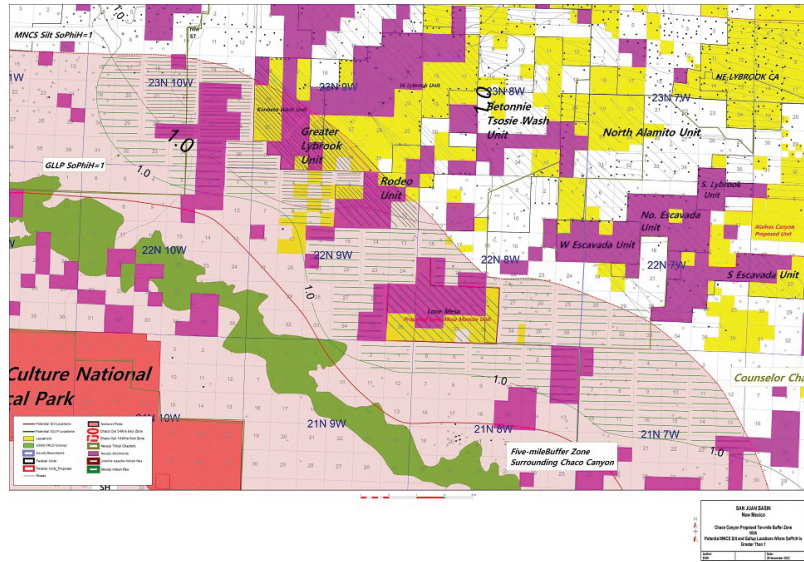
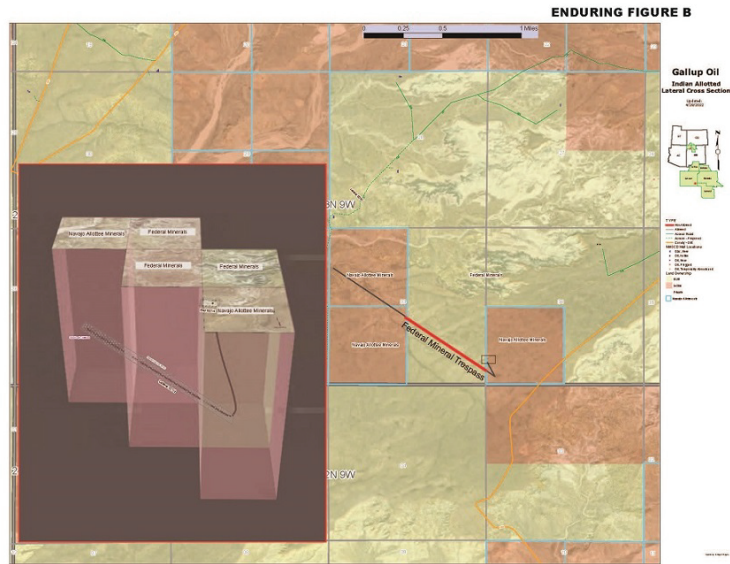


EXHIBIT 3



QUESTIONS SUBMITTED FOR THE RECORD TO ANITA ASHLAND, SENIOR LAND
CONSULTANT, ENDURING RESOURCES

Questions Submitted by Representative Westerman

Question 1. In Deputy Director Culver's testimony, she says that getting rid of the withdrawal will leave cultural sites, objects, and landscapes vulnerable to impacts from oil and gas and solid mineral extraction.

1a) Is this true—do companies like yours destroy cultural sites when producing energy?

Answer. No, Enduring Resources operates in full compliance with the National Historic Preservation Act ("NHPA"), which through Section 106, directs the Bureau of Land Management to require applicants to survey potential areas of disturbance. Enduring Resources retains qualified consultants who adhere to NHPA's Archeology Guidance. Before any surface is disturbed for a well pad, road or a pipeline, Enduring Resources is required to retain a cultural resource expert to conduct a pedestrian survey of the entire footprint of the proposed surface installation, plus a buffer zone in a radius around the site, in order to identify any cultural resources or archeological sites that would be impacted by the proposed surface facility. This consultant is required to hold a permit for archeological surveys. If any cultural resource or archeological site has been identified, the consultant will make a recommendation as to whether or not the site is eligible for listing on the National Register, and should be avoided, or if that is not possible, how any impact may be mitigated. The consultant's survey and recommendations are then reviewed by the BLM, which may agree or disagree with the recommendation.

1b) Can you walk us through the process that Enduring and other companies go through with the BLM if a cultural resource is identified at a location where you have drilling plans?

Answer. Any surface occupancy on federal or tribal lands is heavily regulated, with many checks and balances in place to protect cultural resources or archeological sites. *See e.g.* Antiquities Act of 1906 (protecting historic, prehistoric artifacts on federal lands); Historic Sites Act of 1935 (protecting historic sites, buildings and objects on federal land); Archeological and Historic Preservation Act of 1974 (protects scientific, historic and archeological material and data that might be damaged by federal projects); Archeological Resources Protection Act of 1979 (preservation and custody of excavated materials, records and data on federal lands); Native American Graves and Protection and Repatriation Act (1979) (protects human remains, and sacred objects of cultural patrimony); BLM, "Handbook of Guidelines and Procedures for Inventory, Evaluation, and Mitigation of Cultural Resources" (rev. 2021) and several related manuals (MS-8100, 8110, 8120, 8130, 8140, 8150) and other guidance. The NHPA requires the BLM to consult at every step in the process with the State Historical Preservation Office and in the case of allotted lands, with the Navajo Nation Heritage and Historic Preservation Department. If an archeological site is eligible for listing on the National Register, the proposed surface disturbance may be moved, rerouted, or, as a last resort, any impact must be mitigated. The appropriate type of mitigation must be approved by all agencies involved in the review process. Even if the site or object is not eligible for listing on the National Register, the operator and the agencies involved must agree on appropriate protective measures or modifications to the planned surface disturbance.

Enduring Resources recently had this situation arise in its Haynes Canyon Unit, a federal unit located in Rio Arriba County, NM. The archeological survey identified a cultural or archeological resource in an area that had been surveyed for a well pad. As a result of discussions with the BLM about potential accommodations, Enduring decided to relocate the well pad in order to avoid any surface disturbance.

Question 2. In your testimony you say that undeveloped federal and allottee leases will expire due to the withdrawal, could you explain why?

Answer. Issued, but undeveloped, federal and allottee leases in the withdrawal area that are not currently included in an approved federal unit will expire because it has been, and with the withdrawal will continue to be, impossible to acquire needed, additional federal leases on adjoining unleased federal tracts. As explained below, large federal units that combine checker-boarded federal and allottee leases are necessary for development.

For example, the last lease sale for this area was held in 2019. BLM still has not issued the three leases awarded to Enduring regardless of the fact that Enduring paid significant bonus dollars and first year rental payments in March 2019 that

BLM retains. Without those unissued federal leases, the federal unit cannot be formed, development cannot proceed and the issued federal and allottee leases that were planned for that unit will expire at the end of their lease terms due to lack of development.

Enduring produces in the Mancos shale formation using horizontal drilling and multi-stage hydraulic fracturing completions. The Mancos formation is developed by drilling wells approximately one mile below the surface, with laterals up to three miles in length. Drilling long laterals requires large blocks of minerals. Four to eight laterals can be drilled from one 3-acre well pad.

In order to drill across tracts with mixed ownership, it is necessary to form large federal units in order to pool the interests in the drilling block being drained by multiple well pads. No new federal leases in the withdrawal area means no future lease bonus payments, rentals or royalties will be paid to allottees because without federal leases on the federally owned tracts contiguous with the allotted tracts, it is uneconomic and infeasible to lease or to develop only allottee leases.

Question 3. How much money did Enduring pay to Navajo Nation allottees in 2022?

Answer. In 2022, Enduring paid \$39,908,770.64 in royalties to Navajo Nation allottees.

Question 4. What percentage of Enduring's workforce are members of the Navajo Nation?

Answer. Members of the Navajo Nation represent 15% of Enduring's workforce.

Question 5. Can you explain why you think that the BLM erred in asserting that only 47 wells will be prevented from development in its' analysis?

Answer. In the "Proposed Chaco Area Withdrawal, Environmental Assessment" (November 2022) ("Withdrawal EA"), the BLM based its analysis on its Mineral Potential Report. Because BLM's "low potential" estimate in the Mineral Potential Report is so far off the mark, for the three reasons we discuss below, the BLM's analysis of impacts to future oil and gas development is significantly flawed.

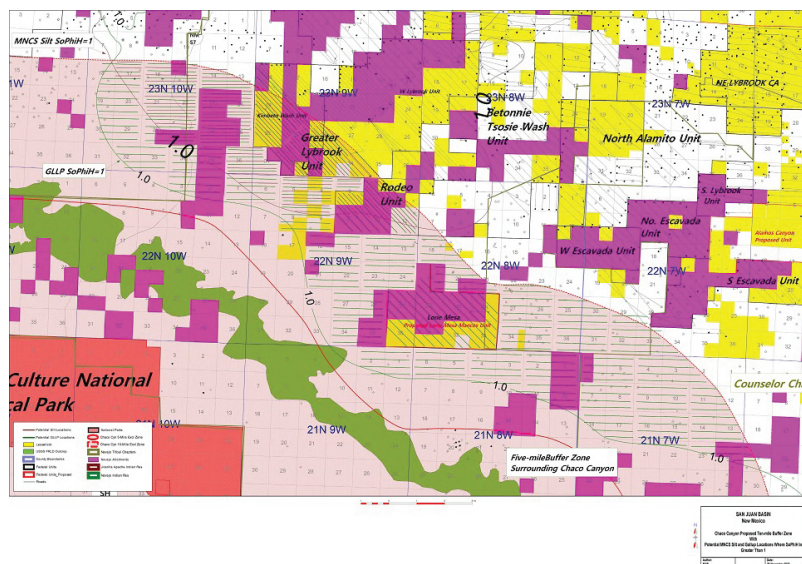
Based on Enduring Resources' actual experience as the operator of 247 high-producing Mancos oil wells in the area, and its knowledge of the geophysical and other data the company relies on to make investment-backed decisions in the development of a lease, the BLM has grossly underestimated the fluid mineral resource potential in the withdrawal area. Contrary to BLM's argument that the potential is low, Enduring knows that the developable fluid mineral resource north of CCHNP is substantial. As explained in detail below, rather than 47 wells, over 233 wells will be forgone along with significant oil and gas and mineral revenues to the federal government and allottees.

In reaching its new conclusion of "low potential," BLM makes three errors.

1. **Reservoir analysis.** The BLM does not accurately consider the oil saturation and the porosity of the reservoir rocks (SoPhiH calculation) to correctly estimate the fluid minerals potential in this area. In understanding the potential of a reservoir for development, Enduring follows standard industry practice and relies on a SoPhiH measurement. This is because SoPhiH is the primary measurement of reservoir quality needed to calculate an oil-in-place volume. SoPhiH is the Oil Saturation x Average Porosity of the oil saturated reservoir rock x Thickness of saturated reservoir rock. In addition to the development of the Mancos-Gallup, Enduring also has successfully developed and produced from the Mancos silt interval. We know that in areas where the Mancos Silt and the Gallup are mapped as having a SoPhiH value above 1, wells drilled and completed in these intervals produce significant volumes of oil.

North of the CCHNP, where Enduring has mapped a SoPhiH >1, the oil-in-place is calculated as being greater than 4 million barrels of oil per section. See **Exhibit A** (map illustrating areas with SoPhiH >1 in the withdrawal area). Moreover, based on Enduring's experience in the Kimbeto Wash and Greater Lybrook Units, both partially within the withdrawal area (see Exhibit A), a reasonable recovery factor for Mancos Silt/Gallup horizontal wells is 10% of the oil-in-place. Therefore, assuming current 1200' well spacing (four wells per section), four horizontal wells, with a lateral length of 1-mile, drilled in a section with greater than 4 million barrels of oil per section can be expected to produce >100,000 barrels of oil per well. Again, based on actual results in the Kimbeto Wash and Greater Lybrook Units, a conservative gas to oil ratio in this area is 300 bcf/bbl.

EXHIBIT A



In Enduring's experience, reserves below SoPhiH >1 would be doubtful to be drilled. Based only on the development potential for unleased acreage within the withdrawal area with a SoPhiH >1, Enduring estimates that 233 total horizontal wells, including 39 Mancos Silt wells and 194 Gallup wells, will be forgone as a result of the 10-mile withdrawal. Based on reserve reports from adjacent and nearby wells in the Kimbeto Wash and Greater Lybrook Units, Enduring can conservatively estimate that a 50 well/year industry (several companies) drilling program to develop the 233 wells (five wells per pad) could be expected to produce over 86,000,000 barrels of oil and 25.85 billion cubic feet of natural gas. Enduring's calculations that support these conclusions are contained in **Exhibit B** (spreadsheet).

EXHIBIT B

Page 1 of spreadsheet can be viewed on the Committee Repository at:

<https://docs.house.gov/meetings/II/II06/20230713/116135/HHRG-118-II06-20230713-SD068.pdf>

Page 2 of spreadsheet can be viewed on the Committee Repository at:

<https://docs.house.gov/meetings/II/II06/20230713/116135/HHRG-118-II06-20230713-SD070.pdf>

Page 3 of spreadsheet can be viewed on the Committee Repository at:

<https://docs.house.gov/meetings/II/II06/20230713/116135/HHRG-118-II06-20230713-SD071.pdf>

Page 4 of spreadsheet is available on the EIA website at:

<https://www.eia.gov/outlooks/aeo/data/browser/#/?id=3-aeo2019&cases=ref2019ref—no—cpp&sourcekey=0>

2. **Development plan.** The BLM analyzes productivity based on a lease-by-lease development basis rather than the industry standard in the basin of large unit development to calculate developable reserves. This has the effect of raising costs and lowering the amount of recovery. The estimates described by Enduring in Exhibit B are based on current practice in this part of the San Juan Basin to use large units combining federal, state and allottee acreages in order to drill long horizontal wells. This allows operators to recover reserves economically and efficiently with minimal surface impact. A one-and-a-half-mile horizontal well costs approximately \$6.5 million and returns an

average of \$6 million per year in revenue, with a projected 20-year life cycle. Providing the necessary access roads, pipelines, water handling facilities and power lines for this undeveloped withdrawal area would add several million dollars to that cost. In order to justify the investment required to construct multi-well pads, surface facilities, water recycling facilities and pipelines, operators must pool allottee leases with adjacent federal and state leases in large federal units managed by the BLM. Yet, in the Mineral Potential Report, the BLM uses an unrealistic lease-by-lease development scenario that ignores the realities of actual development practices in the withdrawal area, and drives up the costs, in order to support its new, "low potential" assessment of the withdrawal area.

3. **High water cut error.** The BLM's third error is to extrapolate a high water cut from one well to the entire northern part of the withdrawal area in order to again increase costs and lower development potential in an area BLM had once classified as medium to high development potential. The BLM argues that all Mancos wells north of the CCHNP, to Nageezi and Counselor, should now be viewed as low potential due to "an increase in water production from wells and a decrease in oil and natural gas production. . . . Wells near the withdrawal boundary yield about 80% water in the production stream, hindering economic justification for infill drilling." Mineral Potential Report, at p. 43. The BLM explains its change in resource potential from the previously identified medium potential to low potential as "due to the high water cut in production." *Id.*

To Enduring's knowledge, there is only one well in the area north of CCHNP with a water cut in the 80% range, the Enduring West Lybrook Unit #767H. This well is an anomaly and is offset by tens of adjacent wells with much lower water cuts. The BLM's decision to write off the entire withdrawal area north of CCHNP based on one data point from an anomalous well is arbitrary. Moreover, a high water cut well can be economically developed with water disposal systems that are commonly in use in the San Juan and Permian Basins in New Mexico.

Looking at the allottees alone, Enduring believes approximately 56,320 acres, outside of currently existing Mancos/Gallup units, could be developed in the withdrawal area. Of that, 10,720 acres or 19% of those acres are Navajo allottee tracts, and the remaining 45,600 acres (81%) are Federal/other. Based on estimated production and a royalty rate of 16.66%, the combined federal and allottee royalties forgone will be \$1,122,997 per year, for a total of \$1,022,459,948 over the 20-year withdrawal. Thus, the total lost royalty for allottees will be \$194,267,390. See Exhibit B, Tab 2. This amount of royalty spread over two decades would make a profound difference to the lives of the allottees and, in particular, to their elders who live at or below the poverty line.

Question 6. In Mr. Atencio's testimony, he refers to a spill that occurred in 2019. The 2023 EPA report indicating that the reclaimed area had been restored to pre-spill functionality and has remained stable was introduced into the record.

6a) Can you provide additional information about the nature of the spill and whether it caused any contamination to land, water or livestock?

Answer. On February 17, 2019, there was a spill of flowback liquids from a frozen flowline at the Enduring North Escavada Unit #315H well location (API 30-043-21888). A cam lock on an aboveground flowline outside of a tank battery containment berm failed, resulting in the release of approximately 1,400 barrels (bbl.) of flowback liquids, of which 300 bbl. was estimated to be crude oil. (Mr. Atencio translated these official figures into gallons in his testimony.) There were no hydraulic fracturing operations occurring as alleged by Mr. Atencio.

This undesired, but relatively small spill occurred in the NW/4SW/4 Section 10, Township 22 North, Range 7 West, in Sandoval County near Counselor, New Mexico. The location of the spill was approximately 16.6 miles from the outermost boundary of the CCHNP and outside the ten-mile withdrawal buffer area. It was near an ephemeral wash (a drainage area that is dry sometimes of the year) and the spill area is not near, nor connected to, any major waterbody including the San Juan River or Colorado River. The spill occurred on Allotment 155, owned by Rose Sam, Willie Harvey and Mary Harvey and their heirs. It is unclear if Mario Atencio is part of their family, as he claims in his testimony.

The frozen flowline was detected the evening of February 17, 2019, and Enduring Resources personnel immediately rushed to the site and began diversion and containment efforts in the wash. The BLM and the Federal Indian Mineral Office

(“FIMO”) were notified of the spill that evening. The FIMO is the federally approved point of contact for allottees receiving mineral royalties, and for that reason there is a level of trust between allottees and FIMO.

The next day, February 18, 2019, FIMO contacted all allottees who lived in the area around the spill to notify them of the spill and the efforts being made to contain and mitigate the spill. Enduring Resources also notified the Navajo Nation Environmental Protection Agency, but that agency deferred to the U.S. Environmental Protection Agency (“EPA”) to oversee the containment and reclamation activities. Because the spill occurred on fee surface (Indian Allotted) land over federal minerals, agencies reviewing the cleanup work included the Bureau of Land Management, FIMO, U.S. EPA Region 9 and the U.S. Army Corps of Engineers (“USACE”). The Navajo Nation EPA was also kept involved.

The USACE, which works in coordination with U.S. EPA, was the lead agency on the cleanup. The USACE determined that there were no hazardous or toxic substances that would require the use of Clean Water Act nationwide Permit 38 (“Cleanup of Hazardous and Toxic Wastes”) and elected to use a Clean Water Act nationwide 20 (“Response Operations for Oil or Hazardous substances”) permit. Enduring Resources retained an environmental consulting firm with expertise in this type of work, as well as a law firm with Clean Water Act expertise, to ensure that the work was done according to relevant law.

On October 4, 2019, the USACE sent a letter directing Enduring Resources to take corrective actions including the preparation of a restoration plan for the area of the ephemeral wash and the related upland areas. On November 22, 2019, Enduring Resources submitted an “Ephemeral Wash Reclamation Plan and an Upland Reclamation Plan.”

Enduring Resources and its contractor implemented the Plans. On June 15, 2023, EPA confirmed that the bank stabilization and reconstruction for the North Escavada Unit #315H Ephemeral Wash reclamation was in full compliance with EPA’s Clean Water Act 401 certification and restored to pre-disturbance functionality, as stated in the document introduced at the subcommittee hearing.

All restoration work has been completed and is stable. There was no lasting damage to land or water sources as confirmed by subsequent soil and water testing. There was no damage to livestock. FIMO received no complaints nor claims of damages from allottees living in the area. No fines were assessed by any agency because there were no environmental violations. Enduring Resources was commended by the agencies for its immediate response, and thorough remediation and reclamation procedures. Enduring Resources has been released from all further work or reporting.

Questions Submitted by Representative Grijalva

Question 1. Are Enduring Resources’ current royalty payments to Navajo Allottees impacted by Public Land Order No. 7923?

Answer. Although the Navajo Allottees’ current royalty payments are not immediately impacted by Public Land Order No. 7923 (PLO No. 7923), their future payments over both the short and long-term will be impacted. **PLO No. 7923 will have these short and long-term impacts on allottees:**

Short-term.

1. No new leasing of withdrawn federal acres. New leasing of adjacent allottee acres is unlikely without the now withdrawn federal leases. This means no *new* bonus payments to allottees.
2. Also in the immediate short term there is at least one Enduring development proposal that can’t go forward—the proposed Lone Road Unit, that is located entirely within the withdrawal area. This development is missing necessary federal leases (BLM did not lease in the withdrawal area for last 10 years). These federal minerals are now withdrawn and won’t be leased; without the unleased federal minerals the allottee leases will not be developed, and no royalties will be paid to the allottees.

Long-term.

1. Over the next 3–5 years the allottees will feel the impact of PLO No. 7923 withdrawal of Federal minerals.
2. Existing leases in and adjacent to the withdrawal area will expire due to the inability to develop allottee minerals without federal minerals. For example, two of Enduring Resource’s most productive units, the Greater Lybrook and Rodeo Units, lie partially within and partially outside of the withdrawal area

(see Exhibit A attached). As these existing units are fully drilled and developed over the next several years, Enduring planned to expand those units in order to drill additional wells on federal and allottee leases. Without the now withdrawn federal leases, the existing allottee and federal leases outside the existing unit will expire, and those lease bonus and rental payments will not be replaced.

3. Lease rentals will be paid during the term of these existing leases, but no royalties will be paid on those leased, but undeveloped minerals because without the federal leases it is uneconomic to develop only allottee leases.
4. No new leases, lease bonus payments, rentals and royalties in the withdrawal area because it is uneconomic to develop only the allottee leases.

Enduring testified that the withdrawal of federal minerals **will prevent the development of 233 horizontal wells or over 86,000,000 barrels of oil and 25.85 billion cubic feet of natural gas.** See attached Exhibits A and B. Based on these estimated production numbers and a royalty rate of 16.66% the **forgone royalties for the Navajo allottees tracts alone** would be **\$194,267,390** over the **20-year** withdrawal. The BLM's predicted impacts in the Withdrawal EA on revenue, jobs and environmental justice communities, primarily the Navajo allottees, are much greater than disclosed in the Withdrawal EA.

Mr. STAUBER. Thank you very much.
We will now recognize Mr. Atencio for 5 minutes.

**STATEMENT OF MARIO ATENCIO, VICE PRESIDENT, TORREON/
STAR LAKE CHAPTER, NAVAJO ALLOTTEE SPOKESPERSON,
CUBA, NEW MEXICO**

Mr. ATENCIO. Thank you, Chairman Stauber, Ranking Member Ocasio-Cortez, honorable Subcommittee members.

[Speaking Native language], Navajo Nation President Mr. Buu Nygren, and co-panelists.

I come before the Committee as spokesperson and stakeholder for my mother and father, Paul and Mary Ann Atencio, who are shareholders of 20 individual Indian allotment parcels located in the Counselor, Ojo Encino, and Torreon/Star Lake chapters of the Navajo Nation Government, which are located within the greater Chaco landscape.

I also hold a fiduciary role as the Vice President of the Torreon/Star Lake Chapter House. Chapters are the local form of government on the Navajo Nation. The vast majority of my constituents are allotment shareholders.

I am here today to urge you to oppose House Resolution 4374. According to a crucially important study, Volume II, Navajo Religion in Chaco Canyon, an ethnographic report based on Hataalii interviews, the Greater Chaco landscape is the most important landscape to the Navajo people because the cultural ceremonies that were created there are the most sacred rituals that are foundational to Navajo cultural identity, very much similar to how critically important Jerusalem is to Judeo-Christian-Islamic peoples.

My family and I have deep spiritual and cultural connections to the Greater Chaco landscape, but over the years we have seen our lands and environment become deeply degraded by oil and gas pollution. There are nearly 40,000 oil and gas wells across the Greater Chaco landscape. The vast majority of Federal lands are already leased for extraction. Our family lands in Torreon and

Counselor are surrounded by fracking sites, pipelines, and other oil and gas infrastructure.

For many of us there, there is no option to move away from the pollution because that would entail an unbearable loss of cultural identity, and would disrupt our ability to pass on cultural traditions to future generations.

In February 2019, my family's allotment land and water in Counselor was contaminated by a massive 42,000-gallon toxic liquid waste and 12,500-gallon crude oil spill at a fracking site operated by Enduring Resources. Neither my family nor our chapter community were notified of the spill by state or Federal agencies or by Enduring Resources. We were never made whole after our land, water, and livestock were poisoned. Spills like this happen at an average of four times a day in New Mexico. These incidents illustrate why protecting land and people from oil and gas pollution is critical.

Secretary Haaland's mineral withdrawal is a step toward ensuring the integrity of numerous sacred sites and places and toward protecting the health and well-being of communities living on the front lines of extraction.

In my written testimony, I present over a decade of collaboration and statements issued by Navajo Nation chapters, the Eastern Navajo Agency Council, the Navajo Office of the President and the Vice President, the All Pueblo Council of Governors, and other advocates in support of protecting the Greater Chaco landscape.

Secretary Haaland's historic Honoring Chaco Initiative is the outcome of this long-standing advocacy, and the 10-mile mineral withdrawal is the first step of this initiative.

Amid all the new controversy the withdrawal has generated, I encourage members of the Committee to think critically about the terms in which this debate has been framed. The question before us today is what actions will support an economically and environmentally just future for the people of the Greater Chaco Region?

Our region has an approximate 40 percent unemployment rate, and about 40 percent of the people live below the poverty line. For some of our community members, these conditions can produce an impossible choice between extraction and economic survival. Some allotment holders, including members of my family, receive royalty payments from leased allotments. The withdrawal will not affect existing leases and payments, but may, for a very small percentage of parcels, affect future leaseability.

The Honoring Chaco Initiative provides an opportunity to reject the false choice between extraction and economic prosperity, and to instead develop remedies for all allotment owners whose economic futures have always depended on taking the necessary steps to transition away from dependence on fossil fuels that puts our health, sacred places, and planet at risk.

Lastly, the Honoring Chaco Initiative provides an opportunity to address the cumulative harms of fossil fuels in the Greater Chaco Region, and to develop co-management approaches so that the Diné people may thrive in this landscape as we work toward this goal. The 10-mile administrative withdrawal is a good first step.

I look forward to working with members of the Committee and the Department of the Interior to continue to achieve landscape level protection for the Greater Chaco landscape.

[Speaking Native language.]

Thank you, Mr. Chairman.

[The prepared statement of Mr. Atencio follows:]

PREPARED STATEMENT OF MARIO P. ATENCIO, VICE-PRESIDENT OF TORREON/
STARLAKE CHAPTER OF THE NAVAJO NATION GOVERNMENT

Good afternoon Chair Stauber, Ranking Member Ocasio-Cortez, and members of the subcommittee. My name is Mario Atencio and I am a citizen of the Navajo Nation. I serve as the Vice-President of the Torreon/Star Lake Chapter in Northwestern New Mexico, which is in the Greater Chaco Landscape. Chapters are the local unit Navajo Nation Government. My family owns an Indian Allotment in the heart of this landscape, just on the edge of the 10-mile administrative withdrawal of federal lands recently implemented by Secretary Haaland.

I appreciate the opportunity to testify today in opposition to House Resolution 4374, and in strong support of Secretary Haaland's actions to protect the Greater Chaco Landscape through the Honoring Chaco Initiative, of which the 10-mile mineral withdrawal is a crucial first step.

I. Harms of Oil and Gas Extraction

My family and I have deep spiritual and cultural connections to the lands surrounding our home. But over the years, especially in the last decade with the introduction of industrialized fracking, we have seen our lands and environment become deeply degraded by oil and gas pollution. There are nearly *40,000 wells* across the Greater Chaco Landscape. The vast majority of federal lands are already leased for extraction. Our family lands in Torreon and Counselor are surrounded by fracking sites, pipelines, and other oil and gas infrastructure. The roads have been torn up by oil and gas traffic. During inclement weather, poor road conditions often prevent community members from traveling safely to school, work, and medical appointments. The air quality has become hazardous, smelly, and difficult to bear, and in some areas pollution levels exceed federal air quality standards.¹ Vegetation, animals, and medicinal plants are disappearing. I worry about how these changes are cumulatively affecting the health and wellbeing of my family and my community, especially the young, the elderly, and the most vulnerable among us.

A study published by the Counselor Health Impact Assessment—K'é Bee Hózhoggo Iná Silá Committee and approved by the Navajo Nation Human Research Review Board found that Navajo residents in Counselor Chapter are exposed to dangerous levels of hazardous air pollutants, and that 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 As Diné people, we are tied to these lands. For many of us there is no option to “move away” from the pollution, because that would entail an unbearable loss of cultural identity, and would disrupt our ability to pass on cultural traditions to future generations.

My family and many members of our community practice traditional cultural and spiritual ways that reference significant sacred sites in our homelands of Dinétah, within the Greater Chaco Landscape. We make pilgrimages that consist of traditional offerings and prayers to sacred mountains and sites in Dinétah. These areas are known to have historically supported medicinal plants and ceremonial herbs that today are threatened by oil and gas drilling. Medicine People and elders in my community have noted the gradual disappearance of these plants, as well as the degradation of the air and important lines of sight across the landscape. Oil and gas pollution and the destruction of sacred places in the Greater Chaco Landscape

¹Tsosie D, Benally H, Seamster T, et al. 2021. “A Cultural Spiritual and Health Impact Assessment of Oil Drilling Operations in the Navajo Nation Area of Counselor, Torreon and Ojo Encino chapters”. July 15, 2021. Available at: <http://nmhep.org/wpcontent/uploads/FINAL-HIA-KBHIS-06-52-2021-00-copy1.pdf>; American Lung Association. 2023. “Report Card: New Mexico”. <https://www.lung.org/research/sota/city-rankings/states/new-mexico>

²Tsosie 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>

directly harms my and my relatives' ways of life, including our holistic wellness and our ability to continue our spiritual and cultural lifeways as Diné people. The visual, olfactory, and auditory disturbances caused by oil and gas extraction—including pipeline and road construction, traffic, ground disturbance, air pollution, and the physical presence of oil and gas infrastructure on the landscape—cumulatively alter the experience of being in my homelands and negatively affect my and my family's connection to place, culture, and tradition.

In February 2019, my family's allotment land and water in Counselor was contaminated by a massive 42,000-gallon toxic liquid waste and 12,500-gallon crude oil spill at a fracking site operated by Enduring Resources.³ Neither my family nor our Chapter community were notified of this spill by state or federal agencies or by Enduring. We were never made whole after our land, water, and livestock were poisoned by this toxic spill.

Toxic spills like the one that devastated my family's land in 2019 happen at an average of 4 times per day in New Mexico.⁴ These incidents illustrate why actions to protect land and people from oil and gas pollution, like Secretary Haaland's Public Land Order 7293, are critical. The administrative withdrawal is a step toward ensuring the integrity of numerous sacred sites and places, and toward protecting the health and wellbeing of communities living on the frontlines of extraction.

It is crucial to understand that Diné citizens of the Greater Chaco region have been voicing concerns about the impacts of oil and gas extraction for decades. Secretary Haaland's historic Honoring Chaco Initiative is the outcome of long-standing advocacy from Tribes, Pueblos, Navajo Chapters, impacted community members, and allied groups to protect this cherished place. These efforts have deep roots. The most recent wave of advocacy began in response to the introduction of multi-stage, high-pressure, high-volume hydraulic fracturing (fracking) in the Greater Chaco Landscape. To provide further context for my support of the 10-mile mineral withdrawal, I will briefly review the history of Tribal engagement to protect the landscape from fracking under the federal oil and gas program, at the individual level, the level of Chapter House Government, and at the government-to-government consultation level.

II. History of Inter-Tribal Advocacy in Support of Greater Chaco Protections

Dinétaah, in the heart of the Greater Chaco Landscape, is the place of emergence of the Diné people. Diné people have lived in Dinétaah since time immemorial, caring for the land as instructed by the Holy People. After Diné people were forcibly removed from our lands and imprisoned by the U.S. government from 1863–1868, we returned to a newly established Treaty reservation. Years later, the lands in Dinétaah became Navajo Trust Land and part of the Navajo Reservation as it was extended through President Roosevelt's Executive Orders 709 and 744. However, through subsequent Executive Orders and processes of Indian allotment, homesteading, railroading grants, and New Mexico statehood, our Diné homelands were taken away again and out of trust status, transforming this region into a “checkerboard” of land statuses, including federal, state, private, tribal trust, and tribal allotment land.⁵

The Navajo Nation Council was first established by the U.S. government in 1923 for the purpose of approving oil leases in the Greater Chaco region after oil was discovered there in 1921.⁶ Before the imposition of the United States, the traditional government was mostly local and based on kinship. Today, the basic unit of local government in the Navajo Nation is the Chapter, each with its own Chapter House. The Chapter system was created in 1922, and there are currently 110 local chapters, each of which is able to meet in their respective Chapter House to express

³ See *Atencio et al. v State of New Mexico et al.*, D-101-CV-2023-01038, (N.M. May 10, 2023); lte Environmental, inc. “Report of Final Sampling & Closure Request: neu 315, Release Response api 30-043-21888, NMOCD Incident ncs1905249442, Sandoval County, New Mexico.” 077919003. Prepared for Enduring Resources, 2019.

⁴ See New Mexico Oil Conservation Division data or Center for Western Priorities. “2022 New Mexico Spills”. Available at <https://westernpriorities.org/resource/2022-new-mexico-spills/>

⁵ Redhouse, John. 1984. *The Leasing of Dinétaah: An Eastern Navajo Odyssey*. Roots of Navajo Relocation Series. Albuquerque, New Mexico: Redhouse/Wright Productions; See Navajo Nation Council resolutions CJY-66-97 (1997), CMY-23-88 (1988) CAP-11-11 (2011), CO-47-12 (2012), and ENLC Resolution ENLCF-01-10 (2010); Grant, Silas. 2022. “Chess or Checkers? Fracking in Greater Chaco”. In Rensink, Brenden (Ed). *The North American West in the Twenty-First Century*. University of Nebraska Press.

⁶ Chamberlain, Kathleen. 2000. *Under Sacred Ground: A History of Navajo Oil, 1922–1982*. Albuquerque, New Mexico: University of New Mexico Press.

concerns to their Navajo Nation Council Delegate. The legislative branch of Diné government, the Tribal Council, consists of 24 Delegates, who represent the 110 Chapters. The Office of the President was created in 1991. Despite what opponents of the withdrawal might argue, the Navajo Nation government structure is multifaceted and the executive office is not the only expression of Diné community power and opinion. My Chapter, Torreon/Star Lake, is directly in the zone impacted by oil and gas development. It is with that lens that I explain the decade of support for Greater Chaco protections.

The current Bureau of Land Management (BLM) Resource Management Plan (RMP) for the Farmington Field Office in the Greater Chaco Landscape was finalized in 2003.⁷ A Resource Management Plan is the federal land management blueprint for a particular region, and the 2003 Farmington Field Office RMP covered a large part of the Greater Chaco Region. The 2003 RMP foresaw the potential for up to 10,000 new wells, but explicitly stated that fracking was not a technologically or economically viable option for the region. However, by 2010, the first horizontally fracked well was drilled in the Farmington Field Office to extract oil from the Mancos shale. The Mancos shale is richest in oil in and around Diné communities living near Chaco Culture National Historical Park. Soon, hundreds more wells were drilled. As fracking encroached across the landscape, our Eastern Diné communities were devastated by what former Navajo Nation Council Delegate Daniel Tso aptly describes as a “tsunami of fracking”.

In 2013, the Eastern Navajo Agency Council, which is made up of thirty-one Navajo Chapters, passed a resolution calling for a moratorium on new fracking activities within Eastern Navajo Agency, because the BLM had yet to analyze and disclose the impacts of fracking in the area.⁸

In 2014, the BLM admitted it had failed to fully analyze or address the impacts of fracking in its 2003 RMP, and said it would prepare Resource Management Plan Amendment and Environmental Impact Statement (RMPA-EIS) to analyze new oil and gas activities in the area.⁹ The Bureau of Indian Affairs joined BLM as a co-leading agency in the RMPA-EIS process in 2016. To this day, nearly ten years later, the RMPA-EIS has not been finalized, but BLM has continued to approve new fracking across the landscape.

Beginning in 2015, the Navajo Nation Chapters of Counselor, Ojo Encino, and Torreon/Star-Lake, and other Chapters in Eastern Navajo Agency, passed numerous resolutions attesting that federal agencies have failed to consult with local Diné communities about oil and gas extraction, and have demanded a moratorium on new development until BLM and BIA complete and finalize the Mancos-Gallup RMPA-EIS. These Chapters have further submitted comments and protests in response to multiple BLM oil and gas lease sales that would affect their lands.¹⁰

Also in 2015, the All Pueblo Council of Governors, which is a Pueblo leadership organization and political entity composed of 20 Pueblo Governors of the sovereign Pueblo Nations of New Mexico and Texas, passed a resolution supporting the protection of Chaco Canyon and all traditional cultural properties and sacred sites affiliated with Chaco Canyon.

In 2016, the Diné Medicine Man Association and the Diné Hataalii Association, a nonprofit organization comprised of over 200 Diné medicine men and women from across the Navajo Reservation that exists to protect, preserve, and promote the Diné cultural wisdom, spiritual practice, and ceremonial knowledge for present and future generations, passed resolutions affirming the importance of the Greater Chaco region, where Diné communities were negatively impacted by hydraulic fracturing, and requesting an inter-agency field hearing to investigate these impacts. Both bodies also called for United Nations observers to come to Dinétah to record violations of the rights of Indigenous peoples caused by fracking in the region.¹¹

In December 2016, the Eastern Navajo Agency Council, representing all 31 Chapters in Eastern Navajo Agency, passed a resolution “in opposition to further approvals of federal fluid mineral leases, federal oil/gas related projects, and related

⁷The most recent RMP for the Rio Puerco Field Office, south of the Farmington Field Office and also part of the Greater Chaco Landscape, is from 1992. It does not account for *any* oil and gas activity.

⁸Resolution No. ENAC 12-2013-03.

⁹Federal Register, Vol. 79, No. 37, Tuesday, February 25, 2014; Federal Register, Vol. 81, No. 204, Friday, October 21, 2016.

¹⁰See for example the Resolution 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.

¹¹See OLC-7-01. <http://www.dineresourcesandinfocenter.org/wp-content/uploads/2017/02/0025-17.pdf>

environmental analysis approvals by Bureau of Land Management within or impacting Navajo Nation Eastern Agency areas and communities”.¹²

In February 2017, Navajo Nation President Russell Begaye and Vice President Johnathan Nez wrote to the BLM Farmington Field Office requesting that BLM “place a moratorium on fracking-related activities such as multi-stage hydraulic fracturing and horizontal drilling and lease sales and permit approvals in the Mancos Shale/Gallup formation in the greater Chaco area until such as time as the amendment to the resource management plan is completed and an environmental impact statement is finalized”. This request was made out of concern that increased drilling was “interrupting the daily lives of Navajo people who live in the Navajo Nation Chapters such as Counselor, Nageezi, Torreon and Ojo Encino”.¹³

Days later, the All Pueblo Council of Governors and Navajo Nation President and Vice President held a historic meeting in which they issued a joint statement opposing horizontal fracking in the Greater Chaco region.¹⁴

Shortly thereafter, in 2017, the National Congress of American Indians passed a resolution supporting a moratorium on leasing and drilling in the region.¹⁵

Throughout 2018, Navajo Nation Chapters in the Greater Chaco region and Pueblo governments continued to protest BLM oil and gas lease sales. In March 2018, then Interior Secretary Zinke deferred an oil and gas lease sale in the Greater Chaco landscape in response to protests from Tribes, Pueblos, and advocates. Zinke cited the need to further analyze over 5,000 cultural sites in the leasing area, underscoring the irreplaceable value of the landscape.¹⁶

In February 2019, Counselor Chapter passed a resolution supporting federal legislation that would withdraw federal minerals from future oil and gas leasing within 10-miles of Chaco Culture National Historical Park.¹⁷

In March 2019, the All Pueblo Council of Governors and the Navajo Nation Office of the President and Vice President held a second historic summit to support protections for the Greater Chaco Landscape, where the sovereign governments announced their support of the Chaco Cultural Heritage Area Protection Act, which would withdraw federal minerals from future leasing within approximately 10 miles of Chaco Culture National Historical Park.¹⁸

A month later, in April 2019, the House Natural Resources Committee Subcommittee on Energy and Mineral Resources held an Oversight Field Hearing on “Oil and Gas Development: Impacts on Air Pollution and Sacred Sites” during which I joined members of the Committee on a visit to Chaco Culture National Historical Park and a tour of nearby oil and gas sites. The following day, the Committee heard testimony from Navajo Nation Vice President Myron Lizer in support of withdrawing federal minerals within 10-miles of Chaco Park “to support the continuance of our cultural practices vital to our present identity”.¹⁹ The Committee also heard support for the mineral withdrawal from several other distinguished witnesses.

In a joint effort between the New Mexico State Land Office, Pueblos, Tribes, and local communities, the State of New Mexico Commissioner of Public Lands issued Executive Order 2019-002 “Moratorium on New Oil and Gas Mineral Leasing in the Greater Chaco Area”. Signed on April 27, 2019, this action placed a moratorium on

¹² Eastern Navajo Agency Council BLM Resolution. Resolution No. ENAC 12-2016-03. Attached.

¹³ 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>

¹⁴ Navajo-Hopi Observer. 2017. “Fracking and drilling near Chaco Canyon challenged by Begaye, Nez”. *Navajo-Hopi Observer*. February 28, 2017. Accessed July 8, 2023. <https://www.nhoneews.com/news/2017/feb/28/fracking-and-drilling-near-chaco-canyon-challenged/>

¹⁵ 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>

¹⁶ United States Bureau of Land Management, 2018, “BLM Defers Oil and Gas Lease Sale in New Mexico,” March 2, <https://www.blm.gov/press-release/blm-defers-oil-and-gas-lease-sale-parcels-new-mexico>.

¹⁷ Resolution of Counselor Chapter, #COUN-2019-02-001. Attached.

¹⁸ 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/>.

¹⁹ 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 oil and gas leasing on state trust lands within the same area as the federal 10-mile mineral withdrawal.²⁰

In May 2019, then Interior Secretary Bernhardt committed to defer for one year any new oil and gas leasing within 10-miles of Chaco Culture National Historical Park during a visit to the Park with Senator Martin Heinrich.²¹ This de facto moratorium on new federal leasing within 10-miles of the Park has remained in place and was recently codified through Public Land Order 7923.

In December 2019, Torreon/StarLake Chapter passed a resolution supporting a 10-mile administrative withdrawal of federal lands from future mineral leasing surrounding Chaco Culture National Historical Park.²²

In response to requests from Tribes and Pueblos, the Fiscal Year 2020 Interior, Environment, and Related Agencies Appropriations Bill included a \$1 million appropriation to fund an ethnographic study for Tribes to identify culturally important sites within the Greater Chaco Landscape.²³ This money was allocated by Congress to the Chaco Heritage Tribal Association (CHTA), comprising Pueblos of Acoma, Jemez, Laguna, and Zuni, and the Hopi Tribe, with support from the Pueblos of San Felipe, Santa Clara, Tesuque, and Zia and the blessing of the All Pueblo Council of Governors; and to the Navajo Nation. In FY21 additional funds were appropriated in the omnibus spending bill to allow both the Navajo Nation and the CHTA to complete their work. CHTA was allocated an additional \$600,000.²⁴

The Navajo Nation's ethnographic report was completed in September 2022. Volume II, "Navajo Religion and Chaco Canyon: An Ethnographic Report Based on Hataalii Interviews" finds that for Navajo people "Chaco Canyon is where all the ceremonies came together" (38). As the report describes, Hataalii, or Navajo ceremonialists, are the "primary knowledge-keepers of the history and practice of ceremonies and sacred places" (43). The Hataalii interviewed impart the immense significance of the Chaco area for Navajo people. The Greater Chaco region is, according to the Hataalii, an area worthy of protection.

In 2021, during the Biden-Harris administration's first White House Tribal Nations Summit, President Joe Biden and Interior Secretary Deb Haaland announced steps to protect Chaco Canyon and the greater connected landscape by initiating the process for a 20-year moratorium on new oil and gas leasing on federal lands within a 10-miles of Chaco Culture National Historical Park.²⁵ The Secretary also announced the "Honoring Chaco Initiative", a "regional conversation among BLM field offices, BIA, and interested Tribes, Pueblos, and other Tribal interests in the Greater Chaco area to develop a broader cultural approach to all land management decisions across the Greater Chaco Landscape".²⁶

In January 2022, BLM initiated an Environmental Assessment (EA) process to evaluate the impacts of the proposed mineral withdrawal. During the EA process, BLM reviewed 16,715 comments in total, expressing a variety of opinions about the withdrawal, including many comments from Dine organizations, Chapter Houses, and Pueblos supporting the buffer zone and asking for the BLM to go beyond the 10-mile zone to embrace a holistic approach to protecting the sacred landscape.²⁷ The EA was published in November 2022. Secretary Haaland announced the mineral withdrawal on June 2, 2023.

²⁰ 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

²¹ Streater, Scott. 2019. "Bernhardt Commits to Leasing Moratorium Near Chaco Canyon". *E&E News*. <https://www.heinrich.senate.gov/newsroom/in-the-news/bernhardt-commits-to-leasing-moratorium-near-chaco-canyon>

²² TSL #12/2019-35, passed December 8, 2019. Attached.

²³ Office of Senator Tom Udall. 2019. "NM Delegation Secures Protections for Chaco Canyon Area in Government Funding Bill". *KRWG*. December 19, 2019. <https://www.krwg.org/post/nm-delegation-secures-protections-chaco-canyon-area-government-funding-bill>

²⁴ Vallo, Brian. 2021. Written testimony of Brian Vallo, Governor of the Pueblo of Acoma for the Senate Energy and Natural Resources Committee. "The Department of the Interior's Onshore Oil and Gas Leasing Program" oversight hearing—April 27, 2021. 2021. Available at: <https://www.energy.senate.gov/services/files/0F06A226-45A5-423EA5FF-14271D3BFA14>.

²⁵ United States Department of the Interior. 2021. "Secretary Haaland Announces Steps to Establish Protections for Culturally Significant Chaco Canyon Landscape". November 15, 2021. <https://www.doi.gov/pressreleases/secretary-haaland-announces-steps-establish-protections-culturally-significant-chaco>

²⁶ United States Bureau of Land Management. 2023. "Honoring Chaco Initiative". Accessed July 11, 2023. <https://www.blm.gov/honoringchacoinitiative>

²⁷ United States Bureau of Land Management. 2023. "Proposed Chaco Area Withdrawal Area Environmental Assessment (EA) Public Comment Response Report". BLM Farmington Field Office. https://eplanning.blm.gov/public_projects/2016892/200507928/20080198/250086380/20230604_ChacoWithdrawal_CommRespRept.pdf

III. Honoring Chaco Initiative: An Opportunity to Work Toward Economic and Environmental Justice for the Future of Greater Chaco

Today you will hear that withdrawing federal minerals from future mineral leasing around Chaco Culture National Historical Park will decrease domestic energy production and cause financial losses for Diné families who hold shares in Indian allotments within the withdrawal area. I encourage members of the Committee to think critically about the terms in which this debate has been framed. The question before us today is fundamentally one of which actions will support an economically and environmentally just future for the people of the Greater Chaco region, and what does that future look like? I posit that the only way for this region to move forward toward economic and environmental justice for Diné people and other Indigenous relatives who hold this place sacred is to break free from the legacy of being treated like a national energy sacrifice zone.²⁸

The Environmental Assessment on the proposed Chaco area withdrawal completed in 2022 (DOI-BLM-NM-F010-2022-0011) showed that the withdrawal will only result in an approximate 0.5 percent reduction in annual gas production and an approximate 2.5 percent reduction in annual oil production in the San Juan Basin. The impact on the region's fossil fuel production is thus minimal. Indeed, more needs to be done to reduce oil and gas pollution in the Greater Chaco region to protect public health and the climate. New Mexico is particularly vulnerable to climate harms, and within our state Indigenous peoples are disproportionately impacted by rising temperatures, stressed vegetation, arid soils, and increasing drought. The 2023 United Nations Intergovernmental Panel on Climate Change (IPCC) 6th Synthesis Report found that carbon dioxide (CO₂) emissions from existing fossil fuel infrastructure would exceed the remaining budget for a 1.5°C global warming scenario. In order to preserve a chance of limiting planetary warming to 1.5°C, there can be no new fossil fuel infrastructure, and existing extraction must be rapidly phased out. Secretary Haaland's Honoring Chaco Initiative provides an opportunity to address the cumulative harms of fossil fuels in the Greater Chaco region, and to develop co-management approaches so that Diné people and our relatives may thrive in this landscape. As we work toward this goal, the 10-mile administrative withdrawal is a good first step.

Throughout the 19th and 20th centuries, Diné homelands in Greater Chaco were violently stolen and then reorganized into a checkerboard pattern of federal, state, private, tribal trust, and tribal allotment parcels.²⁹ The General Allotment Act of 1887 is widely recognized as a settler colonial tool used to dispossess Indigenous peoples of their collective land base. Across the United States, allotment was used to take 90 million acres of Indigenous lands out of Tribal control and ownership.³⁰ The same is true in Dinétah. The fragmentation of Eastern Diné lands through allotment and the fractionation of allotments over the years has posed significant challenges to the self-determination of our communities. Approximately 4,000 allotments were patented to Diné individuals between 1906 and 1934, with about 3,900 of those tracts located in northwestern New Mexico and the rest in Arizona. These parcels cover over 750,000 acres of land with over 40,000 known co-owners.³¹ Diné allottees are numerous and, like the citizens of any nation, hold differing views. What unites us is our ties to Diné Bikeyah.

After the forced, genocidal long walk of the Diné, *Hwéeldih*, from 1863–1868, Diné people attempted to return to their traditional kinship-based form of government and social organization.³² Still, the federal government was not satisfied, and forced the reorganization of the Navajo government in order for oil and gas industries to have enforceable contracts—just two years after the discovery of oil in the region. That same federal government continues to operate oil and gas leases to this day,

²⁸ See Energy Policy Project of the Ford Foundation. 2014. *A Time to Choose: America's Energy Future*. Cambridge, MA: Ballinger Publishing Company, 1974; *Our Story: The Indigenous Led Fight to Protect Greater Chaco*. Directed by Daniel Tso and Michael Ramsey. 48 minutes.

²⁹ See Navajo Nation Council resolutions CJY-66-97 (1997), CMY-23-88 (1988) CAP-11-11 (2011), CO-47-12 (2012), and ENLC Resolution ENLCF-01-10 (2010); Grant, Silas. 2022. "Chess or Checkers? Fracking in Greater Chaco". In Rensink, Brenden (Ed). *The North American West in the Twenty-First Century*. University of Nebraska Press.

³⁰ Guzman, Kathleen. 2000. "Give or Take an Acre: Property Norms and the Indian Land Consolidation Act." *Iowa Law Review* 85.

³¹ See "Indian Land Consolidation Act Amendments: And To Permit The Leasing of Oil and Gas Rights on Navajo Allotted Lands". U.S. 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

³² Todacheene, Heidi. 2014. "She Saves Us From Monsters: The Navajo Creation Story and Modern Tribal Justice". *Tribal Law Journal*. Volume 15. Article 2. 30.66. <https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1071&context=tlj>

under the same claim of title. Diné Bikéyah has been used as a sacrifice zone to meet the needs of the federal government for the last hundred years—sometimes for uranium, sometimes for oil and gas, and it is Diné workers and community members who pay the price. Bear in mind that while the proponents of H.R. 4374 will argue that the federal government will lose revenue, at this very moment, there are over 20 wells operating within a mile of Lybrook Elementary School, where Diné children are being exposed to hazardous air pollutants while they play at recess—all to perpetuate the federal oil and gas program. Future generations are already shouldering a century-old tradition in Navajoland of being poisoned, with the blessing of the federal government, to prop up an industry that takes its profits elsewhere. It is past time for the extraction in this sacred place to end.

As an elected Tribal leader and heir to an allotment, I care deeply about the wellness of all my fellow community members in the Greater Chaco region. Growing up in this region, I have seen that the ongoing legacies of settler colonialism and unfettered extraction have not benefited our communities. Instead, our region has an approximate 40% unemployment rate and about 40% of people live below the poverty line.³³ For some of our community members, these conditions can produce an impossible choice between extraction and economic survival. Some allotment holders, including members of my family, receive royalty payments from leased allotments. The withdrawal will not affect existing leases and payments, but may, for a very small percentage of parcels, affect future leaseability.³⁴ The Honoring Chaco Initiative provides an opportunity to reject the false choice that our communities have been forced into between extraction and economic prosperity and to instead develop remedies for all allotment owners whose economic futures will be affected as we take the necessary steps to transition away from dependence on fossil fuels that puts our health, sacred places, and planet at risk. For example, through the Honoring Chaco Initiative, Tribes, Pueblos, and Indigenous stakeholders can collaborate with Interior to develop federally-funded compensation plans to support allotment holders who could potentially lose mineral revenue.³⁵ Through the Honoring Chaco Initiative, we can also collaborate to support the development of other economic opportunities for which our region is well suited, including solar and wind energy, small businesses, and tourism.

IV. Oppose H.R. 4374 and Support Environmental Justice for Greater Chaco

As stated, there is a long and rich history of engagement from local Navajo Chapters, the Eastern Navajo Agency Council, the Navajo Nation, and the All Pueblo Council of Governors in support of protecting the Greater Chaco Landscape. The mineral withdrawal around Chaco Park is a first step toward realizing the protections that are needed for the land and the people. As we continue along this path, we must center the needs of those directly impacted, including Diné allotment owners, so that we may achieve environmental and economic justice for the region, and finally put an end to the era of sacrifice zones.

As an elected Tribal leader and allotment shareholder, I envision a future in which Eastern Diné communities can thrive in harmony and balance with our lands. Crucial to that future is access to more economic opportunities, and support in working toward a just and equitable transition. I am committed to helping our communities achieve that future, and I welcome you to join us.

I look forward to working with members of this Committee and with the Department of the Interior to continue to achieve landscape-level protections for the Greater Chaco region through the Honoring Chaco Initiative. I urge you to oppose House Resolution 4374 so that we can get to work.

³³Morales, Laurel. 2019. “On the Navajo Nation, 5,000 Workers Dependent On A Federal Paycheck.” National Public Radio, January 12, 2019, sec. Weekend Edition; Nez, Jonathan. 2020. U.S. House Energy and Commerce Committee Hearing; *Addressing the Urgent Needs of Our Tribal Communities*, Testimony by Jonathan Nez, President, Navajo Nation. Congressional Documents and Publications. (July 8, 2020).

³⁴In its Environmental Assessment of the proposed withdrawal, BLM found that “overall, 50, or just over 4 percent, of the unleased 1,165 allotments [within the withdrawal area] analyzed may see a high or moderate impact on future leaseability. An additional 36 unleased allotments (approximately 3 percent) may see low, but real, impacts on future leaseability. The proposed withdrawal will likely not adversely affect the vast majority (over 92 percent) with respect to real leaseability.”

³⁵There is precedence for compensation of this kind through the *Mescal v. United States* (1983) settlement agreement, a case in which allotment owners in the Greater Chaco region sued the U.S. Government for rightful title to the mineral estate. 79 of 2,500 allotments at issue in this case were already encumbered by existing leases that had illegally been issued by the United States. The settlement created a fund out of which money was disbursed to allottees whose lands were already encumbered.

I am happy to provide copies of any of the cited documents. The following are attached to my testimony:

1. Eastern Navajo Agency Council BLM Resolution, ENAC 12-2016-03—Opposing further approvals of federal fluid mineral leases and oil and gas related projects within Eastern Navajo communities.
2. Torreon/Starlake Chapter Resolution #12/2019-35—Supporting a 10-mile federal withdrawal
3. Counselor Chapter Resolution #COUN 2019-02-001—Supporting a 10-mile federal mineral withdrawal

ATTACHMENTS

Eastern Navajo Agency Council BLM Resolution



EASTERN NAVAJO AGENCY COUNCIL
THE NAVAJO NATION
 P.O. Box 448
 Crownpoint New Mexico 87313
 Phone: (505) 786-2090
 Fax: (505) 786-2097

Board President: *Ervin Chavez*
 Vice President: *Johnny Johnson*
 Resolution No. ENAC 12-2016-03

Resolution of the Eastern Navajo Agency Council of the Navajo Nation
RESOLUTION IN OPPOSITION TO FURTHER APPROVALS OF FEDERAL FLUID MINERAL LEASES, FEDERAL OIL/GAS RELATED PROJECTS, AND RELATED ENVIRONMENTAL AND SOILS APPROVALS BY BUREAU OF LAND MANAGEMENT WITHIN THE IMPACTING NAVAJO NATION EASTERN AGENCY AREAS AND LANDSITES.

WHEREAS, the Eastern Navajo Agency Council ("ENAC") is a governmental entity composed of officials from all Eastern Navajo Agency Chapters; and

Members' personal assets, royalties, sales, and bonuses of federal fluid mineral leases that are within Eastern Agency areas boundaries are not shared with the Navajo Nation and Eastern Agency Chapters. A study commissioned by the Big Hvacso Chapter estimated in 2013 and 2014 that federal oil/gas royalty revenues generated from within Eastern Agency areas were an estimated \$10,560,813 and \$18,177,666 respectively. These federal royalty revenues were divided between the U.S. Department of the Treasury and the State of New Mexico as provided by the Federal Land Policy and Management Act (FLPMA) Section 3714c; and

FLPMA provides the following language regarding Mineral Revenue sharing:

"...and the proceeds of any such lease or other activity... shall be divided as follows: (1) 10 percent to the Indian tribe or tribes on whose land the lease or other activity is conducted; (2) 10 percent to the State in which the land is located; and (3) 80 percent to the United States..."

Currently, most Eastern Agency chapters have a lack of resources for planning, public facilities, and public activities; and

It also appears that many Applications for Provisions to Drill (APDs) and Environmental Analysis (EAs) related to federal oil/gas development within or impacting Eastern Agency areas/communities, nationally and currently lack sufficient direct visual consultation and Environmental Justice analysis; and

The Bureau of Land Management Farmington Field Office is currently in the midst of attending to Resource Management Plan which began public scoping on February 25, 2014. This resource plan process is ongoing and is taking more thoroughly at development within Eastern Agency areas and the effects of horizontal hydraulic fracturing; and

- As part of the Resource Management Plan, Anticline is the following are 2016 identified by analysis during public scoping:
- The ENAC is in opposition to the proposed January 2017 lease sale of tribal trust / federal mineral split estate lands located in Counselor and Nageezi chapters
- The ENAC shall cooperate with chapters, the Navajo Nation, and federal entities to better understand potential environmental and health impacts of horizontal hydraulic fracturing activities that could affect Navajo communities.
- The ENAC is in opposition to the proposed January 2017 lease sale of tribal trust / federal mineral split estate lands located in Counselor and Nageezi chapters

CERTIFICATION

WE HEREBY CERTIFY that the foregoing resolution considered by the Eastern Navajo Agency Council at a duly called meeting at which a quorum was present and the same was passed by a votes of 60 in favor, 00 opposed and 00 abstained this December 3, 2016.

Motion made by: *Ervin Chavez*
 Seconded by: *Johnny Johnson*

Ervin Chavez
 Ervin Chavez, President
 Eastern Navajo Agency Council
 THE NAVAJO NATION

Johnny Johnson
 Johnny Johnson, Vice-President
 Eastern Navajo Agency Council
 THE NAVAJO NATION

Fernie Yantala
 Fernie Yantala, Secretary/Treasurer
 Eastern Navajo Agency Council
 THE NAVAJO NATION



OJO ENCINO CHAPTER
 HCR 79 BOX 1500, OJO ENCINO, NEW MEXICO 87013
 PHONE (505)731-2263 or 731-2262 FAX (505)731-1516
 EMAIL: ojoencino@navajochapters.org

Support Comment for Legislation 0041-17

Council Delegates,

The undersigned chapters in the eastern region are in support of this legislation via the passage of the attached resolution(s). This resolution details many of the issues faced by Eastern Agency chapters in regards to Bureau of Land Management (BLM) lands and development which is taking place on those lands.

On January 25th, 2017 the BLM leased out minerals from directly under our Navajo Citizens in the chapters of Counselor and Nageezi. The royalties from these leases will not come back to the community since they are split estate (Navajo Trust Surface / Federal Mineral underneath). Thus, all royalties will go to Washington D.C. and Santa Fe. Additionally, these lease sales were made against the wishes of Counselor and Nageezi chapters and residents.

Our communities have been requesting help from Window Rock for over three years in regards to the many impacts we have suffered. We are grateful that the council is now beginning to try and grapple with these issues.

Fifteen chapters and the Eastern Navajo Agency Council have passed the same resolution requesting that the BLM halt all new leasing and new federal BLM oil/gas development on BLM lands until the BLM develops better plans to reduce impacts to Navajo communities (Attachment A). Additionally, the resolution requests that a fair revenue sharing mechanism is created and impact studies on the environment and human health are completed.

We would like to remind Eastern Council delegates that these impacts are occurring in your areas and that it is many of your chapters including your Agency Council which have voted for resolutions from which this legislation is derived, we would expect you to act accordingly.

With Thanks*,

Harry Domingo Counselor Chapter President Supporting Resolution: COUN-2016-11-	Erlene Henderson Pueblo Pintado Chapter President Supporting Resolution: PPC-11-2016-037
Ervin Chavez Nageezi Chapter President Supporting Resolution: NC 17-013	David Rico Torreon/Starlake Chapter President Supporting Resolution: TSL 11/2016-092
George Werito Ojo Encino Chapter President Supporting Resolution: 11-17-16/002	Art L. Chavez Whitehorse Lake Chapter President Supporting Resolution: Passed Nov 16 th , 2016

*Supporting Documents Attachment B

George Werito Jr., Chapter President
 Jeanette Vice, Chapter Vice President
 Brandon Sam, Chapter Secretary/Treasurer

Gloria Chiquito, Chapter Manager
 Leonard Tsosie, Council Delegate
 Elizabeth Stoney, Land Board Member

**Attachment A:
Chapter Resolutions Regarding BLM Leasing
and Approval**

Chapters	Agency Council
Becenti Chapter: #BNCNV-2017-15 Counselor Chapter: #COUN-2016-11- Hardock Chapter: Passed December 17 th , 2016 Huerfano Chapter: #HUE-01S-17 Lake Valley Chapter: #LVC-Nov13-006 Nageezi Chapter: #NC 17-013 Ojo Encino Chapter: #11-17-16/002 Oljato Chapter: #OLJ11-09-16 Pueblo Pintado Chapter: #PPC-11-2016-037 Teesto Chapter: # TEE-NOV-12-17 Torreon/Starlake Chapter: #TSL 11/2016-092 Whitehorse Lake Chapter: Passed Nov 16 th , 2016	Eastern Navajo Agency Council ##ENAC 12-2016-03

Torreon/Starlake Chapter BLM Resolution



TORREON/STAR LAKE CHAPTER
 BLM
 RESOLUTION
 TORREON/STAR LAKE CHAPTER
 11/12/2015-2016

Resolution in Opposition to Further Approval of Federal Fluid Mineral Leases, Federal Oil/Gas Related Projects, and Related Development Activities Approved by Bureau of Land Management within or Impinging Upon Navajo Eastern Agency Areas and Communities.

- WHEREAS:**
1. Torreon/Star Lake Chapter is a public subdivision of the Navajo Nation under 16 N.M.C. § 20 and the Chapter is responsible for the health, safety, and general welfare of its constituent members and for development of the Chapter's natural resources and
 2. Because government from royalties, sales, and bonuses of federal fluid mineral leases that are within Eastern Agency area boundaries are not shared with the Navajo Nation and Eastern Agency Chapter, a report commissioned by the Chapter Chapter estimated at 2013 and 2014 that federal oil/gas royalty revenues generated from within Eastern Agency areas were approximately \$25,546,413 and \$55,077,040 respectively; these federal royalty revenues were divided between the U.S. Department of the Treasury and the state of New Mexico as provided by the Federal Land Policy and Management Act (FLPMA) Section 317(a); and
 3. FLPMA prohibits the following language regarding mineral resource sharing: "and royalty shall be one of such taxes on an other similar to, 1936, to be used by such state and its subdivisions, as the legislature of the state may direct being primary to those subdivisions of the state possibly or reasonably benefited by development of resources upon which this Act, by its terms, its continuation and maintenance of public facilities, and the production of public services."
- FLPMA Section 317 (a); Mineral Revenue
4. Currently, most Eastern Agency chapters have a lack of resources for planning, public facilities, and public services; and
 5. It also opposes the many applications for permission to drill (oil/gas) and Environmental Analysis (EAs) related to federal oil/gas development within or impinging Eastern Agency boundaries, lands, and property that will affect direct, indirect, cumulative and environmental justice analysis; and
 6. The Bureau of Land Management (BLM) Office is currently in the midst of amending its Resource Management Plan which began public review on February 13, 2014. This amendment process is ongoing and will include more than 100,000 acres of development within Eastern Agency areas and the effects of horizontal hydraulic fracturing; and

7. As part of the Resource Management Plan Amendment the following air issues identified for analysis during public scoping:

- Issue 4: Great Salt Delineation**
1. How would the BLM manage fluid mineral leasing, including coal or oil/gas related development, activities, and related impacts, to include the management of water and related impacts on other resources within the project's footprint in development and the use of hydraulic fracturing technology?
 - BLM R02 Scoping Report November 2014 Section 2.1.1
 2. How would the BLM manage fluid mineral leasing, including coal or oil/gas related development, activities, and related impacts, to include the management of water and related impacts on other resources within the project's footprint in development and the use of hydraulic fracturing technology?
 - BLM R02 Scoping Report November 2014 Section 2.1.2
- Issue 5: Utah Salt Flats**
1. How would the BLM manage fluid mineral leasing, including coal or oil/gas related development, activities, and related impacts, to include the management of water and related impacts on other resources within the project's footprint in development and the use of hydraulic fracturing technology?
 - BLM R02 Scoping Report November 2014 Section 2.1.3
- Issue 6: Water Quality**
1. How would the BLM manage fluid mineral leasing, including coal or oil/gas related development, activities, and related impacts, to include the management of water and related impacts on other resources within the project's footprint in development and the use of hydraulic fracturing technology?
 - BLM R02 Scoping Report November 2014 Section 2.1.4

NOW THEREFORE BE IT RESOLVED THAT:

1. The Chapter is against all pending and future Federal fluid mineral BLM leases within Navajo Eastern Agency areas for other less sales which could directly or indirectly impact Eastern Agency Areas) until a reasonable resource sharing mechanism is developed, Chapter's Navajo Field Office Resource Management Plan Amendment is developed, and a full understanding of potential environmental and health impacts of horizontal hydraulic fracturing is developed; and
2. The BLM shall develop guidance and community specific environmental justice analyses and engage in direct tribal consultation with affected tribal communities/chapters. Additionally, the BLM must take a hard look at other issues that will require review to ensure that they meet the modern standards of analysis such as environmental justice and tribal consultation requirements; and
3. The Chapter is against the approval of additional and pending federal oil/gas related projects, including infrastructure (lines required for emergency or health/safety purposes), and their corresponding environmental analysis within Eastern Agency areas for other similar projects outside of Eastern Agency Areas which could directly or indirectly impact the Eastern Agency Areas until a reasonable resource sharing mechanism is developed, the new Resource Management Plan

- Office Resource Management Plan Amendment is developed, and a full understanding of potential environmental and health impacts of horizontal hydraulic fracturing is developed; and
4. The Chapter wishes to see an equitable distribution of federal royalty revenues, sales, and bonuses generated within Eastern Agency boundaries (which includes federally managed lands and minerals) to partly mitigate adverse impacts from federal oil/gas development within Navajo Eastern Agency areas. These funds shall be both shared directly to impacted chapters and a portion also divided amongst all Eastern Agency chapters to help develop planning, public facilities, and public services; and
 5. The Chapter consider the lack of federal royalties, sales, and bonus sharing with Eastern Agency chapters from activities occurring within Eastern Agency boundaries to be a disproportionate impact on Navajo Communities; and
 6. The Chapter shall cooperate with other chapters, the Navajo Nation, and federal entities to better understand potential environmental and health impacts of horizontal hydraulic fracturing activities that could affect Navajo communities;
 7. **Be Resolved** that the Chapter is in opposition to the proposed January 2017 lease sale of tribal trust/federal mineral spirit estate lands located in Coconino and Navajo chapters.

CERTIFICATION

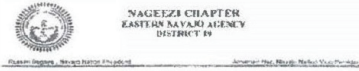
WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly considered by the Torreon/Star Lake Chapter at a duly called meeting at Navajo Zuni, New Mexico, at which quorum was present and that the same was motioned by David Bass and seconded by Joseph Brown and adopted by a vote of 14 in favor, 0 opposed and 1 abstained on the 12th day of November 2015.

David Bass, President
 Torreon/Star Lake Chapter

Joe L. Casado, Jr., Vice President
 Torreon/Star Lake Chapter

Evangeline Yachir, Secretary/Treasurer
 Torreon/Star Lake Chapter

Nageezi Chapter BLM Resolution



NAGEEZI CHAPTER
EASTERN NAVAJO AGENCY
DISTRICT 19

Planning Program, Navajo Nation Chapter of... Resolution No. Nageezi, Navajo Nation Chapter...

RESOLUTION OF NAGEEZI CHAPTER EASTERN AGENCY, DISTRICT 19

RESOLUTION # NC 17-143

Opposition to further approval of federal fluid mineral leases, federal oil/gas related projects, and related Environmental Analysis approvals by Bureau of Land Management within or impacting Navajo Nation Eastern Agency Areas and Constituents

WHEREAS:

1. The Nageezi Chapter (the "Chapter") is a political subdivision of the Navajo Nation under 11 N.M.S. § 19 and the Chapter is responsible for the health, safety, and general welfare of its members/constituents and for administration of the Chapter lands and resources, and...
2. Money generated from royalties, sales, and bonuses of federal fluid mineral leases that are within Eastern Agency area boundaries are to be shared with the Navajo Nation and Eastern Agency Chapter...
3. The Bureau of Land Management (BLM) is the lead agency for the planning, public facilities, and public services; and...
4. It also appears that many Applications for Permits to Drill (APDs) and Environmental Analysis (EAs) related to federal oil/gas development within or adjoining Eastern Agency boundaries are, historically and currently, lacking in a clear stated intent consultation and fair treatment of Navajo constituents; and...
5. The Bureau of Land Management (BLM) is the lead agency for the planning, public facilities, and public services; and...
6. As part of the Resource Management Plan Amendment the following are issues identified for analysis during public hearing:

- 1. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 2. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 3. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 4. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 5. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 6. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 7. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 8. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 9. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 10. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 11. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 12. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 13. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 14. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 15. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 16. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 17. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 18. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 19. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.
- 20. The amount of BLM royalties to be shared with the Navajo Nation and Eastern Agency Chapter.

* How could the BLM remedy the mineral leasing including level of proposed development, mitigation, and mitigation measures, to BLM? Is mitigation in order while reducing impacts on other constituents of the environment? Is the use of hydraulic fracturing technology? Is it safe? (Refer to Navajo Nation Chapter 2017 Resolution 2.5)

Issue 2: Land Use/Planning
* What BLM regulations in the planning area are appropriate for the...
* How could the BLM remedy the mineral leasing including level of proposed development, mitigation, and mitigation measures, to BLM? Is mitigation in order while reducing impacts on other constituents of the environment? Is the use of hydraulic fracturing technology? Is it safe? (Refer to Navajo Nation Chapter 2017 Resolution 2.5)

NOW THEREFORE BE IT RESOLVED THAT:

- 1. The Chapter is against all pending and future federal fluid mineral BLM leases within Navajo Eastern Agency areas for other than public health, safety, or industry support (Eastern Agency Areas) until a reasonable revenue sharing mechanism is developed, and a full understanding of potential environmental and health impacts of horizontal hydraulic fracturing is developed; and...
2. The BLM shall develop and submit a comprehensive environmental impact study and engage in direct public consultation with affected tribal constituent organizations. Additionally, the BLM must take a hard look at other leases that will require removal to ensure that they meet the regulatory standards of safety such as environmental justice and tribal consultation requirements; and...
3. The Chapter is against the approval of additional and pending federal oil/gas related projects, supporting in alternative carbon sequestration for emergency, or health/safety purposes, and that of increasing Environmental Analysis within Eastern Agency or other similar projects outside of Eastern Agency Areas which could directly or indirectly impact the Eastern Agency Areas until a reasonable revenue sharing mechanism is developed, and a full understanding of potential environmental and health impacts of horizontal hydraulic fracturing is developed; and...
4. The Chapter shall cooperate with other chapters, the Navajo Nation, and federal entities to better understand potential environmental and health impacts of its mineral/hydraulic fracturing activities that could affect Navajo constituents.

- 1. The Chapter wishes to see an equitable distribution of federal royalty revenues, sales, and bonuses generated within Eastern Agency boundaries (which includes a federally managed lands and minerals) to partially mitigate adverse impacts from federal oil/gas development within Navajo Eastern Agency areas. These funds shall be both shared directly to impacted chapters and a portion also divided among all Eastern Agency chapters to help develop planning, public facilities, and public services; and...
2. The Chapter considers the lack of federal royalties, sales, and bonuses shared with Eastern Agency chapters from activities occurring within Eastern Agency boundaries to be a disproportionate impact on Navajo constituents; and...
3. The Chapter shall cooperate with other chapters, the Navajo Nation, and federal entities to better understand potential environmental and health impacts of its mineral/hydraulic fracturing activities that could affect Navajo constituents.

CERTIFICATION

WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly presented and discussed at a duly called meeting of Nageezi Chapter, Navajo Nation (New Mexico), at which a quorum was present, motioned by Pete Martinez, seconded by Kenneth Augustine, was voted on with 29 in favor, 00 opposed, and 01 abstained, this 06th day of November 2017.

Ervin Chavez
Ervin Chavez, Chapter President

Jessie Valdez
Jessie Valdez, Chapter Secretary/Treasurer



Torreón/Star Lake Chapter

P.O. Box 1024 * Cuba, New Mexico 87013 *(505)731-2336
 Torreón@navajochapters.org-Fax# 505-731-1514



Daniel E Tso
Council Delegate

David Rico
President

Richard Montoya Sr.
Vice President

Sherry Begaye
Secretary/Treasurer

Alex Sandoval
Land board

Wally Toledo
Coordinator

Cecelia Toledo
Accounts Maintenance Specialist

TORREON/STARLAKE CHAPTER
 TSL # 12/2019 - 35

RESOLUTION OF THE TORREON/STARLAKE CHAPTER OPPOSES NAVAJO NATION
 COUNCIL 0366 -19 IN FAVOR OF KEEPING IN ALIGN WITH THE STATED POSITIONS
 OF THE PRESIDENT OF THE NAVAJO NATION, NEW MEXICO CONGRESSIONAL
 DELEGATION, STATE OF NEW MEXICO LAND COMMISSION SUPPORTING THE
 CREATION OF A "10 MILE BUFFER".

WHEREAS:

1. The Torreón/Starlake Chapter recognizes that the President of the Navajo Nation has testified in *support* of the United States House Resolution 2181(H.R. 2181) "Chaco Cultural Heritage Area Protection Act of 2019" that includes a 10-mile buffer that does *not* infringe upon the mineral rights of Individual Indian mineral rights.
2. The Torreón/Starlake Chapter recognizes that Senate Bill 1079 is has identical language to H.R. 2181.
3. The Torreón/Starlake Chapter recognizes that the *entire* New Mexico Congressional Delegation supported the passing of H.R. 2181.
4. The Torreón/Starlake Chapter recognizes that the United States' Secretary of Interior Bernhardt has imposed a voluntary one-year moratorium on oil and gas leasing on federal public lands within the 10-mile buffer surrounding Chaco Culture National Historic Park (CCNHP) and its outliers.
5. The Torreón/Starlake Chapter recognizes that the State of New Mexico Land Commission, Stephanie Garcia-Richards, has executed an order to stop oil and gas leasing within the proposed 10-mile buffer during her tenure as State Land Commissioner.
6. The Torreón/Starlake Chapter recognizes that the CCNHP is recognized by the United Nations Education and Science Organization (UNESCO) as of one (1) of twenty-four (24) World Heritage Sites in the United States.
7. The Torreón/Starlake Chapter recognizes that the areas surrounding the CCNHP includes sensitive and important cultural resources and properties that are central to the unique history and worldview of the Navajo Nation.

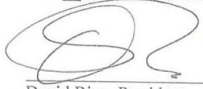
8. The Torreon/Starlake Chapter recognizes the resolutions passed by their sister chapters of Counselors and Ojo Encino that supports a federal mineral withdraw around the Chaco Culture National Historic Park.
9. The Torreon/Starlake Chapter recognizes that the Eastern Navajo Agency Council (ENAC) passage of a resolution that requests for a "5-mile buffer" only passed with only 23 of the 55 votes recognized. The majority, 32 votes, were *not* in favor the resolution and 22 of the ENAC quorum abstained from voting.
10. The Torreon/Starlake Chapter recognizes that "10-mile Buffer", per a United States Senate whitepaper, is already a compromise regarding the protecting of the Greater Chaco Landscape.

Now Be It Resolved:

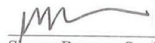
1. The Torreon/Starlake Chapter *opposes* Navajo Nation Council Resolution 0366-19 in favor of keeping in align with the stated positions of the President of the Navajo Nation, New Mexico Congressional Delegation, State of New Mexico Land Commission supporting the creation of a "10-mile Buffer".

C-E-R-T-I-F-I-C-A-T-I-O-N

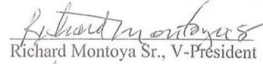
We hereby, certify that the foregoing resolution was duly considered at a duly called meeting at Na'neelzhiin, New Mexico at which a quorum was present and that the same was passed by a motion by Haven Gordo and second by Albert Begay with a vote of 60 in favor, 0 opposed, and 7 abstained on the 8th day of December 2019.




David Rico, President



Sherry Begaye, Sec/Treasurer



Richard Montoya Sr., V-President



Alex Sandoval, Land Board

Navajo Nation, Counselor Chapter House, P.O. Box #93, Counselor, New Mexico 87018
 Phone & Fax #: (575)568-4311
 Email: counselor@navajochapters.org

Harry Domingo, Sr. Chapter President
 Laura Lopez, Vice President
 Damien Augustine, Secretary/Treasurer
 Elizabeth Stoney, Land Board Member

Daniel Tso, Council Delegate
 Samuel Sage, Comm. Services Coordinator
 Martha A. Aragon, Acct. Maint. Specialist

**RESOLUTION OF COUNSELOR CHAPTER
 COUNSELOR, NEWMEXICO
 #COUN-2019-02-001**

**RESOLUTION OF COUNSELOR CHAPTER SUPPORTING A FEDERAL BILL THAT
 WITHDRAWS FEDERAL MINERALS WITHIN THE GREATER CHACO LANDSCAPE AND
 STATE'S EFFORT CULTURAL RESOURCES INVENTORY REPORT IN THE GREATER CHACO
 LANDSCAPE.**

WHEREAS:

1. Per Resolution CAP-34-98, the Navajo Nation Council adopted Local Governance Act and through the adoption of this Act delegated to the Navajo Nation Chapters governmental authority with respect to all local issues/ matters consistent with Navajo law, customs and tradition; and
2. The Counselor Chapter has steadfastly communicated, coordinated and cooperatively planned the regional development of the five most Eastern Chapters of the Navajo Nation; and
3. On March 2, 2018 Secretary of the Interior Ryan Zinke directed the Bureau of Land Management to defer its scheduled Farmington Field Office lease sale so the agency could complete an ongoing analysis of more than 5,000 cultural sites in the proposed leasing area, and on December 4, 2018 the agency deferred its scheduled Farmington Field Office lease parcels sites has been completed nor have the chapters been consulted around Navajo Cultural Properties.
4. Counselor Chapter reads that the 2003 and 1986 Resource Management Plans for the Bureau of Land Management's Farmington and Rio Puerco Field Offices does not sufficiently address the technological development of multistage horizontal drilling and hydraulic fracturing; and
5. Counselor Chapter is keenly aware of the Bureau of Land Management's actions to lease the public lands for oil/gas exploration in a manner that precludes its multiple use to a singular use for energy development; and
6. Counselor Chapter and its residents have personal knowledge of the adverse impacts their relatives are experiencing with the declining air quality through the venting and flaring, the increased vehicular traffic, and the familiar discord resulting from the bonus payments for the leasing of the allotments; and
7. Counselor Chapter has community voters who have allotments and heirs and have an interest in the Mancos-Gallup formation and will work to assure that any state or federal legislation not dispose mineral rights of the Navajo Nation or member of the Navajo Nation to trust land or allotment land, and does not affect the potential future disposal or exchange of federal lands to the Navajo Nation; and
8. Counselor Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies for the Federal government to assure the needs, interests and points regarding land use priorities, protection of culturally grounded ways life and safeguarding the environmental which are imbued in Articles 26, 27, 29, and 32 of the UN Declaration; and

#COUN-2019-02-001, page 2 continues.

9. On March 22, 2018, during the 2nd Session of the 115th Congress of the United States, the Honorable Senator Tom Udall and the Honorable Senator Martin Heinrich introduced a bill entitled "Chaco Cultural Heritage Area Protection Act of 2018", which would withdraw federal minerals in the state of New Mexico within a 10-mile radius of the Chaco Cultural National Historical Park; and
10. The Chaco Cultural Heritage Area Protection Act of 2018 did not, upon its initial introduction, incorporate Counselor Chapter's core concerns, specifically that 1) The Greater Chaco Landscape not be minimized to the Chaco Culture National Historical Park (CCNHP) not to a 10-mile buffer around the park; 2) Resource management of the Greater Chaco Landscape must include tribal consultation at the Chapter level; 3) A bill regarding resource management of the Greater Chaco Landscape must provide community public health and environmental justice protections; and 4) A bill regarding resource management of the Greater Chaco Landscape must also ensure that CCNHP and wilderness areas within the Greater Chaco Landscape attain Class I Air Quality Standards; and
11. Federal mineral withdrawal under the 2018 Chaco Cultural Heritage Protection Act was limited to an arbitrary 10-mile radius around CCNHP and Pierre's Point, excluding numerous Chacoan Greater Houses and Navajo cultural properties. Counselor Chapter supports the protection of these sites.
12. Above all concerns, Counselor Chapter positions itself to have Federal and State agencies recognize home sites, traditional and customary use areas to be protected as there is the living Navajo society and culture in place since before the agencies were authorized.

NOW THEREFORE BE IT RESOLVED THAT:

Counselor Chapter would support a federal bill that withdraws federal minerals within the Greater Chaco Landscape provided that it:

1. Does not reduce the Greater Chaco Landscape to the Chaco Cultural National Historical Park or to an arbitrary buffer around the Park; and
2. Provides public health and environmental justice protections for local communities impacted by oil and gas development; and
3. Requires that resource management decisions in the Greater Chaco Landscape are informed by tribal consultation at the Chapter-level with impacted Navajo Chapters; and
4. Restores Chaco Culture National Historical Park and wilderness areas in the Greater Chaco Landscape to Class I Air Standards.

Counselor Chapter also supports state and federal efforts to:

1. Complete a Cultural Resources Inventory report in the Greater Chaco Landscape; and
2. Provide opportunities for economic development, diversification and decarbonization in Eastern Navajo communities; supported by increases oil and gas royalty rates and taxes, as well as monies appropriated for just transitions and fossil fuel remediation; and
3. Compile a National Academy of Sciences Study to compile scientific data supporting setback limits that are aligned with protecting human health and maintaining Hozho; and
4. Increase community, state, and federal monitoring and reporting of air quality, water quality and quantity and human health impacts related to oil and gas development.

CERTIFICATION

WE, HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly considered by the Counselor Chapter at a duly called meeting at Counselor, New Mexico, at which a quorum was present and that the same was motion by: Wopdy Keetsa and seconded by: Betty Sala and adopted by a vote of 15 in favor, 0 opposed, and 4 abstained this 10 day of February, 2019.

**QUESTIONS SUBMITTED FOR THE RECORD TO MARIO ATENCIO, VICE PRESIDENT,
TORREON/STAR LAKE CHAPTER**

Questions Submitted by Representative Westerman

Question 1. You're a board member of Diné C.A.R.E. Looking at your organization's website and other sources online it's not clear how it is funded. A lot of groups disclose that online or in IRS filings, and we find that transparency is beneficial when groups are advocating on public policies like Interior's land withdrawal.

1a) Where does Diné C.A.R.E. derive its funding?

1b) Does Diné C.A.R.E. receive money from other outside organizations, particularly from environmental non-profit groups?

1c) If so, can you tell us which organizations help support Diné C.A.R.E. financially?

Answer. I am not currently a board member of Diné Citizens Against Ruining our Environment's (C.A.R.E.) and I do not have the information you seek.

Question 2. Do you or any of your direct family members hold allotments or receive royalty payments from energy production?

Answer. Yes. However, my father did not sign the federal oil and gas lease. Due to federal individual Indian land tenure regulations a simple majority is all that is needed to approve a lease on individual Indian allotted lands.

Questions Submitted by Representative Grijalva

Question 1. Mr. Atencio, from your understanding, will current royalty payments from Navajo Allottees impacted by Public Land Order No. 7923?

Answer. It is my understanding that royalty payments will not be impacted by Public Land Order No. 7923. My father has informed me he did receive the June and July 2023 royalty payments without any issue.

Question 2. Mr. Atencio, what do you think would be the long-term impacts on the Navajo people and their heritage if oil and gas development were to continue unchecked around Chaco Canyon?

Answer. I think continued unchecked oil and gas development has already deeply impacted the Navajo people and their heritage. We see that the decade of local legislative opposition to oil and gas development on public lands point to a considered position that oil and gas development has had significant disruption to the physical and spiritual health of the people. Continued unchecked oil and gas development will compound the current impacts and cause irreparable community spiritual/environmental health impacts. Future spills, like the spill on my father's land, would burden an unknown number of future generations with the horrendous task of trying to clean up/reclaim the damage caused by oil and gas production across our landscape, and they will know that we had a chance to take reasonable action to protect them from harm yet we failed to do so.

Mr. STAUBER. Thank you very much.
We now recognize Ms. Hesuse for 5 minutes.

STATEMENT OF DELORA HESUSE, NAVAJO TRIBAL MEMBER AND ALLOTTEE, NAGEEZI CHAPTER, NEW MEXICO

Ms. HESUSE. Good afternoon, Chairman Westerman, Ranking Member Grijalva, Chairman Stauber, and Ranking Member Ocasio-Cortez, Navajo Nation Nygren, and members of the Subcommittee.

Thank you for the opportunity to bring voice to those Navajo tribal members who, like me, have had our sole means of modest income from oil and gas payments from our Indian allotted mineral interests de facto stripped away by Public Land Order 7923, the Chaco 10-mile buffer withdrawal. This was despite the strong and consistent opposition of the allottees and our Tribal Nation, the Navajo Nation.

In 2019, I came before another Subcommittee on behalf of many allottees who signed petitions in 2018 to oppose any buffer around the already-protected Chaco Culture National Historical Park. Later, in early 2020, the Navajo Nation, with the support of the allottees, proposed a compromise 5-mile buffer. In 2021, the Navajo Nation met with Members of Congress to encourage the compromise.

When Secretary Haaland came into office, she promised to listen to the Indian Country and give us a stronger role in decisions

affecting our lives. But she did not listen. She did not listen to our lofty voices. She did not consult with us or with the Navajo Nation on our proposed 5-mile compromise. Secretary Haaland instead issued the PLO that withdrew the Federal minerals necessary to the development of our allottee minerals.

The Navajo Nation and the allottees now are united in their opposition of any buffer zone around the park. That is why we testify today in support of H.R. 4374.

I am Delora Hesuse, a citizen of the Navajo Nation, Nageezi Chapter. My chapter is in the Greater Chaco Region, and near the Chaco Culture National Historical Park. My grandmother was a councilwoman for Nageezi Chapter for 8 years, and my father was a Navajo Nation Council delegate for Nageezi Chapter for 20 years. Like my parents and my grandparents before me, I have worked with our community to help neighbors, other allottees who often do not speak or read English, to understand the oil and gas development on their properties, and ensure that they get good terms for their leasing.

I have participated alongside other Navajo allottees in many dozens of environmental review meetings and planning processes over decades. We are very active and careful about how we use our land and develop our oil and gas, and make sure that we get regular water testing, and nothing is built on any traditional sites.

I frequently go out to the well sites to watch when the companies perform air and water quality testing or other work so that I can see for myself what is being done, and ensure the interests of our community are respected.

Many people don't understand our Navajo American heritage, and the fact that many individual Navajo Nation members such as I, called allottees, own private lands and minerals underneath them. Many years ago, the Federal Government passed a law that gave my ancestors an allotment of land and minerals and restricted fee title to own and pass down to their family members.

Many allottees have family ties to specific land dating back to at least the early 20th century, if not the late 1880s. These lands were given to our great-great-grandparents in exchange for citizenship. We have rights as citizens and landowners to develop our lands for oil and gas as we see fit. This is a steadfast property right that sustains our livelihoods and way of life.

In 2015 alone, the Federal Indian Mineral Office distributed \$96 million to 20,835 allottees. This is hugely important because our area is very poor, and families still do not have electricity or running water. Our elderlies rely on this money to feed their grandchildren and livestock.

I know for a fact that allottees' families have sent their children to school on royalty money. I have seen it. Some of them are now doctors and engineers. Other families have built businesses, including a very successful construction business. Oil and gas development always provides jobs for many of my neighbors and relatives, and many are out of work because leases and drilling permits are not being approved.

The Public Land Order strains Navajo allottees and minerals make any new development impossible. More than 100 families in our community have leases that they negotiated and signed for the

property, but have not been approved by the Federal Government. Many of these people live in small trailers without electricity or basic necessities, and they call and text me every day asking me to find out what is happening with their leases.

This withdrawal is the end of their hopes because their land is tightly checkerboarded and mixed with Federal lands that have been withdrawn. It cannot be developed alone. If you take out the Federal minerals, you can see you cannot reach the tribal and allotted minerals. The Federal oil and gas are mixed with and gathering lines with other infrastructures cross Federal lands. It does not matter if the Department of the Interior says its existing rights are not subject to the buffer. This is wrong. This is an obvious fact of oil and gas production.

The buffer is a significant taking of hundreds of millions of dollars of property from the allottees, property that the United States is supposed to protect us as trustees, not to block off for our own purpose.

I, too, care deeply about Chaco culture heritage, but there is no oil and gas within 6 miles of Chaco Culture National Historical Park. Artifacts that may be outside the park are protected by BLM through the National Historic Preservation Action.

I urge the Committee to pass this bill. I, and 20 other thousand Navajo allottees, have no idea how we will make ends meet if you don't. And I would like to thank you for the opportunity to testify today.

[The prepared statement of Ms. Hesuse follows:]

PREPARED STATEMENT OF DELORA HESUSE, NAVAJO INDIAN ALLOTTEE,
NAGEEZI CHAPTER

Chairman Stauber, Ranking Member Ocasio-Cortez and members of the subcommittee, thank you for the opportunity to bring voice to those Navajo tribal members who, like me, have had our sole means of modest income—oil and gas payments from our Indian allotted mineral interests—de facto stripped away by Public Land Order 7923, the Chaco ten-mile buffer withdrawal. This was despite the strong and consistent opposition of the Allottees and our tribal Nation, the Navajo Nation, to the withdrawal of a ten-mile buffer surrounding the Chaco Culture National Historic Park first proposed in legislation, then in a land use plan and finally a PLO.

In 2019, I came before another subcommittee, on behalf of the many Allottees who signed petitions in 2018, to oppose any buffer around the already protected Chaco Culture National Historic Park. Later in early 2020, the Navajo Nation, with the support of the Allottees, proposed a compromise five-mile buffer. In 2021, the Navajo Nation met with Members of Congress to encourage the compromise.

When Secretary Haaland came into office, she promised to listen to Indian Country and give us a stronger role in decisions affecting our lives. But she did not listen to our Allottee voices, she did not consult with us or with the Navajo Nation on our proposed five-mile compromise. Secretary Haaland instead issued the PLO that withdraws the federal minerals necessary to the development of our allottee minerals. The Navajo Nation and the allottees now are united in their opposition to any buffer around the Park. That is why we testify today in support of H.R. 4374.

I am Delora Hesuse, a citizen of the Navajo Nation, Nageezi Chapter. My chapter is in the Greater Chaco region and near the Chaco Culture National Historic Park. My grandmother was a Councilwoman for the Nageezi Chapter for eight years, and my father was a Navajo Nation Council Delegate for the Nageezi Chapter for twenty years. Like my parents and grandparents before me, I have worked with our community to help my neighbors, the other Allottees, who often do not speak or read English, to understand the oil and gas development on their properties and ensure that they get good terms for their leases. I have participated alongside other Navajo Allottees in many dozens of environmental review meetings and planning processes over decades. We are very active and careful about how we use our land and develop

our oil and gas and make sure that we get regular water testing and that nothing is built on any traditional sites. I frequently go out to the well sites to watch when the companies perform air and water quality testing or other work, so that I can see for myself what is being done and ensure that the interests of our community are respected.

We have sought and achieved balance in development, in accord with our Navajo language and culture, working closely with industry partners who listen to us and respond to any community concerns because they are part of our community.

Many people don't understand our Native American heritage and the fact that many individual Navajo Nation members such as I, called Allottees, own private lands and the minerals underneath them. Many years ago, the federal government passed a law that gave my ancestors an allotment of land and minerals in restricted fee title to own and pass down to their family members. Many Allottees have family ties to specific land dating back to at least the early 20th century if not the late 1880s. These lands were given to our great, great grandparents in exchange for citizenship, and we have rights as citizens and landowners to develop our lands for oil and gas as we see fit. This is a steadfast property right that sustains our livelihoods and way of life.

H.R. 4374 would correct a wrong—PLO 7923—that puts many of our mineral rights off limits and stops a much-needed source of income to feed, shelter, clothe and protect our families. I'm not exaggerating the importance of this income.

In 2015 alone, the Federal Indian Minerals Office distributed \$96 million to 20,835 Allottees. This is hugely important, because our area is very poor, and many families still do not have electricity or running water. Our elderly rely on this money to feed their grandchildren and livestock. I know for a fact that allottee families have sent their children to school on this royalty money. I have seen it. Some of them are now doctors and engineers. Other families have built businesses, including a very successful construction business. Oil and gas development also provides jobs for many of my neighbors and relatives, and many are out of work because leases and drilling permits are not being approved.

The Public Land Order strands the Navajo Allottees and our minerals, making ANY new development impossible. More than a hundred families in our community have leases that they negotiated and signed for their property but that have not been approved by the federal government. Many of these people are living in small trailers, without electricity or basic necessities, and they call and text me every day asking me to find out what is happening with their leases.

This withdrawal is the end of their hopes. Because their land is tightly checkerboarded and mixed with federal land that has been withdrawn, it cannot be developed alone. If you take out the federal minerals, you can see you cannot reach the Tribal and Allottee minerals. The federal oil and gas are mixed with ours, and the gathering lines and other infrastructure cross federal land. It does not matter if the Department of the Interior says existing rights are not subject to the buffer—this is wrong. This is an obvious fact of oil and gas production. The buffer is a significant taking of hundreds of millions of dollars of property from the Allottees, property that the United States is supposed to protect as a trustee, not to block off for its own purposes.

Our future revenue loss could be as much as \$200 million, although we do not know the exact number because it depends on the oil prices and the quality of the wells. In the BLM EA, BLM claims only 47 future wells will be eliminated by the withdrawal, but the company analysis instead shows 233 wells would be prevented. This is a significant impact to our livelihood—without federal oil and gas royalty income, we do not know how we will be able to survive.

I testify today in support of H.R. 4374 as a community member, a grandmother, and someone who cares for others, especially our elders, who are very scared right now because they struggle to understand the impacts of the Public Land Order.

I too care deeply about the Chaco cultural heritage. After all, I'm a Navajo who lives right in the Greater Chaco region. But the Chaco Culture National Historic Park already protects the Great Houses. Artifacts that may be outside the Park are protected by BLM through the National Historic Preservation Act. Any development of my minerals and the minerals of other Allottees is done in strict accordance with the Preservation Act, to make sure they are protected. Not only do we insist upon it, but that is the law of the land. The Secretary's Trust responsibility to Allottees is also the law of the land. But she ignored that responsibility to us.

I urge the Committee to pass this bill. I and 20,000 other Navajo Allottees have no idea how we will make ends meet if you don't.

Thank you for the opportunity to testify today.

QUESTIONS SUBMITTED FOR THE RECORD TO DELORA HESUSE, NAVAJO TRIBAL
MEMBER AND ALLOTTEE, NAGEEZI CHAPTER

Questions Submitted by Representative Westerman

Question 1. Deputy Director Culver's testimony states that the withdrawal "does not affect existing leases, nor does it apply to minerals owned by private, State, or Tribal entities."

1a) I want to make sure the record is clear; will this withdrawal prevent allottees from developing their minerals?

Answer. Yes. It prevents the Allottees who wish to develop their unleased minerals. We need other lands (Federal BLM lands and state lands) to develop horizontal drilling and fracturing. There are many Allottees who have sought out leases and negotiated leases but have not been able to get them approved because BLM has been sitting on their applications for more than a decade. Some of these families live without running water and electricity and all of them have many serious needs. These people have been very active in trying to find ways to earn a living on their lands and have negotiated good economic terms, but they cannot start receiving royalties because the leases and federal units are not approved.

You need to understand that it is not just the withdrawal, BLM has stopped approving anything, even lines we need for our household utilities. Nobody understands how much this official federal policy is and how much it is confusion and delay. The people we used to work with at the BLM have stopped talking to us openly and telling us what is going on. You can see that they are under a lot of pressure.

Question 2. In Mr. Atencio's testimony, he says that the region has an approximate 40% unemployment rate and about 40% of people live below the poverty line.

2a) How will BLM's withdrawal impact these economic metrics—will it result in more unemployment and more folks living below the poverty line?

Answer. The withdrawal will only increase the amount of unemployment and poverty. Many of our neighbors who worked for the oil and gas companies are out of work. I recently attended a meeting on June 6, 2023, in Farmington and Aztec wells services said 100 of his employees, mostly Navajos were laid off and nobody could tell them when they would be able to return to work. Due to only 1 application being approved in the last week.

In our public comments, we told BLM that the Eastern Navajo Agency, which encompasses Navajo communities in Northern New Mexico, remain one of the least economically developed places in the United States. The Navajo Nation has an official poverty rate of 40.5 percent and a median household income of just \$26,862. See Federal Reserve Bank of Minneapolis, Navajo Nation Reservation Profile, available at <https://www.minneapolisfed.org/indiancountry/resource/reservation-profiles/navajo-nation-reservation> (accessed December 2, 2022). Economic conditions are even bleaker in the Eastern Navajo Agency, where the undersigned allottees—all enrolled citizens of the Nation—eke out a living on allotted lands allocated to their forebearers by the Federal Government as a modest consolation for removing the entire region from what used to be Navajo Indian Reservation ("Reservation"). Plaintiffs now seek to eviscerate the chief remaining source of economic benefit from the Navajo Allottee's limited landholdings: oil and gas revenue.

The Nageezi Chapter, a unit of local government adjacent to the Withdrawal area, the Navajo Times reported in 2013 that 30 percent of households lack electricity. Cindy Yurth, The Orphan on the Checkerboard, THE NAVAJO TIMES (April 9, 2013), <http://navajotirnes.com/news/chapters/050913hue.php>. The neighboring Huerfano Chapter is only accessible by unpaved roads. Id. "the chapter does sport 15 churches, 2 [Bureau of Indian Education] boarding schools, a clinic, and at 90 square miles it's so large it hosts 2 land boards, 2 fire stations and 2 transfer stations." Id.

Question 3. Deputy Director Culver's testimony states that the BLM's analysis found that the withdrawal would improve the "quality of life of local communities from the reduction of development of Federal minerals in this area."

3a) Will this withdrawal improve your quality of life and the quality of life for the other allottees?

Answer. No. it will not improve our quality of life. It will only make it difficult to feed our families and improve our communities and to get roads, electricity and running water. This oil and gas field has been in operation for fifty years, and nobody ever say any negative effects until outside groups began to campaign against

it. Our air and water are tested regularly so we would know if there were problems caused by oil and gas.

The withdrawal will not even protect Chaco Canyon. It is the tourists that are destroying the Great House. They trample over everything and litter and drive their cars up and down the canyon only a few feet from the ruins. I have family members who work for the park, and everyone there understands that if we really wanted to protect the Park we would restrict public access, not oil rigs operation five miles away. In Canyon de Chelly, which is managed by the Navajo Nation in cooperation with the Park Service, nobody is allowed to hike through the ruins except in small groups under the supervision of an official guide. If the public was serious about protecting Chaco, it would impose similar restrictions there, but they don't because that would interfere with their lives instead of ours.

Mr. STAUBER. Thank you very much.

Before we get to Members' questions, I will be asking unanimous consent that the two gentlewomen from New Mexico, Representative Stansbury and Leger Fernández, be able to participate in today's hearing.

Without objection, so ordered.

The Chair will now recognize Mr. Crane for 5 minutes of questioning.

Mr. CRANE. Thank you, Mr. Chairman.

President Nygren, how does it make you feel when you hear Members in this chamber recognize the sovereignty of the Navajo Nation only when it is convenient? How does that make you feel, Mr. President?

Mr. NYGREN. As President of the Navajo Nation, one of the most important things that I live by every single day is protecting the Treaty of 1868 and its best interests of the people in the communities.

I know that Navajo people are very diverse. We are all over the country, and there are 200,000 of us that live on the reservation. But when you hear that it is only when it is convenient, it is a little frustrating. Tribal sovereignty shouldn't be a convenience, it should be something that we live by. There are laws. There are ways of working with tribes.

And as mentioned earlier in my testimony, working together, coming up with a collective solution, and making sure that we don't leave people behind, and I feel like that is my No. 1 important role as President, and I really, truly believe that the people that elected me this past year were people that are very poor, people in tough conditions, single mothers, grandparents that are raising their grandkids, people without jobs, and people that don't even have enough money to go to the laundromat.

And I think about that every single day, so when I hear that, it is tough. It is a tough pill to swallow because it is a long road to get where we want to get.

Mr. CRANE. Yes. Ms. Hesuse, would you agree? Does it bother you to hear Members in this chamber and other Members talk about the sovereignty of the Navajo Nation only when it is convenient, but then they are more than happy to boss you all around and tell you how you can use your natural resources?

I can tell you guys something. Many of the individuals on this panel don't share the same political affiliation that I do. I am a Republican, yet I represent many people, many of the Native

people that identify as Democrats. But I can tell you one thing we have in common. I don't like to see this corrupt, often corrupt, overreaching, overbearing, irresponsible government tell any of my constituents or any of the American people what they can and cannot do, especially when it goes against their council, their presidency, the people that they elected to represent them. And that is something that I want.

Mr. Atencio, do you believe in the sovereignty of the Navajo Nation?

Mr. ATENCIO. Mr. Crane, as a local elected official, I do.

Mr. CRANE. OK. Thank you, sir. So, here is the thing, Mr. Atencio, and I respect your opinion. I can tell that you researched, you know what you have, you have a solid opinion.

But this is my counsel to everybody in here. This swings both ways, OK? If you allow this government to come in and tell you what you can do with the buffer zone around Chaco Canyon, then don't complain when they come in and tell you something else. It is either you are sovereign or you are not. You guys have a president, you guys have an elected council. If the people that elected these individuals, these elected officials, wanted a buffer zone, they would have a buffer zone. OK? And that is not even to mention the \$200 million that it is going to cost citizens and tribal members on the Navajo Nation. That is a lot of money.

I remember going to meet President Nygren in my home state, and I remember driving around the reservation, and I noticed there was a lot of poverty there. So, that \$200 on the Navajo Nation, that is going to mean a lot more than it would in Prescott, or Sedona, or Flagstaff, other areas that I represent.

And here is the thing. I want to say this, as well. I have noticed this since I have been representing the Navajo people. It is not just with this Chaco Canyon buffer zone, Ms. Culver. Multiple times we have reached out to the Department of the Interior to ask about gravel pits. This is a big issue for the Navajo Nation. They want to be able to use their own gravel pits so that they can repair their own roads. Guess how many responses we have received from the Department of the Interior, Ms. Culver? Zero.

They don't listen to me. You guys clearly aren't listening to the President and the Council of the Navajo Nation. Who exactly are you listening to, Ms. Culver?

Ms. CULVER. We are listening to the public. We are consulting with tribes, and we are engaging in extensive outreach and engagement with all of the many Americans for whom we steward the public lands.

Mr. CRANE. Well, that is hard to believe when you can't even respond to their Congressional Representative.

Thank you, I yield back.

Mr. STAUBER. Thank you very much. The Chair now recognizes the Ranking Member, Representative Ocasio-Cortez, for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you so much.

I would be remiss without mentioning with some of the comments just shared that we have heard Native governments across this country stand up against the Keystone XL Pipeline, the Dakota Access Pipeline, that stood up against being poisoned by industry and having their lands defiled. And we see Members of

Congress also try to overturn the will of people here. This is not something that is new, and it speaks to the deep historical harm that the U.S. Government and history of the U.S. Government has with Native people, which is a deeper issue that we all must address.

And, in fact, I would like to dig into the record of oil and gas companies operating in this area. Ms. Ashland, in Mr. Atencio's written testimony, he mentions that your company, Enduring Resources, spilled over 40,000 gallons of toxic fracking slurry mixed with crude oil onto his family's allotment near Chaco Canyon. Do you dispute this fact?

Ms. ASHLAND. Enduring Resources has informed me that the spill did not occur on Mr. Atencio's allotment. It did occur. There was a spill in 2019. It was about 300 barrels of oil and about 1,000 barrels of water. It was cleaned up immediately, and it was——

Ms. OCASIO-CORTEZ. So, the spill did occur?

Ms. ASHLAND. The spill occurred. It was in the middle of February, and it was the result of a frozen pipe.

Ms. OCASIO-CORTEZ. But you dispute that it touched Mr. Atencio's allotment.

Ms. ASHLAND. I have been told that it did not.

Ms. OCASIO-CORTEZ. Mr. Atencio, was this spill on your allotment?

Mr. ATENCIO. Yes, my father's allotment.

Ms. OCASIO-CORTEZ. OK, thank you.

Ms. Ashland, did Enduring Resources pay any fines for impacts to land or water from that spill? Just a simple yes or no.

Ms. ASHLAND. No.

Ms. OCASIO-CORTEZ. No? So, the company did not pay any fines for the impact of that spill.

Mr. Atencio, did your family or your chapter ever hear at all from Enduring Resources about this spill?

Mr. ATENCIO. Ranking Member, no. We have yet to receive any formal response from Enduring Resources.

Ms. OCASIO-CORTEZ. And I think this is something that speaks to a pattern that we have seen in front of this Committee.

To be clear, the kinds of pollution from that spill and a spill of that magnitude is profound, with highly noxious, hazardous air pollutants and methane that either leaked inadvertently or are vented or flared by operators. I have seen it in person. I have seen families burn when they breathe in some of this air.

And, in fact, so much methane spills out of industrial vents in the region that the methane cloud over New Mexico is now visible from space. We see this, and it happens not just in this instance but in many others where I have brought this point in front of this Committee, that people deserve to know if they are being poisoned, whether it is by accident or whether it is by any other process. And they are not being informed. They are not being told.

The CDC also tells us that exposure to these pollutants can cause significant long-term health damage.

Mr. Atencio, since the 2019 spill, have Enduring Resources or other oil and gas companies taken any steps to notify nearby communities of methane leaks, oil spills, or other incidents?

Mr. ATENCIO. No.

Ms. OCASIO-CORTEZ. And as Enduring Resources started building the infrastructure necessary to produce fossil fuels in the community, were you ever informed of the risks associated with these plants?

Mr. ATENCIO. No.

Ms. OCASIO-CORTEZ. One thing I do want to speak to is the very real economic harm and injustice associated with this issue, because Native people and Indigenous communities have been abused, and have not been respected. And in stripping everything away, we now are in an economic hostage situation where people feel like the only opportunity and that the only source is to acquiesce to oil and gas.

And the answer to that is not to revert back, in my view, not to revert back to that, but to invest and reinvest in these communities, particularly where there is harm being done, particularly where there is disinvestment being done. And if families are being impacted in these allotments, they deserve economic restitution.

And President Nygren, I understand that the Navajo Nation has taken a position on the 10-mile withdrawal. But that aside, are there other steps the Federal Government can take to better support the Navajo Nation through an energy transition?

Mr. NYGREN. Thank you, Honorable Cortez, I really appreciate that question.

One of the things I want to say is, I was hoping that those discussions were going to happen this year. I did not even know about the announcement or anything from the Secretary. But my hope was that we were going to have these discussions so that we can come up with a collective solution. Because in Arizona we had probably the biggest, cleanest coal-fired plant, NGS, that was decommissioned and now doesn't exist anymore. The promise was solar fields down the road, but now nothing exists and people are out of jobs. There are no royalties, there are no taxes.

So, I truly agree with having a transition plan that is equitable, and that plan was never presented. To me, it was just a decision that was made, and that was one of the reasons why we completely opposed this, there was no compromise, there were no alternative forms of how can we make this community thrive, alternative forms of energy. That wasn't presented, so that was one of the reasons why the Navajo Nation Council issued their resolution, and I made that statement, was how do we help these people? Because as the Navajo Nation President, the government wasn't affected. Less than 1 percent of those royalties come to the Navajo Nation. So, to me, as the President, I wasn't affected. But to the allottees, they felt like they were hit with a trash can, and I was splashed with water.

So, that is where I completely agree with you, is that we have to think about the people that are in those tough situations that have to make those tough scenarios is how do we open the doors so that they can seek other alternative forms of funding. So, thank you for asking that.

Ms. OCASIO-CORTEZ. Thank you, President Nygren. My hope is that we can work together as a Committee to address some of these injustices, including considering solar royalties for some of these communities. Thank you.

Mr. STAUBER. Thank you very much. I will now recognize myself for 5 minutes.

Ms. Ashland, just to be clear, I wanted to make sure the record was clear on the spill that occurred in 2019. Has Enduring conducted clean-up efforts at the site?

Ms. ASHLAND. Yes, immediately.

Mr. STAUBER. And I would like to submit for the record an e-mail from the EPA Region 9 certifying that the cleanup is complete, and that conditions have been "been restored to pre-disturbance functionality."

Ms. Ashland, what kind of outreach does Enduring do for allottee outreach?

Ms. ASHLAND. Enduring is always happy to offer to show allottees around the plants, the facilities, explaining all the operations. We get phone calls all the time from allottees with questions, and I personally have answered many of those calls over the years that I have worked with Enduring. We try to be as responsive as possible.

We are planning a listening session with the local chapter that would be basically a presentation of our operations and facilities and how they work, and the safeguards that we take to protect the air, and water, and soil around us.

Mr. STAUBER. Thank you. Thank you very much.

Ms. Hesuse, what kind of outreach do the allottees receive from Enduring?

Ms. HESUSE. Thank you, Chair. Yes, they do. They do an outreach. And a matter of fact, we were on the verge of getting another outreach. So, we have been having outreach, and there is another company. Before Enduring it was WPX. So, a lot of the allottees got their information. And if the allottees want more, they will go and seek it.

I had four uncles that don't speak English, and they asked me, "Delora, is there a way that we can get, we don't understand what the flaring is. We don't understand it, the process of it." So, when another company came out to the gym, we sat them down, my uncles. So, now they have a clarification of what the flaring is, so they are at ease.

So, I just wanted to make that statement. They are educating themselves. They are asking questions. Thank you.

Mr. STAUBER. Thank you.

President Nygren, I wanted to begin by letting you know I share your frustration. It is unacceptable that the Biden administration has not properly consulted you and other members of the Navajo Nation throughout this entire withdrawal process.

When issuing mineral withdrawals and arbitrarily pulling permits for important mining projects in my district in northern Minnesota, the Biden administration completely ignored the needs and desires of the local communities. Following the Navajo Nation Council's passage of the resolution opposing a buffer zone around Chaco Canyon and the letter that you and Speaker Curley submitted to the Biden administration, what kind of response did you receive?

Mr. NYGREN. We didn't get a response until I personally saw it on the news that there was a 10-mile buffer zone. And to me it was

very shocking because I saw her a month earlier, and I have seen her multiple times over the past 6 months prior to the announcement. So, to me it was very shocking that our voices weren't being heard. And it made it seem like, as the Navajo Nation President, who is elected by all 110 chapters, all 400,000 people, that your voice is not being honored. So, it was very disheartening when I heard the news on the radio.

But other than that, one of the things I do want to say is that, to me, what is important is tribal sovereignty, tribal consultation. Let's talk about it. Let's sit down before we make harsh decisions that will impact people now. We shouldn't make those types of decisions. These are decisions, as I mentioned earlier, it is very minimal to the Navajo Nation, but it is very highly impacting the allottees, and those peoples' livelihoods should have been considered because living in poverty is not fun. Having no money for laundry, having no money for gas, or not knowing how you are going to pay for resources, \$20,000 might not seem a lot, but \$20,000 is feeding multiple families on a daily basis. Thank you.

Mr. STAUBER. I think it is really egregious that you were notified via a television newscast, that you were notified not directly from the Bureau. And that is the concerning thing.

For me, it is frustrating, as I told you what happened to us in northeastern Minnesota. The local communities support the mining projects because it is about jobs and the economy, the best environmental standards, best labor standards. And it sounds like you heard it from a local newscast. It was almost like they felt they didn't have to notify you in person. And, in fact, it sounds like they didn't even consult you and talk about the decision and have that compromise that you had talked about. And for that I am sorry that you and the allottees had to go through that. It is unacceptable.

My time is up, and the next individual is going to be Representative Leger Fernández for 5 minutes.

Ms. LEGER FERNÁNDEZ. Thank you, Mr. Chairman, and President Nygren, Ms. Hesuse, and Chapter Vice President, yatahey. I don't do it very well. Buenas tardes. Thank you so much for joining us.

Congress and this Committee work best when tribal voices echo through the halls, even when those tribal voices are raising perhaps distinct issues. And Ms. Hesuse, I agree with you. It is not right that Navajo allottees don't have that infrastructure. And I can tell you we have started to change that. In the last 2 years, we have authorized billions of dollars for Indian Country and Navajo for investments in roads, water, electricity, and broadband.

Last month, I had the honor of being on Navajo land to celebrate more than \$300 million that I helped secure for the Navajo Gallup Water Supply Project. Thank you so much, President Nygren, for testifying yesterday in support of my and Senator Luján's bill to fully fund that project. We need to get water to everybody's home on Navajo.

And what we are also looking at is, as we invest in Indian Country, we must also safeguard the places that have unmatched cultural significance to our Indigenous communities that are managed by the Federal Government, because that is what we are

talking about is Federal lands here. We really need to honor the historical ties, the love, the sacredness they hold.

And thank you, President Nygren, for your testimony about Navajo leadership on protecting sacred sites.

I was a very young attorney, and we worked on protecting Zuni Salt Lake. I know Navajo was part of that coalition because of its importance to you and the Pueblos. Mount Taylor, Navajo Laguna Acoma successfully added it as a historic cultural property. Where else had that been done? And that was because of its importance to Diné and the Pueblo people.

And we celebrated and are grateful for the leadership of the Navajo Tribes, Zuni, and all the others to safeguard Bears Ears, which will now be co-managed by the tribes who hold it most sacred. That is how it needs to be done. And Bears Ears is a living cultural landscape, as you have taught us, similar to what you have taught us about the Greater Chaco Region, which you in your testimony, as well, President Nygren, as well as Vice President Atencio pointed out.

And in each of these areas for protection, our job is to listen to the experts because we don't know, we are not there, we are not Navajo, we are not Pueblo, we are not Zuni. It is the experts or the Indigenous people themselves who hold these lands to be sacred, who know they are living places.

And, yes, I know it is hard because in each of these instances there are the competing issues of mineral extraction, oil and gas, gravel, what be it. And we need to look at those, and it is not easy. Those decisions are not easy because they do affect resource development. They do affect money coming in for everybody.

What I believe is important is honoring that which is invaluable, that which can never be replaced, that which is spiritual and sacred to those who tell us what are the most important places, because it is not everywhere, right? There are places that are appropriate to be developed. And that is why I oppose this bill today, even though I know it is a hard decision, and that there are many different voices on it.

Tribal leaders, Pueblo, NCAI, and Navajo Pueblo people have written to Congress for decades in support of this withdrawal. And I ask unanimous consent to enter into the record this testimony, as well as I know we have in the record the Navajo Nation Council decision.

President Nygren and Ms. Hesuse, I really do appreciate you sharing those concerns. I did receive feedback from allottees. Unfortunately, it was in Zoom. It is never as good as being out on the reservation.

And President Nygren, you and I have had these conversations about what can we do, how can we find those solutions to move forward? President Nygren, I hope you are going to continue to work with us on this. What are some of the biggest issues that you think, as Congress, we must address to address the poverty that you described?

Mr. NYGREN. Thank you, Congresswoman. I really do appreciate that, and it is always good to see you.

I think one of the things, as I mentioned earlier, is that before we make harsh decisions, we have to make sure there is a plan in

place. And I am glad that you asked that. And I think that is very critical to look at the area. I know that within the Chaco area it is very unique. As I mentioned earlier, Navajo has been protecting Chaco for hundreds of years, and we have been there, and our clans and everything stemmed from there.

But in terms of trying to transition, I think one of the things I think about is we really have to look at, I know people have talked about farming, people have talked about solar, people have talked about alternative forms of solutions. But those solutions were not brought to the table when this order came in. And my hope was that we were going to actually put something on paper so that we can use that as a guiding principle before this public order was issued. But to me, I just feel like we have to come back to the table.

And I am sorry that you are opposing it, but we will continue to work on it, and hopefully come up with a solution so that people that are in poverty, let's try to help them, empower them so that their children in the future can be self-sufficient and one day stand on their own two feet. I am all about that, so I look forward to working with you.

Ms. LEGER FERNÁNDEZ. We are going to be a good team and working on that, and I will submit some additional questions for the record. Vice Chair President Atencio, I didn't get to you, so thank you very much.

My time is expired. I yield back.

Dr. GOSAR [presiding]. Did the gentlelady from New Mexico have something to submit for the record?

Ms. LEGER FERNÁNDEZ. Oh, yes, I did.

Dr. GOSAR. Without objection, so ordered.

The gentleman from Idaho, Mr. Fulcher, is recognized.

Mr. FULCHER. Thank you, Mr. Chairman. And to the panelists, thank you for being here and providing some insight. It really is appreciated, and I can relate to a lot of the dialogue here today.

Mr. Chairman, we are discussing again a situation where the Bureau of Land Management has decided to not listen to constituents, and that is the case when it comes to our Federal lands, as well as our tribal lands, and that is a topic that I have raised with Ms. Culver before, and with other officials within BLM. We know that all too well in my home state of Idaho. We have 12 million acres of BLM-managed lands. And not only are the issues with BLM present here, but they will soon be exacerbated with this new BLM public land rule that is underway.

And President Nygren, in your written testimony, you mentioned the BLM's withdrawal of approximately 336,000 acres of Federal land in the Chaco Culture National Park. You noted that the objections of the Navajo Nation were ignored. And I have that same kind of situation in my home state of Idaho, when the BLM would not hold public hearings on this public land rule that I referenced. And I believe that has happened in other regions, as well.

I am going to ask you, President Nygren, and also try to get Ms. Ashland's input on this. But first of all, do you feel like the Navajo Nation has been heard on this?

And I think I know the answer. But the second part of this question, and what I am going to also ask of Ms. Ashland is, on

this withdrawal, regarding the resources, how much wealth are we talking about here? Can you quantify that in any way?

First of all, were you heard? Secondly, can you quantify the wealth of the resources that are part of this withdrawal?

Mr. NYGREN. Thank you, Congressman, for asking that question.

As mentioned earlier, as President of the Navajo Nation, the voice of the Navajo people and the Navajo Nation Council, the legislative body united behind this effort opposing the 10-mile buffer zone, no, we weren't heard. Hearing it on the news firsthand as the President of Navajo Nation is, obviously, you are not being heard.

As mentioned earlier, it is a tough scenario to where you feel like you are representing the poorest of the poor, and when you are trying to bring people out of poverty, trying to provide them opportunities, if you are going to take a job from somebody or money from somebody, you should have a plan to replace it. And in this case, that plan wasn't provided, which, to me, is very disrespectful.

And at the same time, one of the things that we forget to think about is Chaco is surrounded by the Navajo Nation, and the Navajo Nation has been protecting Chaco for hundreds of years. Chaco would not be where it is today if Navajo people didn't live there, didn't protect that, didn't have ceremonies, didn't honor it. So, for people to question how we feel about Chaco is very disrespectful to us. We have been doing it for hundreds of years. And as I mentioned in my testimony, and into the future and forever we will continue to protect Chaco because Chaco sits within the boundaries of the Navajo Nation.

And the only part was you are taking money from poor people, so how do you replace that opportunity?

Mr. FULCHER. You are saying there is the cultural wealth, but there is also the natural resource wealth.

Mr. NYGREN. Yes.

Mr. FULCHER. And I understand the cultural piece, that makes sense. The natural resource piece, do you have any input on what is there?

Mr. NYGREN. I think Ms. Ashland mentioned that in her testimony.

Mr. FULCHER. Ms. Ashland, with your expertise as a consultant, perhaps you can add some light to that.

Ms. ASHLAND. Yes. Enduring has calculated that if 233 Mancos wells were drilled, over 86 million barrels of oil and 25.85 Bcf of natural gas could be produced; 19 percent of that would be Navajo, the remaining would be mostly Federal. Based on a royalty rate of 16.66 percent, the combined royalties foregone by just the Federal Government and the allottees would be \$51,122,997 per year for a total of over \$1 billion for the 20-year withdrawal. The foregone royalties for the Navajo allottees' tracks alone would be \$194,267,390 over the 20-year withdrawal.

Mr. FULCHER. Thank you for that, Ms. Ashland and Mr. President.

This is a property rights issue that we are dealing with. And Ms. Culver, I have communicated with you before, and I want to thank you for being here. This hasn't been pleasant for you, and I hope you get some bonus pay for showing up in the place of your

director, because your director should be here. But at least you are showing up. I hope that in some way, with one of these hearings, you are at least getting the message we are not being heard. So, I am saying that again with you directly and on the record: We are not being heard. We are going to do everything we can here to try to set things right with this Committee.

Mr. Chairman, I yield back.

Dr. GOSAR. I thank the gentleman. The gentleman from Arizona, Mr. Grijalva, is recognized.

Mr. GRIJALVA. Thank you. Thank you very much, Mr. Chairman.

Director Culver, let me ask you for the record so that it is available to all the Members. The consultation process with the Navajo Nation, I mean, if that could be documented and sent, as opposed to being verbally told to us today, and also with other tribes, as you work through those discussions on the buffer, the scope of it, and how big it was going to be, and the reasons for it, I think it is important that be part of the record. I think it is important that the Members know what that level of engagement was, part of the Department with Tribal Nations and with Indigenous groups in the area.

Now, having said that, what we have heard today, I think, is the uncomfortable conflict and dealing with the issues of economics, primarily, and dealing with the very fundamental issue of Chaco Canyon and its long and its perpetual protection. They are not supposed to conflict, but they do. And I think, unfortunately, this conflict is also ripe for a lot of hypocrisy and ripe for it in terms of how one feels or doesn't feel about the issue of sovereignty. It is fertile for hypocrisy from some of my colleagues.

But anyway, my point, Ms. Culver, talk about Chaco Canyon as to one of the motivations to look at this whole study, to look at the withdrawal, and if the withdrawal leaves to be desired, that is, from my perspective, Mr. President, we are appreciative and respectful that you are here. If the consultation process relative to Navajo Nation leaves something to be desired, then that is regrettable and should be remedied, and I appreciate your comments.

But Ms. Culver, talk about why we got to the point of having to deal with the buffer and the overall long-term protection of Chaco Canyon. There are other reasons here.

Ms. CULVER. Thank you so much for the question. The area around Chaco has been focus of significant concern. As noted, there has not been leasing in the Chaco area in the 10-mile buffer for over a decade because this has been such a consistent issue of the need for protection for these cultural resources for the local communities. For the other resources of this area, that this has been an ongoing issue.

And there is a reason that the BLM has not leased in this area for over a decade across—

Mr. GRIJALVA. And who is responsible for the permit to do the extraction on those lands?

Ms. CULVER. On the Federal lands, the BLM manages them. On the allotment lands, they are managed by the Bureau of Indian Affairs, who has continued to issue permits throughout the last decade while there has not been leasing on the Federal lands. And

the BLM has also continued to issue permits, of course, on the Federal lands.

Mr. GRIJALVA. OK, thank you.

Do I still have a little time, Mr. Gosar?

Dr. GOSAR. Yes.

Mr. GRIJALVA. The other question, Mr. Atencio, I needed to ask you the same thing. Chaco Canyon. I think it needs to be explained in more than the limited way we have been explaining it today. Why is it important, and why does that protection need to be in perpetuity?

Mr. ATENCIO. Thank you for the question, Representative.

In the aforementioned Volume II Navajo Religion Chaco Canyon, the congressionally-funded ethnographic report based on medicine people interviews, is that they identify themselves as the cultural experts, and they speak for everyone, meaning all Navajos. And in there it says the greater Chaco landscape is the frame in which, they say it must be protected.

Key incredibly sacred ceremonies are at the center core of Navajo national identity. If you mess with the Enemy Way Ceremony, you are messing with veterans and their behavioral health. That is an incredibly sacred, incredibly damaging thing to do to the veterans.

How that is going to work, that is probably esoteric in nature to the Committee.

Mr. GRIJALVA. Yes.

Mr. ATENCIO. Thank you, Representative.

Mr. GRIJALVA. No, sometimes there are places, special places that are bigger than many things. And I oppose this legislation because it tries to minimize the significance of the importance of our protection, and I think the issue of respecting and consulting needs to be examined, and nobody should be punished for this protection. And I hope that we can do that goal. But this legislation is not it.

I yield back.

Dr. GOSAR. I thank the gentleman. The gentleman from Georgia, Mr. Collins, is recognized.

Mr. COLLINS. Thank you, Mr. Chairman.

Director Culver, in addition to this Committee I serve as the Chair of the Science, Space, and Technology Research Subcommittee. And on that Committee we have been focusing on how the United States can maintain a technological advantage over China. And I am concerned that this Administration's track record of blocking access to critical minerals, sources that are here in the United States, in order to appease radical environmental groups will lead to us losing to China. Where do you propose we get these minerals from?

Ms. CULVER. Thank you for that question.

The Administration is committed to ensuring supply chain for critical minerals. The President has issued us that direction, and we are evaluating it, including through an interagency working group on mining, and we hope to share those recommendations with you soon.

Mr. COLLINS. It sounds like you all want to keep getting them from the Congo and using child labor.

I also visited a mine in Minnesota, the largest deposit of cobalt and copper in the world. They are prohibited to mine it because of your Administration. So, Deputy Director Culver, are you trying to make us dependent on China for critical minerals?

Ms. CULVER. The Administration is committed to ensuring that the public lands do their part for critical minerals, as well as ensuring that we have a reliable supply chain.

Mr. COLLINS. Mr. Chairman, I think it is the same answer that we hear day in and day out when we have these Committee hearings. It is over, and over, and over again when, in fact, it is nothing but a socialistic agenda to push this country into a woke social program, and make us dependent on China, and not allow the people of the United States to mine their land and provide critical minerals that we need in this country.

And I am finished. I yield back, Mr. Chairman. Thank you.

Dr. GOSAR. I thank the gentleman. The gentlewoman from New Mexico, Ms. Stansbury, is recognized for 5 minutes.

Ms. STANSBURY. Thank you, Mr. Chairman.

President Nygren, councilmembers, tribal leaders, and many, many New Mexicans and members of the Navajo Nation that I see in our audience and watching from home, I want to say welcome. Thank you for joining us today. I am Melanie Stansbury, and I represent New Mexico's 1st Congressional District, and I am honored to be able to represent the people of our state and the many Indigenous peoples who have walked this land since time immemorial.

Chaco Canyon is a sacred place. For those of you who have never been there before, you can stand on the mesa overlooking Pueblo Bonito on a cold morning and see the ancient city walls, the kivas, and the sacred sites that stretch out as far as the eye can see. It is a place that is the ancestral home of the Pueblo people. The Pueblo people are tied to this place through their lineage, through their songs, through their prayers, through their continued practice of culture and religion that continues today.

The Diné people, many of whom are here today, this is also their homeland. The people who live in this area, the people who have traversed that land, who have worked on that land, and who have prayed on that land since time immemorial, and, as President Nygren himself said today, who have protected the sacred sites of Chaco Canyon for generation after generation, and support the continued protection of this sacred place.

So, it has been strange to me this morning to listen to this hearing, to listen to folks who have probably never even visited this place talk about a sacred site that has such deep historical, cultural, and religious meaning to the people of New Mexico and to the Indigenous people for whom this is their homeland.

Beyond these spaces, the protection of Chaco Canyon is supported by the vast majority of New Mexicans. In fact, over 75 percent of our state. And, of course, tribes across the nation have weighed in in support of the protection of this land. And that is why, Mr. Chairman, I have right here in my hand 61 letters and statements in support of protecting Chaco Canyon that I ask unanimous consent to submit to the record.

Dr. GOSAR. Without objection, so ordered.

Ms. STANSBURY. This includes 30 letters of support from Navajo allottees who live in the Greater Chaco area: testimony from Navajo Nation Vice President Lizer in 2019 stating that we cannot go through another environmental disaster in the area; from Navajo Nation President Begay in 2017 about his concerns about drilling in the area and its impacts to the daily lives of the Navajo people; from an allottee from the area who speaks to these impacts, and the ways in which withdrawal supports Pueblo and Diné solidarity; from the All Pueblo Council of Governors supporting withdrawal and affirming its sacred significance to both the Pueblo and the Navajo Nations; and from our very own colleague, Congressman and Republican Ryan Zinke, who, as Interior Secretary, deferred oil and gas leasing on these lands because “I have always said there are places where it is appropriate to develop and where it is not,” as it was evident even to Secretary Zinke that this was one of the places it was not.

So, you will excuse my cynicism about this hearing called by our Republican colleagues to introduce a resolution that would strip away the authority of the Administration to protect these sacred lands. And as somebody who personally was born in San Juan County, just up the road from Nageezi, who has personally grown up visiting these places and hearing these stories and working with the people of New Mexico, I have to ask myself, why are we even holding this hearing? Why are we holding this hearing?

I think it is evident that one of the star witnesses of the Majority is, of course, the oil and gas company that has drilling interests in this site and, in fact, as it has already been established here today, the very same company that spilled hundreds, thousands, we are not even sure how much, crude oil in the Chaco area in 2019. And after their well exploded a few days later, didn’t even bother to call the families who were impacted by it. Not only did they not call them, they did not provide any sort of financial support or pay any kind of fines for the aftermath of what occurred.

And those who are saying that this would somehow lock up development in the area do not understand that this landscape already has over 40,000 oil and gas wells in operation in it. So, why are we having this hearing?

President Nygren, I am honored and grateful that you are here with us today, and I had the opportunity to speak with you yesterday, and I appreciate your comments of support in protecting Chaco Canyon and finding a path forward to ensure that we not only protect these lands.

And Ms. Hesuse, I do appreciate you so much coming to share. I do appreciate that, and I know that many of the allottees who are not able to have their voices spoken and heard here today share many of the sentiments that have been heard today in this hearing.

But I also think it is important to establish, as Director Culver has stated, and which has not been stated in this room, I think, sufficiently, that there has been years of tribal consultation that has preceded this Administration withdrawal and the legislative work that led to the introduction that all five Members of the New Mexico Delegation did of a legislative withdrawal of the 10-mile buffer. In fact, it dates back over decades.

And it is not just a few activists. This is the Navajo Nation itself who has been engaged in these consultations, including both chapter leadership and previous administrations, as well as notification to the current Administration. It does include consultation with allottees, it does include consultation with Indigenous groups, and it does include extensive consultation with the 20 Pueblo Nations who are represented by the All Pueblo Council of Governors. So, there has been extensive work and consultation and representation and appreciation for tribal sovereignty.

Finally, Mr. Atencio, I want to lift up your testimony today because I think that it speaks to many of the voices that were not heard in this hearing today and which are represented by folks who are sitting behind you, and by the voices that are in this packet of support letters that we provided today about this false choice of unkept promises, not just today by the current administration or previous administration, but the false promises and the unkept promises by the U.S. Government to the Navajo people, to the Pueblo people since the very beginning.

So, let's protect Chaco Canyon. Let's find a path forward.

And with that, Mr. Chairman, I yield back.

Dr. GOSAR. I thank the gentlewoman from New Mexico.

In both 2018 and 2019, the Department of the Interior postponed two lease sales around Chaco Canyon in order to gather further information about the surrounding area. I find it very interesting that, despite the fact that both lease sales were deferred, then-Congresswoman Haaland criticized the Trump administration for failing to listen to the tribes. Here we are, 4 years later, and now Secretary Haaland has taken action to withdraw these lands without listening to tribal voices. What a shame.

Ms. Culver, in Fiscal Year of 2020, the Department of the Interior environment and related agencies appropriations bill prevented the funds from being used to offer oil and gas leasing on any Federal lands or minerals within the Chaco Canyon area prior to the completion of a cultural resources investigation, which the bill also provided funds for. We have seen one of the reports, the Navajo Nation's report, but have not seen the second report from the other tribes. Is that report complete?

Ms. CULVER. We expect that report to be submitted in the near future. We have not yet received it.

Dr. GOSAR. You have not received it.

Ms. CULVER. No.

Dr. GOSAR. That baffles me, but doesn't surprise me, though, that the Department would move forward with such a severe action without completing these investigations. It makes it look like the decision to do a 10-mile buffer zone was pre-determined, and that the public comment process was a check-the-box exercise.

Did you consider either of these reports before moving forward with the withdrawal?

Ms. CULVER. We have considered what we have received to date from both reports, as well as extensive input through numerous consultations and meetings with tribes and allottees.

Dr. GOSAR. So, the 61 individual complaints or people that chose to levy their voices, right? Is that what we are talking about? I just want to make sure we are talking about the right thing.

Ms. CULVER. During this process, which began before the formal withdrawal process started in 2022, we held numerous meetings with tribal leaders and with allottees, as well as once the formal process started, as well as numerous consultation meetings with just tribal leadership, and also separately with allotment holders.

Dr. GOSAR. Would it surprise you that I sent my staff out there and I was out there, and that we talked to over 300 families of the allottees? Would that surprise you?

Ms. CULVER. I am not quite sure how to respond to that, Congressman. But if you went out there and spoke with people, that is a wonderful thing.

Dr. GOSAR. I actually did.

Ms. CULVER. Great.

Dr. GOSAR. And that is talking to people. That is not just talking to anybody. That is talking to the people directly affected by this.

Now, did you simply ignore the conclusion from the report, which states “Most of the Diné families within the buffer zone do not want a buffer zone, and are pretty adamant about it. As they stated, the Federal agencies and the Navajo Nation have not sat down with the allottees to discuss this proposed 10-mile buffer zone.”

So, if Congress appropriated money to do these ethnographic studies to identify cultural sites, and you didn’t even consider them before making a decision, what is the question? I mean, I don’t get it. We allot money for all these decisions to be made, and yet we don’t see them. They are not responded to.

Something is wrong with this equation, big time. Once again, my colleague from Arizona, Mr. Eli Crane, made the comment. It is so convenient to be sovereign when you want to be. Yet, it is inappropriate to be sovereign when you don’t want to be. Something is wrong with this equation here, and it is bad. You ought to be at least consistent.

Would it also surprise you that Ben Ray Luján, a gentleman from this body, actually now sits with the U.S. Senate, we actually had this debate back and forth for quite a while. He actually gave in to an easement for these allottees. Never saw it happen.

So, I find this very disrespectful, very disrespectful. I saw the gentlewoman from New Mexico placate not only to the President, but to others on this panel. That is so sad. That would explain why we see so many of these other side issues that we, oh, we will do this, we will do that.

I have one warning for you. Be careful of the Federal Government bearing gifts. Be very, very careful.

Let me ask you another question to the whole panel. You are going to be bought off with dollars? It seems to me like what you would want is to be able to be able to work, to be able to be proud. I find it very disingenuous that what they offered was just money. Here is my last question to you, Ms. Culver, and then to everyone on the list: Has the life span of the Navajo gotten better or worse over the last 20 years?

You first, Ms. Culver.

Ms. CULVER. I have not made my own personal study of that issue. I know that we are trying to make decisions that support the economic and personal health and welfare of—

Dr. GOSAR. You obviously didn't do it here. You obviously did not do it here. Did you?

Ms. CULVER. I think we did.

Dr. GOSAR. No, you didn't.

Ms. CULVER. We took everyone's thoughts into account—

Dr. GOSAR. I can tell you right now you didn't even look at the second study because, as you said in your original statement, it was not present.

President Nygren, has the life span of the Navajo gotten better or worse over the last 20 years?

Mr. NYGREN. Personally, I think that it has been tough, as all of us know that when you live in impoverished conditions, when you are trying to crawl out and make sure you bring your people to the 21st century and get them out of third-world country conditions, I know that it is a tough situation.

I know that the life span, I know that a lot of our elders used to pass at 101, 102, late 90s, early hundreds. Now, you hear of so many of our people passing away a lot earlier than that. So, to me, a long time ago, when our people were self-sufficient, they had sheep, they had cows, they were farmers, they were entrepreneurial, and they had the authority to do what they wanted to do within their communities, they were strong people, strong, resilient people.

And that is one of the reasons why I am here today, is that I am an Arizona, Utah Navajo. I have no interest in the New Mexico Navajo side. But I know that those people are affected dearly to the point to where their livelihoods are being in a tough situation to make sure, as I mentioned earlier, \$20,000 might not seem like a lot of money, but to them, they feed families. They do what they can to help themselves so that they can at least provide something.

And that has been my argument today, was there was no consultation, there were no solutions provided. It would be a different story here today if there was a solution provided with the withdrawal that says, sure, there are economic activities that might hurt the allottees, but here is the solution, here is some money, here are some dollars, here are ways of developing your Nation that will take you further into helping yourself.

And I am glad that you asked that question about life span, because the more you can provide for yourself and have confidence and to really believe in yourself, you live a lot longer. But in this case, you put poor people in tougher situations, it is tough.

And I feel like, as the Navajo Nation President now, I am the one that has to figure out that solution. I feel like I have inherited this issue, and the only way to get it done is through Congress or the Secretary to fix it. But in the meantime, it is the problem of the Navajo Nation President and the Navajo Nation Council that we have to come up with alternative solutions. In the first place, we didn't create it, but as the President, that is what I will do in the meantime, is to figure out the problem that I have been given, and how do we help those allottees become self-sufficient and self-determined, just the way that they were. They were given oil and gas leases in the 1900s. They made do with what they had, and then now it was taken away. So, what is the solution?

I think that is what the core of a lot of this discussion was. The allottees were not given a solution or alternatives to making ends meet. So, thank you, Congressman.

Dr. GOSAR. You are certainly welcome. I just want to end on one last aspect.

I sat down with a number of the Navajo Nation in regards to oil and gas, as well as what other perspectives they could have. You brought up the NGS, Navajo Generating Station, and how quickly that came down. Well, isn't it interesting that there is a tribe in my district called the Walapai that sit with a number of leases in regards to mining, and it actually happens to be lithium. That was one of the connections I actually had was, if you have some needs, why not work with the Walapai?

But I guess I can't do that because this Administration won't tell us where we would actually mine lithium. They would much rather do it in the Congo with child labor than they would actually doing it anywhere else. That is sad. I am very disappointed in this hearing today.

I thank the witnesses for their valuable testimony and the Members for their questions.

The members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3, members of the Committee must submit questions to the Committee Clerk by 5 p.m. on Monday, June 19. The hearing record will be held open for 10 business days for their responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 4:11 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Westerman

RESOLUTION OF THE NAABIK'ÍYÁTI' STANDING COMMITTEE 25th NAVAJO NATION COUNCIL—First Year, 2023

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES; RESCINDING RESOLUTION NABIJA-05-20 "OPPOSING H.R. 2181 AND S. 1079, 'THE CHACO HERITAGE AREA PROTECTION ACT OF 2019', UNTIL SUCH TIME AS THE BUFFER ZONE SURROUNDING CHACO CULTURAL NATIONAL HISTORICAL PARK IS REDUCED TO FIVE (5) MILES;" OPPOSING THE WITHDRAWAL OF APPROXIMATELY 351,000 ACRES OF PUBLIC LAND SURROUNDING CHACO CANYON

WHEREAS:

- A. The Navajo Nation established the Resources and Development Committee as a Navajo Nation Council standing committee and as such empowered the Resources and Development Committee with authority to establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources and to protect the rights, interests, sacred sites and freedoms of the Navajo Nation and People to such resources, now and for future generations. 2 N.N.C. §§ 500(A) and (C)(1).
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to coordinate all federal programs and to assist and coordinate all requests for information, appearances and testimony relating to federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 700(A), 701(A)(4), 701(A)(6).
- C. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- D. The Navajo Nation Council approved Naabik'íyáti' Committee Resolution NABIJA-05-20, titled, "OPPOSING H.R. 2181 AND S. 1079, 'THE CHACO HERITAGE AREA PROTECTION ACT OF 2019', UNTIL SUCH TIME AS THE BUFFER ZONE SURROUNDING CHACO CULTURAL NATIONAL HISTORICAL PARK IS REDUCED TO FIVE (5) MILES" on January 23, 2020, which is attached as Exhibit 1.
- E. The purpose of Resolution NABIJA-05-20 was to oppose federal legislation proposing a ten-mile buffer zone around Chaco Canyon and to offer a five-mile buffer zone as an alternative.
- F. While the 24th Navajo Nation Council sought to minimize negative economic impacts with a smaller buffer zone, the 25th Navajo Nation Council is concerned that any buffer zone, in addition to the withdrawal of public land, will have a detrimental impact to Navajo Nation allottees by preventing the development of new oil and gas resources on allotments as a result of the allotments being landlocked.
- G. The Navajo Nation Chapters of Pueblo Pintado, Whitehorse Lake, Lake Valley, and Nageezi (the "Chapters") have expressed opposition to land withdrawal and the imposition of any buffer zone around Chaco Canyon.
- H. The Chapters submitted resolutions in opposition to a buffer zone as follows:
 1. Resolution of Pueblo Pintado, PPC-02-2023-022, attached as Exhibit 2;
 2. Resolution of Whitehorse Lake, WHLC-2-22-033, attached as Exhibit 3;
 3. Resolution of Lake Valley, LVC-FEB12-029, attached as Exhibit 4; and
 4. Resolution of Nageezi, NC-23-032, attached as Exhibit 5.
- I. The Chapters recognize the detrimental economic impact to the Navajo allottees should a buffer zone of any size be imposed around Chaco Canyon. If a buffer zone is adopted, the Navajo allottees who rely on the income realized from oil and gas royalties will be pushed into greater poverty.

- J. Pueblo Pintado and Nageezi Chapters also challenge the need for a buffer zone based on the current fence line that serves as a boundary to safeguard Chaco Canyon, as indicated in Exhibits 2 and 5, respectively.
- K. The 25th Navajo Nation Council wishes to support the Navajo Nation members who hold allotted land in the area around Chaco Canyon and allow those members to maximize their economic interests.

NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation rescinds Resolution NABIJA-05-23 titled, "OPPOSING H.R. 2181 AND S. 1079, 'THE CHACO HERITAGE AREA PROTECTION ACT OF 2019', UNTIL SUCH TIME AS THE BUFFER ZONE SURROUNDING CHACO CULTURAL NATIONAL HISTORICAL PARK IS REDUCED TO FIVE (5) MILES."
- B. The Navajo Nation opposes the United States intent of withdrawing approximately 351,000 acres around Chaco Canyon.
- C. The Navajo Nation does not support a buffer zone around Chaco Canyon.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'iyati' Committee of the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in Favor, and 01 Opposed, on this 27th day of April 2023.

Honorable Crystalyne Curley, Chairwoman
Naabik'iyati' Committee
Date: 5/1/23

This Resolution along with Exhibits 1-5 is available for viewing on our Committee Repository at: <https://docs.house.gov/meetings/II/II06/20230713/116135/HHRG-118-II06-20230713-SD003.pdf>

THE NAVAJO NATION
Window Rock, Arizona

May 3, 2023

Honorable Deb Haaland, Secretary
 U.S. Department of the Interior
 1849 C Street NW
 Washington, DC 20240

Dear Secretary Haaland:

We thank you for taking the time to meet with us in a government-to-government meeting on April 25, 2023 to discuss the proposed withdrawal of public lands from location and entry under United States' mining laws and from leasing under the mineral leasing laws around the Chaco Culture National Historical Park for 20 years and to learn more about the Honoring Chaco Initiative.

We heard the position of the United States Department of the Interior is that the withdrawal does not include allotted lands and as such will not affect allotted lands. The Navajo Nation respectfully disagrees as the practical effect of a withdrawal of federal lands is that the economic potential of the mineral leasing from allotted lands will be diminished. As we shared with you, the proposed land withdrawal impacts thousands of our Navajo people who hold allotment lands and hundreds of Navajo people who live within the area of the 336,000 acres of public lands currently proposed to be withdrawn.

Many of these people are elderly culture bearers, who rely on income from oil and gas royalties to meet their basic needs. As an environmental justice community, our community represents the complicated multifaceted nature of what it means to be an environmental justice community. At the heart of our community are people who have lived on these lands from time immemorial and desire to live there forever. All of the complexities that are part of this issue, along with the voices of our Navajo people, must be carefully weighed.

On April 27, 2023, the Navajo Nation Council's Naabik'iyatí Committee approved Resolution NABIAP-11-23, opposing the withdrawal of approximately 351,000 acres of public land surrounding Chaco Canyon. At the same time, the Committee rescinded the Navajo Nation's previous position supporting a five-mile buffer zone. **As leaders of the Navajo Nation, we support the Navajo allottees who oppose the proposed withdrawal of these public lands.**

Thank you again for meeting with us and we hope to continue the dialogue so that all American citizens' voices are heard on this issue.

Sincerely,

Dr. Buu Nygren, President
 THE NAVAJO NATION

Crystalyne Curley, Speaker
 25TH NAVAJO NATION COUNCIL

EPA e-mail, dated June 15, 2023**Steve Kahn**

From: Cohen, Sahrye <Cohen.Sahrye@epa.gov>
Sent: Thursday, June 15, 2023 4:02 PM
To: Kayla White
Cc: Dunkelman, Tom; Steve Kahn
Subject: FW: EPA Programmatic 401 CWA Certification (#0473) re: Enduring Resources - Corps No. SPA-2019-00078
Attachments: 2022 NEU315 Annual Reclamation Monitoring Report_reduced size.pdf

Hi Kayla,
 We've reviewed the 2022 report for bank stabilization and reconstruction for the North Escavada Unity 315H Ephemeral Wash reclamation. Based on the results described in the report and the requirements of EPA's 401 certification it appears that this project is in compliance with the certification conditions as it has been restored to pre-disturbance functionality and maintained bed and bank without channel restriction or hardening. No additional monitoring is needed for EPA's 401 water quality certification.
 Sincerely,
 Sahrye Cohen
 Wetlands and Oceans Section Manager, EPA Region 9

From: Mays, Brackett <Brackett.Mays@wsp.com>
Sent: Tuesday, October 4, 2022 12:04 PM
To: Dunkelman, Tom <Dunkelman.Tom@epa.gov>; Cohen, Sahrye <Cohen.Sahrye@epa.gov>
Cc: Duffy, Deidre <Deidre.Duffy@wsp.com>
Subject: EPA Programmatic 401 CWA Certification (#0473) re: Enduring Resources - Corps No. SPA-2019-00078

Good Afternoon,

This email is being resent due to misspelling in Ms. Cohen's email address previously.

On behalf of Enduring Resources, we are submitting the 2nd Annual Reclamation Monitoring Report for the NEU 315 Ephemeral Wash Reclamation Project – Corps File No. SPA-2019-00078. This project is monitored annually until the reclamation is deemed successful using the criteria defined in the *2020 N Escavada 315H Spill Ephemeral Wash Reclamation Plan*. The goal for successful reclamation and restoration of the ephemeral wash is to maintain pre-disturbance functionality and bed and bank integrity. Multiple parameters were evaluated to determine if significant changes from as-built profiles have occurred. Pursuant to Section 5.6 of the Reclamation Plan the success standards have been attained over the course of two consecutive years, and the reclamation should be considered successful. As such, Enduring should be released from monitoring the stream further.

Please let me know if you have any difficulties accessing the Monitoring Report due to the file size. We can send through SharePoint if needed. Also, please feel free to reach out with any questions, comments, or concerns.

Thank you,

Brackett Mays
 Sr. Consultant, Environmental Planner

WSP USA



**EASTERN NAVAJO LAND COMMISSION
Crownpoint, New Mexico**

July 6, 2023

Hon. Buu Nygren, President
Speaker Crystalyne Curley
The Navajo Nation
Window Rock, AZ 86515

Dear President Nygren and Speaker Curley:

Attached please find Resolution No. ENLCJN-01-23 passed by Eastern Navajo Land Commission (ENLC) on June 30th. This Resolution supports Congressman Eli Crane's introduction of H.R. 4374 which nullifies Public Land Order No. 7923. The Public Land Order by Interior Secretary Haaland regarding Chaco buffer zone will be nullified by H.R. 4374. It is important that the two branches of the Navajo Nation be unified. I respectfully ask for your support of ENLC's Resolution and give directives to assist Congressman Crane's office in the passage of H.R. 4374.

Thank you and if you have any questions, please contact me.

Sincerely,

SETH DAMON,
Chairman

**RESOLUTION OF THE EASTERN NAVAJO LAND
COMMISSION**

RESOLUTION No. ENLCJN-01-23

**SUPPORTING THE ENACTMENT OF LEGISLATION H.R.
4374 INTRODUCED BY REPRESENTATIVE CRANE TO
NULLIFY**

PUBLIC LAND ORDER 7923

WHEREAS:

1. The Eastern Navajo Agency Commission ("ENLC" or "Commission") is established as a Commission of the Navajo Nation under the legislative branch, *see* 2 N.N.C. § 861 *et seq.* (2005), as amended by Navajo Nation Council Legislation No. 0589-07 (April 22, 2008); and
2. Among other authorities and duties under the amended ENLC Plan of Operation, the ENLC is charged with assuming primary responsibility for the direction of the Navajo Nation's land acquisition and consolidation efforts in the Eastern Navajo Agency, 2 N.N.C. § 863(I), as amended; and
3. Among other land-related initiatives, the Commission has drafted, and the Navajo Nation Council has approved, proposed federal legislation to effect the exchange of certain fed-

eral and Navajo Nation lands and to protect archaeological resources in the Eastern Navajo Agency (the so-called “NELI” legislation), and the Commission has considered various proposals designed to protect Chacoan ruins and relics (together, the “Chacoan Resources”) in the Eastern Navajo Agency; and

4. The vast majority of the Chacoan Resources are located in the Eastern Navajo Agency; nonetheless, Secretary of the Interior Haaland issued Public Land Order 7923 with no genuine consultation with the only people affected by that Public Land Order—the Navajo allottees and residents of the Eastern Navajo Agency and the Navajo Nation itself and its constituent Chapters—and did so contrary to the expressed wishes of the Navajo Nation leadership; and
5. The interests of the Navajo Nation and its citizens in the lands adversely affected by Public Land Order 7923 (the “Lands”) include or are supported by the following facts, which show violations of the rights of the Navajo Nation, Navajo allottees, and residents of land administered by either the Bureau of Indian Affairs or the Bureau of Land Management:
 - A. The Lands are within the adjudicated Navajo aboriginal territory, as determined by the Indian Claims Commission, meaning that the area has been used exclusively by the Navajo Tribe of Indians since time immemorial.
 - B. The Lands are within the Navajo Land Consolidation Area under the federal Indian Land Consolidation Act, one of only a handful of such federally approved tribal land consolidation areas.
 - C. The Lands are within Navajo Nation Chapters, recognized by the Navajo Nation and by federal and New Mexico courts as authorized local governing bodies.
 - D. The Lands are subject to individual and/or family-based aboriginal occupancy rights that are “as sacred as the fee title of the whites” under U.S. Supreme Court decisions dating back to the great Chief Justice Marshall near the founding of the United States, that predominate even over federal patents issued to others under Supreme Court precedent, and that were recently acknowledged by the Interior Board of Land Appeals. Such rights remain unadjudicated notwithstanding efforts initiated by then-Solicitor Felix Cohen because of the years-long resistance to adjudicating them by the General Land Office, the predecessor of the federal Bureau of Land Management.
 - E. The Public Land Order adopts a 10-mile buffer zone around any known Chacoan Resource, effectively rendering oil and gas development in the Eastern Navajo Agency uneconomic. The selection of a 10-mile buffer zone is wholly arbitrary. It and serves to accomplish a near total ban on mineral development in the Eastern

Navajo Agency, a 10-mile “buffer zone” has no rational relationship with the protection of Chacoan Resources, and the promulgation of the Public Land Order therefore violates the Administrative Procedures Act.

- F. Federal environmental law, including the National Environmental Policy Act (“NEPA”), requires the preparation of an Environmental Assessment (“EA”) or Environmental Impact Statement (“EIS”) that adequately discusses the impacts, including the impacts on disadvantaged communities, of any proposed federal action. However, no EIS was produced to support the Public Land Order, and the EA that was produced is legally inadequate for, among many other things, failing to address meaningfully the adverse impacts on revenues to allottees and to the Navajo Nation as fractional interest holder of hundreds of the allotments and as present or future owner of land in its own right.
- G. The allotment owners litigated against the United States for 13 years to gain recognition that Navajo allottees, and not the United States, are the owners of the allotments underlying the allotted surface, in the so-called *Mescal* class action lawsuit. Public Land Order 7923 effectively nullifies the allottees’ hard-won mineral rights, and one estimate of the damage to the allottees during the 20-year period of the Public Land Order is \$194 million. The Public Land Order (and its supporting EA) fails to meaningfully consider that impact, thus violating NEPA and the United States’ trust duty to the Navajo allottees.
- H. The Navajo people of the Eastern Navajo Agency are the people responsible for reconstructing and maintaining Chacoan ruins (as reflected in an exhaustive report of the National Park Service), and the Navajo people have assured that such resources that are scattered throughout the Eastern Navajo Agency and on lands owned or used by the Navajo remain undisturbed. Indeed, it was the Navajo Nation and its citizens who successfully litigated for decades against federal agencies to successfully oppose federal proposals to allow surface coal mining to the very edges of the Chaco Canyon National Historical Park.
- I. The Navajo Nation has a cultural affiliation with the Chacoan civilization, as acknowledged as an outgrowth of litigation brought by the Navajo Nation against the United States to remedy the unlawful theft by the National Park Service of human remains and artifacts from Canyon de Chelly.
- J. Federal, New Mexico, and Navajo Nation laws, including NEPA, the National Historic Preservation Act, the Federal Land Policy and Management Act (and their state and tribal counterparts) have proved quite effective and sufficient to protect the Chacoan Resources. The sup-

posed motivation in the Public Land Order to protect such resources is pretextual; and

6. Representative Eli Crane (AZ-02) has introduced H.R. 4374, as shown in the attached federal legislation, to nullify Public Land Order 7923; and
7. The Commission has considered the above and has determined that it should formally support the enactment of Representative Crane's bill and should coordinate the Commission's position with the Speaker of the Navajo Nation Council and the Navajo Nation Office of the President and Vice President, urging them or either of them to take any and all appropriate action, including litigation if appropriate, to restore the status quo ante to the Eastern Navajo Agency.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

1. The Eastern Navajo Land Commission supports the enactment of the attached bill introduced or to be introduced by Representative Crane.
2. The Commission authorizes its Chair and Executive Director to communicate the position of the Commission as expressed by this Resolution to the Office of the Speaker of the Navajo Nation Council and to the Office of the Navajo Nation President and Vice President ("OPNP"), and to ensure that the position of and any actions to be taken by the Commission are in conformity with the position of the Navajo Nation Council.
3. The Commission respectfully requests the Speaker, the Navajo Nation Council, and the OPNP to support the nullification of Public Land Order 7923 by any appropriate means and to vigorously oppose any future attempts to impose federal land use controls in the Eastern Navajo Agency that are determined by the Navajo Nation to contravene the best interests of the Navajo Nation and its citizens.
4. The Chair and/or his authorized delegate are authorized to take any and all reasonable steps to effectuate the letter and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing Resolution was considered at a duly called meeting of the Eastern Navajo Land Commission at Churchrock, Navajo Nation (New Mexico) at which a quorum was present and that the same was passed by vote of 3 in favor and 0 opposed (the Chair not voting), this 30th day of June, 2023.

Seth Damon, Chairman
Eastern Navajo Land Commission

COALITION OF LARGE TRIBES (COLT)**Resolution: 06-02-2023-Resolution #02-2022 (WR-Las Vegas)****Resolution Calling for Withdrawal of Public Land Order 7923 and Deference to Navajo Nation Sovereignty in the Greater Chaco Area**

WHEREAS, the Coalition of Large Tribes (COLT) was formally established in early April 2011, and is comprised of Tribes with large land base, including the Blackfeet Nation • Cheyenne River Sioux Tribe • Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nations • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe • Sisseton Wahpeton Sioux Tribe • Shoshone Bannock Tribes • Spokane Tribe • Ute Indian Tribe • Walker River Paiute Tribe and is Chaired by Councilman Marvin Weatherwax, Blackfeet Tribal Business Council; and

WHEREAS, COLT was organized to provide a unified advocacy base on all issues affecting tribes that govern large trust land bases; and

WHEREAS, COLT tribes consist of tribes that have a land base of 100,000 acres of land or more, of which, of the 574 federally recognized Tribes, more than 50 tribes meet this criteria; and these tribes control 95 percent of tribal lands and consist of one half of the Native population; and

WHEREAS, the Navajo Nation is a COLT member tribe and requested a COLT resolution to oppose Public Land Order No. 7923 signed by Secretary Haaland on June 2, 2023 on grounds that the Department of the Interior had not conducted meaningful consultation with the Navajo Nation or its citizens and that the PLO disrespects the Navajo Nation's rights as a territorial sovereign to determine whether and how natural resources development occurs on Navajo lands; and

WHEREAS, The Chaco Withdrawal Public Land Order (PLO) was officially published in the Federal Register on June 6, 2023 and that is its effective date; and

WHEREAS, the Navajo Nation explained that PLO No. 7923 has dire consequences for more than 20,000 Navajo citizens. In the last three and a half years alone Navajo Allottees have received more than \$80,000,000 in oil and gas lease income. In many cases, this is those Allottees' only income in an extremely impoverished area. And yet, the Department of the Interior has withdrawn a 10-mile buffer over those same Allottees, withdrawing more than 336,000 acres of federal lands for a period of 20 years, at a loss of more than \$1 billion in royalty income to the United States and Allottees. The Public Land Order strands the Navajo Allottees and their minerals, making ANY new development impossible. The area the Allottees were promised was their permanent homeland is heavily checkerboarded. You cannot reach the Tribal and Allottee minerals in the area around Chaco Canyon without the federal minerals. This is an obvious fact of oil and gas production well known to large land base tribes who are very familiar with the dif-

faculty of developing only part of checkerboarded lands. The buffer is a significant taking of hundreds of millions of dollars of property from the Navajo Allottees; and

WHEREAS, on April 27, 2023, the Navajo Nation Council's Naabik'iyati Committee approved Resolution NABIAP-11-23, which opposes the withdrawal of public lands surrounding Chaco Canyon. The Navajo Nation Council is the governing body of the Navajo Nation and Resolution NABIAP-11-23 represents the official position of the Navajo Nation. The Navajo Nation is in the best position to determine the best interests of its citizens; and

WHEREAS, Chaco Canyon has been home to the Navajo people since time immemorial and the Navajo Nation fully understands the need to protect the Chaco Culture National Historic Park, but also wants the voices of Navajo Allottees to be heard and to work toward a viable solution that respects all stakeholders.

NOW THEREFORE BE IT RESOLVED, COLT calls for the withdrawal of Public Land Order 7923 in order to allow the more fulsome consultation requested by the Navajo Nation and to protect the Navajo Nation's sovereign right to protect its land and citizens and fulfill its proper role as the primary territorial sovereign decision-maker about whether and how resource development takes place on Navajo lands; and

NOW THEREFORE BE IT FURTHER RESOLVED, COLT supports the Navajo Nation's request for the House Natural Resources Committee to hold a Congressional field hearing in the community of Nageezi, New Mexico, to hear directly from Navajo people who are directly impacted by Public Lands Order 7923.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of COLT until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

This resolution was enacted at a duly called meeting of the Coalition of Large Tribes held in Las Vegas, Nevada within the home state of the Walker River Paiute Tribe on June 2, 2023 at which a quorum was present, with the resolution approved unanimously.

Dated this June 2, 2023

Attest:

Nathan Small,
Secretary, Coalition of Large Tribes

Marvin Weatherwax,
Chairman, Coalition of Large Tribes

**EASTERN NAVAJO LAND COMMISSION
Crownpoint, New Mexico**

July 24, 2023

Hon. Pete Stauber, Chairman
Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
1626 Longworth House Office Building
Washington, DC 20515

Re: Statement for Inclusion in Record—H.R. 4374

Dear Chairman Stauber:

Attached is the Resolution of the Eastern Navajo Land Commission in support of H.R. 4374. We request that it be included in the legislative record.

Thank you.

Sincerely,

LEONARD TSOSIE,
Executive Director

**RESOLUTION OF THE EASTERN NAVAJO LAND COMMISSION
RESOLUTION No. ENLCJN-01-23**

**SUPPORTING THE ENACTMENT OF LEGISLATION H.R. 4374
INTRODUCED BY REPRESENTATIVE CRANE TO NULLIFY
PUBLIC LAND ORDER 7923**

WHEREAS:

1. The Eastern Navajo Agency Commission (“ENLC” or “Commission”) is established as a Commission of the Navajo Nation under the legislative branch, *see* 2 N.N.C. §861 *et seq.* (2005), as amended by Navajo Nation Council Legislation No. 0589-07 (April 22, 2008); and
2. Among other authorities and duties under the amended ENLC Plan of Operation, the ENLC is charged with assuming primary responsibility for the direction of the Navajo Nation’s land acquisition and consolidation efforts in the Eastern Navajo Agency, 2 N.N.C. §863(I), as amended; and
3. Among other land-related initiatives, the Commission has drafted, and the Navajo Nation Council has approved, proposed federal legislation to effect the exchange of certain federal and Navajo Nation lands and to protect archaeological resources in the Eastern Navajo Agency (the so-called “NELI” legislation), and the Commission has considered various proposals designed to protect Chacoan ruins and relics (together, the “Chacoan Resources”) in the Eastern Navajo Agency; and
4. The vast majority of the Chacoan Resources are located in the Eastern Navajo Agency; nonetheless, Secretary of the Interior Haaland issued Public Land Order 7923 with no genuine consultation with the only people affected by that Public Land Order—the Navajo allottees and residents of the Eastern Navajo Agency and the Navajo Nation itself and its constituent Chapters—and did so contrary to the expressed wishes of the Navajo Nation leadership; and
5. The interests of the Navajo Nation and its citizens in the lands adversely affected by Public Land Order 7923 (the “Lands”) include or are supported by the following facts, which show violations of the rights of the Navajo Nation, Navajo allottees, and residents of land administered by either the Bureau of Indian Affairs or the Bureau of Land Management:

- A. The Lands are within the adjudicated Navajo aboriginal territory, as determined by the Indian Claims Commission, meaning that the area has been used exclusively by the Navajo Tribe of Indians since time immemorial.
- B. The Lands are within the Navajo Land Consolidation Area under the federal Indian Land Consolidation Act, one of only a handful of such federally approved tribal land consolidation areas.
- C. The Lands are within Navajo Nation Chapters, recognized by the Navajo Nation and by federal and New Mexico courts as authorized local governing bodies.
- D. The Lands are subject to individual and/or family-based aboriginal occupancy rights that are “as sacred as the fee title of the whites” under U.S. Supreme Court decisions dating back to the great Chief Justice Marshall near the founding of the United States, that predominate even over federal patents issued to others under Supreme Court precedent, and that were recently acknowledged by the Interior Board of Land Appeals. Such rights remain adjudicated notwithstanding efforts initiated by then-Solicitor Felix Cohen because of the years-long resistance to adjudicating them by the General Land Office, the predecessor of the federal Bureau of Land Management.
- E. The Public Land Order adopts a 10-mile buffer zone around any known Chacoan Resource, effectively rendering oil and gas development in the Eastern Navajo Agency uneconomic. The selection of a 10-mile buffer zone is wholly arbitrary. It and serves to accomplish a near total ban on mineral development in the Eastern Navajo Agency, a 10-mile “buffer zone” has no rational relationship with the protection of Chacoan Resources, and the promulgation of the Public Land Order therefore violates the Administrative Procedures Act.
- F. Federal environmental law, including the National Environmental Policy Act (“NEPA”), requires the preparation of an Environmental Assessment (“EA”) or Environmental Impact Statement (“EIS”) that adequately discusses the impacts, including the impacts on disadvantaged communities, of any proposed federal action. However, no EIS was produced to support the Public Land Order, and the EA that was produced is legally inadequate for, among many other things, failing to address meaningfully the adverse impacts on revenues to allottees and to the Navajo Nation as fractional interest holder of hundreds of the allotments and as present or future owner of land in its own right.
- G. The allotment owners litigated against the United States for 13 years to gain recognition that Navajo allottees, and not the United States, are the owners of the allotments underlying the allotted surface, in the so-called *Mescal* class action lawsuit. Public Land Order 7923 effectively nullifies the allottees’ hard-won mineral rights, and one estimate of the damage to the allottees during the 20-year period of the Public Land Order is \$194 million. The Public Land Order (and its supporting EA) fails to meaningfully consider that impact, thus violating NEPA and the United States’ trust duty to the Navajo allottees.
- H. The Navajo people of the Eastern Navajo Agency are the people responsible for reconstructing and maintaining Chacoan ruins (as reflected in an exhaustive report of the National Park Service), and the Navajo people have assured that such resources that are scattered throughout the Eastern Navajo Agency and on lands owned or used by the Navajo remain undisturbed. Indeed, it was the Navajo Nation and its citizens who successfully litigated for decades against federal agencies to successfully oppose federal proposals to allow surface coal mining to the very edges of the Chaco Canyon National Historical Park.
- I. The Navajo Nation has a cultural affiliation with the Chacoan civilization, as acknowledged as an outgrowth of litigation brought by the Navajo Nation against the United States to remedy the unlawful theft by the National Park Service of human remains and artifacts from Canyon de Chelly.

- J. Federal, New Mexico, and Navajo Nation laws, including NEPA, the National Historic Preservation Act, the Federal Land Policy and Management Act (and their state and tribal counterparts) have proved quite effective and sufficient to protect the Chacoan Resources. The supposed motivation in the Public Land Order to protect such resources is pretextual; and
6. Representative Eli Crane (AZ-02) has introduced H.R. 4374, as shown in the attached federal legislation, to nullify Public Land Order 7923; and
 7. The Commission has considered the above and has determined that it should formally support the enactment of Representative Crane's bill and should coordinate the Commission's position with the Speaker of the Navajo Nation Council and the Navajo Nation Office of the President and Vice President, urging them or either of them to take any and all appropriate action, including litigation if appropriate, to restore the status quo ante to the Eastern Navajo Agency.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

1. The Eastern Navajo Land Commission supports the enactment of the attached bill introduced or to be introduced by Representative Crane.
2. The Commission authorizes its Chair and Executive Director to communicate the position of the Commission as expressed by this Resolution to the Office of the Speaker of the Navajo Nation Council and to the Office of the Navajo Nation President and Vice President ("OPNP"), and to ensure that the position of and any actions to be taken by the Commission are in conformity with the position of the Navajo Nation Council.
3. The Commission respectfully requests the Speaker, the Navajo Nation Council, and the OPNP to support the nullification of Public Land Order 7923 by any appropriate means and to vigorously oppose any future attempts to impose federal land use controls in the Eastern Navajo Agency that are determined by the Navajo Nation to contravene the best interests of the Navajo Nation and its citizens.
4. The Chair and/or his authorized delegate are authorized to take any and all reasonable steps to effectuate the letter and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing Resolution was considered at a duly called meeting of the Eastern Navajo Land Commission at Churchrock, Navajo Nation (New Mexico) at which a quorum was present and that the same was passed by vote of 3 in favor and 0 opposed (the Chair not voting), this 30th day of June, 2023.

Seth Damon, Chairman
Eastern Navajo Land Commission

EASTERN NAVAJO AGENCY COUNCIL
Crownpoint, New Mexico

July 24, 2023

Hon. Pete Stauber, Chairman
 Committee on Natural Resources
 Subcommittee on Energy and Mineral Resources
 1626 Longworth House Office Building
 Washington, DC 20515

Re: Statement for Inclusion in Record—H.R. 4374

Dear Chairman Stauber:

Attached is the Statement of the Eastern Navajo Agency Council in support of H.R. 4374. We request that it be included in the legislative record.

Thank you.

Sincerely,

Johnny Johnson,
 Chair

Ervin Chavez,
 Vice Chair

STATEMENT OF THE EASTERN NAVAJO AGENCY COUNCIL
ON H.R. 4374

The Eastern Navajo Agency Council is a Navajo governmental body comprised of all Chapter Officers, Grazing Officials, Land Board members, and Navajo Nation Council delegates in the Eastern Navajo Agency. A Navajo Nation “Chapter” is the recognized local governing entity under the Navajo system of government. *See* 2 N.N.C. §4001 *et seq.*; *Thriftway Mktg. Corp. v. State*, 111 N.M. 763, 765-76 (Ct. App. 1990). The Eastern Navajo Agency is the approximate 2.7-million acre area in northwest New Mexico under the administrative jurisdiction of the Bureau of Indian Affairs within the Department of the Interior. There are 31 Chapters within the Eastern Navajo Agency. This Statement is provided by the Eastern Navajo Agency Council through its undersigned Chairman and Vice Chairman.

The Eastern Navajo Agency Council unreservedly supports the passage of H.R. 4374, the “Energy Opportunities for All Act” (the “EOAA”). The EOAA would nullify Public Land Order 7923 (“PLO 7923”) issued by Secretary of the Interior Haaland (the “Secretary”). PLO 7923 is a wrong-headed approach to solve a non-existent problem. PLO 7923 operates to the detriment of the Navajo Nation, to which Secretary gave absolutely no deference despite the Navajo Nation’s predominant interests in the Eastern Navajo Agency, or to the Navajo owners of trust allotments in the Eastern Navajo Agency, to whom the Secretary owes a trust duty but whom the Secretary cavalierly disregarded in promulgating PLO 7923 at an estimated cost to them of \$194 million over the next twenty years.

Navajo people comprise 95% of the entire population of the Eastern Navajo Agency. The Navajo government provides most of the governmental services in the area. No other Native nation has any significant population in the area and no other Indian nation provides any government services in the area. Almost all of the land in the Eastern Navajo Agency is held in trust for the Navajo Nation, held in trust for individual Navajo allottees, held in fee status by the Navajo Nation, or used by Navajo individuals in the exercise of their family-based unextinguished aboriginal occupancy rights.

PLO 7923 purports to protect Chacoan cultural resources, but in reality is a camouflage for the Department to create a massive no-development zone in an impoverished region with great potential for oil and gas development. There is no need whatsoever for PLO 7923, if it is truly intended to protect Chacoan resources. Those resources have been protected for about 1000 years or more, originally by the local Navajo population and more recently through enforcement of federal, New Mexico, and Navajo laws specifically designed to protect such cultural resources, including the National Historic Preservation Act, the National Environmental Policy Act, the Antiquities Act of 1906, the Historic Site Act of 1935, the Historic and Archaeological Data Preservation Act of 1974, the Navajo Nation Cultural Resources

Protection Act (19 N.N.C. §1001 *et seq.*), the amended New Mexico Cultural Properties Act of 1969, Executive Order 11593, and BLM's organic act, the Federal Land Policy and Management Act.

At the hearing on H.R. 4374 before the Subcommittee on Energy and Mineral Resources of the House Natural Resources Committee, the person testifying on behalf of the Secretary was Nada Culver, identified as the Bureau of Land Management ("BLM") Principal Deputy Director. This is more than just ironic. Literally for decades, the BLM sought to allow massive *coal strip mining* right to the edges of and all around the Chaco Canyon National Historical Park, reporting that coal strip mining, with its attendant blasting, earth removal, and rail construction and transportation, would have no appreciable impact on Chacoan cultural resources.¹

In general, the BLM, including through its predecessor the General Land Office ("GLO"), has historically ignored or consciously subordinated the rights, needs and interests of the Navajo people in the Eastern Navajo Agency. These actions include, among other things, withholding allotment patents to the Navajo population "for no legitimate reason,"² despite Secretary Ickes statement in 1933 that Navajos were entitled under the allotment laws to "practically all of the vacant public domain in San Juan County and other counties,"³ and, after the GLO stymied the allotment efforts, subverting a years-long effort in the late 1940s, initiated by Solicitor Felix Cohen, to define individual or family-based aboriginal rights of Navajo people. Those rights remain valid, but unadjudicated. *See United States v. Tsosie*, 92 F.3d 1037 (10th Cir. 1996) (affirming District Court's judgment that the United States was required to exhaust Navajo Tribal Court remedies in addressing claim of unextinguished aboriginal occupancy right of Navajo woman residing in Eastern Navajo Agency); *Thermal Energy Co.*, 183 IBLA 126, 135-36 (2013) (summarizing testimony of historian Mark Leutbecker and Larry Rodgers). Such occupancy rights are "as sacred as the fee-simple title of the whites." *E.g., United States v. Santa Fe Pac. R. Co.*, 314 U.S. 339, 345-46 (1941), quoting *Mitchel v. United States*, 34 U.S. (9 Pet.) 711, 746 (1835).

PLO 7923, on its face, prohibits mineral development only on lands administered by the BLM within an arbitrary ten miles of selected Chacoan cultural resources throughout the Eastern Navajo Agency, but it has the practical effect of prohibiting mineral development on all lands in the region, including Navajo Nation and allotted trust lands, as indicated on the attached map prepared by attorneys for the Navajo allotment owners. The Navajo allottees litigated against the government for over a decade to obtain a declaration that they, and not the federal government, own the minerals underlying the surface of their allotments,⁴ and PLO 7923 essentially takes the value of those minerals away from the Navajo allotment owners.

The entire area affected by PLO 7923 is within the Navajo tribe's recognized aboriginal land base, as determined in the Indian Claims Commission in Docket 229. That means that these lands have been used and occupied *exclusively* by the Navajo people *since time immemorial*. "Exclusively" means precisely that. *See, e.g.*, the recent attached letter to the editor of the *Navajo Times* from retired Department of the Interior Archaeologist David Siegel. In addition, all of the affected lands are within the Secretarially approved Navajo Land Consolidation Area designated in the Navajo Land Consolidation Plan, one of only a handful of approved tribal land consolidation plans approved by the Department of the Interior under the federal Indian Land Consolidation Act. Most of the affected land is also within the boundaries of the Executive Order 709/744 extension to the Navajo Reservation, and the federal lands within that 1.9 million acre area were illegally restored to the public domain and remain, as a legal matter, trust property of the Navajo Nation unlawfully administered by the BLM. *See Navajo Tribe of Indians v. State of New Mexico*, 809 F.2d 1455, 1459 n.9 (10th Cir. 1983);⁵ Affidavit of Herbert Stacher, attached hereto.

¹*See, e.g.*, Environmental Assessment for Coal Preference Right Leasing (Sept. 1981) (incorporating Draft Environmental Assessment [June 1981] at pp. 3-20 to 3-23) (stating that the proposed coal strip mining "would result in increased scientific knowledge about past cultures in the [coal leasing] area" and stating that adequate mitigation would result from a Programmatic Memorandum of Agreement).

²Bailey, *A History of the Navajos: The Reservation Years* (1986) at 117.

³Letter from Secretary of the Interior Harold Ickes to New Mexico Governor Arthur Seligman (Aug. 31, 1933) at 3.

⁴Order Approving Settlement of All Claims, *Mescal v. United States*, No. Civ. 83-1408-LH/WWD (Jan. 28, 1997).

⁵The Court of Appeals affirmed the dismissal of the Navajo Nation's claim of title based on the failure of the Department of the Interior to grant allotments to all Navajos within the EO 709/744 extension, based on the statute of limitations in the Indian Claims Commission Act.

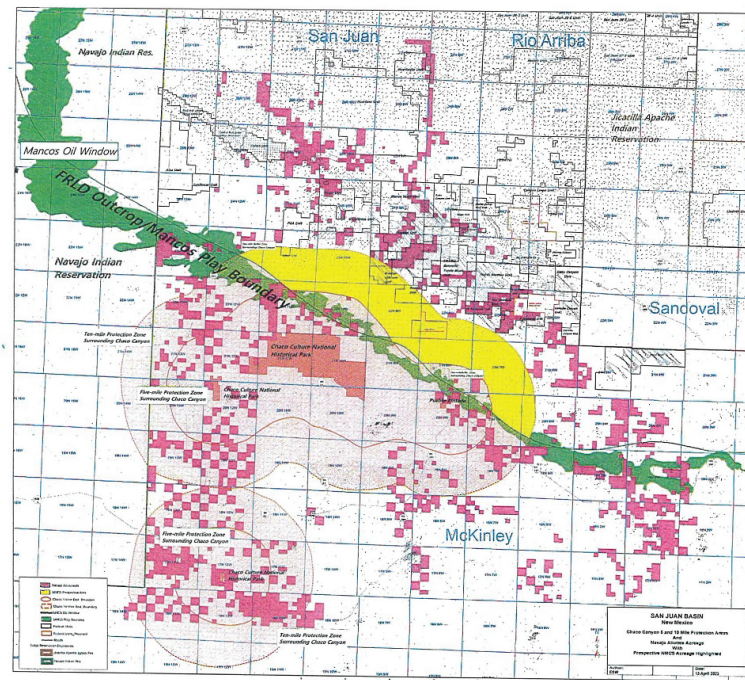
The official position of the Navajo Nation is reflected in Resolution No. NABIAP-11-23 of the Committee of the whole of the Navajo Nation Council, the Naabik'iyati' Committee. That resolution was submitted to Chairman Stauber by the Speaker of the Navajo Nation Council with her letter dated July 12, 2023. "The legitimacy of the Navajo Tribal Council, the freely elected governing body of the Navajos, is beyond question." *Kerr-McGee Corp. v. Navajo Tribe of Indians*, 471 U.S. 195, 201 (1985) (footnote omitted). Secretary Haaland gave no deference to the Council's considered position. And as Navajo Nation Buu Nygren testified before the Subcommittee, Secretary Haaland gave no deference to him, even as he attempted a compromise with the Department. This is inexplicable in any rational sense, given the unique, most substantial interests of the Navajo Nation in the area. As President Nygren testified, "Respect for tribal sovereignty must be consistent even when it is not convenient."

The Eastern Navajo Agency Council supports the official position of the Navajo Nation. There should be no "buffer zone"; none is needed, and a ten-mile buffer zone is wholly arbitrary. It represents the Secretary's continued assault on resource development and property rights. The Eastern Navajo Agency Council therefore wholeheartedly supports the enactment of H.R. 4374.

Respectfully submitted,

Johnny Johnson,
Chair

Ervin Chavez,
Vice Chair



809 F.2d at 1464. However, such a dismissal does not extinguish the underlying right to the land. See *United States v. Gammache*, 713 F.2d 588, 591-92 & n.9 (10th Cir. 1983).

Ancestral claim by Pueblos is unsubstantiated

Editor,

Should thoughtless federal government policy ever be based solely on vague, unsubstantiated beliefs of some people, especially when those beliefs have the direct consequence of harming others?

Under Secretary Deb Haaland, and the National Park Service, the US Department of the Interior has stolen Navajo property rights. The sole basis of this errant policy is that Pueblos in New Mexico hold a vague belief that Chaco is "ancestral" to themselves. They can offer no proof, because there is none. The federal policy is based solely on a vague belief.

Has anyone examined this belief objectively, in a deliberative, systematic manner? Is there any proof that Chaco is "ancestral" to the modern Pueblos, or to any other federally recognized tribes in the US? One could say that there is no proof either way: pro or con - and that would be correct. So why is this one belief being arbitrarily and harshly imposed on the Navajo families who live near Chaco Canyon?

There is no proof that the modern Pueblos descended from Chaco. The Pueblo assertion of Chacoan ancestry is based entirely on a concept, not on empirical fact. In fact, there is a preponderance of evidence that the Chacoans were temporary colonizers from the far south - from the lands we call Mexico today.

The Chacoans came, built their monumental structures and roads, stayed in the region for several generations, but ultimately left. Why they chose Chaco Canyon as the location of their colonial center is something we will probably never know. There are no written records that can explain any of this - only the abandoned buildings and roads of 900 years ago. Certainly, the Chaco colonizers had an influence on the early pueblo inhabitants, but it is just as likely that they were not the ancestors of the modern Pueblos.

What proof do D.O.I. and the NPS offer in calling Chaco "Ancestral Pueblo"? There is no proof - just Pueblo sentiments. Someone's belief is not proof, but when that belief is used to impose harsh policies on others, real harm can be done. I have known so many white people who actually believe they are descendants of this or that royal family in Europe, or some prominent figure in history - Thomas Jefferson, Jesse James, Billy the Kid,

General Patton, whoever.

What proof do they have? They don't have any proof - they just believe it to be true because the story has been repeated through the years by relatives who believed it themselves. Some even hop on the internet to buy phony family "Coats of Arms" to hang on the wall for \$19.95, as if those emblems somehow substantiate the old family tales.

A perfect analogy to Chaco would be the sudden appearance of large buildings across Syria, Lebanon, and Jordan in the 12th century. Because we have written history in several languages, we know who the builders of those buildings were, and where they came from. We know what languages they spoke, how they dressed. We know when they came, what they wanted, and when and why they left.

We call them the Crusaders, and their historic period is known as the religious Crusades. The Crusaders came from Europe. They had a lasting impact on the indigenous Arab people who lived in the Middle East - an impact that is felt to this day. But would anybody call the long-abandoned Crusader castles and fortresses "Ancestral Arab"? Of course not!

To call Chaco "Ancestral Pueblo", without any hope of proof is worse than public misinformation, or an innocuous bureaucratic jump to conclusions. The "Ancestral Pueblo" misnomer can and has become the basis of an inappropriate and arbitrary federal government policy, which harms Navajo families.

The Navajo people have every right to protest this arbitrary government imposition. I hope they will continue to protest the wrongful policy vigorously, and I hope they will prevail in court and in Congress.

David Stiegel
Retired Department of the Interior
archeologist
Albuquerque

Submissions for the Record by Rep. Grijalva

Tó Nizhóní Ání

July 12, 2023

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

Tó Nizhóní Ání is a 501(c)3 organization located on the Black Mesa Plateau in Northeast Arizona on the Navajo Nation. Tó Nizhóní Ání was organized to protect the water source of Black Mesa from Industry use and waste. Our goal is to bring power back to our Indigenous communities impacted by coal while maintaining a balanced environment with the elements of life—water, land, air and sunlight.

Tó Nizhóní Ání strongly opposes H.R. 4374, which would nullify Public Land Order No. 7923, withdrawing certain land in San Juan County, New Mexico, from mineral entry. 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 is an important first step in protecting the people, health, land, and water in the region, and we support real solutions in ensuring a just energy transition.

Introducing this resolution (H.R. 4374) is Representative Elijah Crane's first major legislative blunder. Representative Elijah Crane's—who was elected only after redistricting occurred—exposes his inexperience working with a large Indigenous constituency. We urge him to learn to engage the communities he's working for, instead of being influenced by his Republican colleagues, particularly with reckless fossil fuel development greatly contributing to climate change, which majorly impacts Indian Country.

Decades of fossil fuel development, and corporations manipulating and taking up space on Navajo land is evident in actions by the Navajo Nation Council's Resources and Development Committee to continue pushing for false support and false solutions from within the Republican Party—a party which is not interested in real solutions, only in fueling and perpetuating extractive and harmful development.

Crucially, the Department of the Interior and the Resources and Development Committee have stopped short of actions to support public health, cultural and ecological sites and resources, and economic development.

To truly protect the Greater Chaco Landscape, the DOI must robustly continue the Honoring Chaco Initiative, to involve impacted communities in decision-making about the broader interconnected landscape, and cumulatively assess the impact of extractive development on health, culture, environment, and climate. Support should be offered to allotment owners from these decision makers; it is false to perpetuate a disingenuous, zero-sum narrative and that there is no recourse besides more oil and gas development, where neighbors are left breathing toxic emissions. It is time for leadership to step up and provide creative and genuine solutions such as development of wind and solar on these lands. Crucially, the development of projects that will help protect our limited water supplies.

Sincerely,

NICOLE HORSEHERDER,
Executive Director

May 6, 2022

Sarah Scott
 CCNHP Area Withdrawal
 Bureau of Land Management
 Farmington Field Office
 6251 College Blvd., Suite A
 Farmington, NM 87402

Dear Ms. Scott:

Thank you for the opportunity to provide input on the proposed Chaco Culture National Historical Park Area Withdrawal (withdrawal). Most of the undersigned groups, representing over 1.6 million members and supporters, have been working to protect the Greater Chaco landscape for decades, while some of the undersigned have been working to protect the area for centuries through cultural preservation. We strongly support this proposal and encourage the Bureau of Land Management (BLM) to act swiftly and ensure protection for the next 20 years.

Below, we provide details into the specific benefits derived from this withdrawal and raise our concerns with the rampant misinformation campaign being run by the oil and gas industry. We look forward to continuing to engage in the process.

I. Preliminary Thoughts

The United States is an active participant in the Convention Concerning the Protection of the World Cultural and Natural Heritage (the “World Heritage Convention”), adopted in 1972. As a State Party, it has unique responsibilities to protect the 24 World Heritage Sites within its jurisdiction, including the Greater Chaco landscape.

Dubbed “Chaco Culture,” elements of the landscape in the Planning and Decision Area were inscribed as a World Heritage Site on November 12, 1987. These resources are determined to be of Outstanding Universal Value under Convention criterion iii (“bearing a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared.”)

Chaco is one of just 11 World Heritage Sites (WHS) in the United States specifically inscribed for its connections to cultural history, together with places as diverse and significant as Independence Hall and the Statue of Liberty. Chaco Culture WHS includes Chaco Culture National Historical Park (“CCNHP”), Aztec Ruins National Monument, managed by the National Park Service, as well as 6 Archaeological Protection Sites. The Outliers are a part of a Chacoan network recognized as part of the World Heritage Site including road, communities with great houses. Together these features compose a broad cultural landscape where no one part can be removed from the whole. In addition, since the 1995 Congressional Act recognizing 39 Outliers, significant new information has come to light about other Chacoan settlements in the region that are worthy of protection as candidate Outliers.¹

The World Heritage Convention establishes a system of identification, preservation and registration of cultural properties and natural sites of Outstanding Universal Value. The Preamble of the Convention recognizes that “the deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all nations” and establishes the “importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property” as “part of the world heritage of mankind as a whole.”²

The Operational Guidelines for the Implementation of the World Heritage Convention outline the substantive obligations State Parties have to protect inscribed World Heritage Sites.³ These include measures to ensure their protection and continual efforts to monitor and submit periodic reports regarding the status of those sites and ongoing threats. Specifically, States Parties have the obligation to

- have adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure the safeguarding of World Heritage Sites (Article II.F, Clause 97);

¹ See <http://www.chacoarchive.org/cra/outlier-database/>.

² See <https://whc.unesco.org/archive/convention-en.pdf>.

³ See <https://whc.unesco.org/en/guidelines/>.

- have legislative and regulatory measures at national and local levels to assure the protection of the property from social, economic and other pressures or changes that might negatively impact the Outstanding Universal Value, including the integrity and/or authenticity of the property (Article II.F, Clause 98);
- have an appropriate management plan or other documented management system which must specify how the Outstanding Universal Value of a property should be preserved, preferably through participatory means.” (Article II.F, Clause 108);
- submit specific reports and impact studies each time exceptional circumstances occur or work is undertaken which may have an impact on the Outstanding Universal Value of the property or its state of conservation. (Article IV.B, Clause 169);
- submit periodic reports for examination by the World Heritage Committee (Article V.B, Clause 204).

II. Responding to Inaccurate and Misleading Information Concerning the Nature and Impact of the Proposed Withdrawal

Inaccurate and misleading information continues to circulate concerning the nature and impact of the proposed withdrawal. In the following section, we respond to three statements that, in our opinion, are especially problematic:

Inaccurate/Misleading Statement #1: The proposed withdrawal will inhibit oil and gas development on non-federal lands. The proposed withdrawal applies exclusively to federal lands and minerals, just as the New Mexico State Land Office’s existing withdrawal applies exclusively to state lands and minerals.⁴ It would not apply to or in any way affect the rights of individuals or entities that possess an interest in non-federal lands within the proposed withdrawal area, including allotment lands.

There is substantial on-the-ground evidence for this conclusion. According to BLM, “there have not been any new leases issued [within the proposed withdrawal area] since 2011.”⁵ While “there have been multiple lease parcels nominated over the past ten years within the withdrawal area,” those parcels were all deferred because of the need to complete tribal consultation and comply with other legal obligations.⁶ Additionally, since 2019, Congress has withheld funding for any oil and gas leasing activities on federal lands within the proposed withdrawal area.⁷ Thus, for over ten years, BLM has managed the proposed withdrawal area as if a withdrawal had been in place.

Yet, oil and gas development in the proposed withdrawal area continued during this time frame without apparent interruption. Since 2012, BLM has approved approximately 19 drilling permits for previously-issued leases within the proposed withdrawal area.⁸ Further, since 2012, oil and gas companies have drilled at least thirty-three new wells in the proposed withdrawal area, including at least four that access Navajo-owned oil and gas resources.⁹ Finally, over the past four years, the Federal Indian Minerals Office has planned at least two oil and gas lease sales for allotment lands that included numerous parcels within the proposed withdrawal area.¹⁰

Inaccurate/Misleading Statement #2: Oil and gas companies have not harmed cultural resources or sacred sites in the landscape surrounding Chaco Canyon. Oil and gas development has completely transformed much of northwestern New Mexico. What was once a remote and undeveloped region now resembles an industrial zone. Over 15,000 miles of roads, mostly built by

⁴ Exec. Order 2019-002—Moratorium on Oil and Gas Leasing in the Greater Chaco Area (Apr. 27, 2019).

⁵ BLM, Petition/Application for Withdrawal 3.

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 Press Release, NM Delegation Secures Protections for Chaco Canyon Area in Government Funding Bill (Dec. 19, 2019).

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 Federal Indian Minerals Office (FIMO), Oil and Gas Lease Sale, April 2018 EA 39; FIMO, Oil and Gas Competitive Lease Sale EA 2021 9 (Sept. 2021).

the oil and gas industry, fragment the landscape surrounding Chaco Canyon.¹¹ More than 90 percent of federal lands in the Farmington Field Office are leased,¹² and companies have drilled over 37,000 wells in the area.¹³

This has directly and profoundly harmed significant cultural resources and sacred sites. Oil and gas development has “destroyed” long stretches of the Great North Road—a highly significant “cosmographic expression” built by the Chacoan people to “unit[e] the Chaco world and its work with its spiritual landscape.”¹⁴ In fact, the broader complex of Chacoan roads that emanates from Chaco Canyon and “unites” cultural features across the broader landscape is “rapidly deteriorating,” in large part due to oil and gas development.¹⁵

The indirect impacts of oil and gas development are also widespread and severe. According to leading Chaco experts, components of the Chaco Culture WHS now resemble “industrial parks.”¹⁶ For example,

Despite the efforts of the Bureau of Land Management and the National Park Service to jointly minimize the ground footprint impacts of oil and gas drilling on the Pierre’s community, there have been significant impacts to the viewscape and the soundscape. No less than 12 pumpjacks and at least 5 drilling containers are visible from the high places in the community. Pumpjacks . . . are prominently visible on the skyline from Houses A and B as well as the pinnacle sites. Noise from the nearest pumpjack . . . , located approximately 600 m southwest of Pierre’s butte, is audible from throughout the community. Looking south toward Chaco Canyon, numerous pumpjacks . . . dot the valley floor.¹⁷

Such impacts are, unfortunately, commonplace, particularly on lands north and east of the proposed withdrawal area, which have experienced and continue to experience significant development pressure.

If oil and gas development continues to encroach upon and within the proposed withdrawal area, these direct and indirect impacts will individually, collectively, and permanently alter the irreplaceable cultural landscape that surrounds CCNHP. These impacts will be significant—and likely unavoidable—which several DOI agencies and offices have previously recognized. For example:

- **Advisory Council on Historic Preservation (ACHP):** “The effects of continued [oil and gas] development [in the landscape surrounding Chaco Canyon] stand not only to directly impact historic properties; they may also impair the traditions and tribal way of life that has endured for centuries if not carried out with an understanding of these important connections.”¹⁸
- **BLM:** “Leasing this parcel could potentially involve significant access issues. Access across Tsun Je Zhin Mesa north of parcel #64 could intrude across the Chaco North Road. Our staff have identified clear evidence for the North Road on Tsun Je Zhin Mesa as well as with the east half of the parcel in Ah-shi-sle-pah Wash.”¹⁹
- **Federal Indian Minerals Office (FIMO):** “For Parcel 791 219, 99.9% of the physical [area of potential effects] APE and 70.4% of the atmospheric APE fall within the viewshed of the North Road. For Parcel 791 220, 57.5% of the physical APE and 84.2% of the atmospheric APE fall within the viewshed of the North Road. Given that the North Road is a NR eligible property (Criterion A, C, and D) and that setting is an important element

¹¹ BLM, Mancos-Gallup RMPA/EIS AMS 2-122 (Mar. 2015).

¹² Press Release, Legislation to Permanently Protect Greater Chaco Landscape Passes House of Representatives (Oct. 30, 2019).

¹³ BLM, Farmington Mancos-Gallup 2020 Affected Environment Supplemental Report AE-92 (Feb. 2020).

¹⁴ Sofaer, Marshall, and Sinclair, *The Great North Road: a Cosmographic Expression of the Chaco Culture of New Mexico* 9.

¹⁵ Friedman, Sofaer, and Weiner, *Remote Sensing of Chaco Road Revisited* 378 (Nov. 2017).

¹⁶ Ruth M. Van Dyke, *Impacts of Oil and Gas Drilling on Viewscapes and Soundscapes at the Chaco Outlier of Pierre’s, San Juan County, New Mexico* 1 (Feb. 16, 2017).

¹⁷ *Id.* at 14-15.

¹⁸ Letter from Milford Wayne Donaldson, Chairman, ACHP, to David Bernhardt, Secretary, DOI 1 (June 10, 2019).

¹⁹ Letter from David J. Mankiewicz, BLM, to Leigh Kuwanwiswima, Director, Hopi Cultural Preservation Office 2 (Dec. 23, 2009).

of its significance, it is unlikely then that unmitigated development of Parcel 791 219 would be feasible. . . .”²⁰

• **National Park Service (NPS):** “[t]he recent proposed lease sale of 36 BLM parcels for oil and gas development near Chaco Culture National Historical Park and World Heritage Site has drawn considerable concern from park management and other stakeholders. Though that sale has been postponed to January 2014, we believe this scale of development has the potential for significant adverse effects on park viewsheds and related values. The CCNHP viewshed contains numerous ancient road alignments, including portions of the Great North Road, and others that extend to the northeast and northwest. Should these lease sales go forward, park visitors will see construction and use of new oil and gas roads, interfering with their views of the ancient roads. Visitors will see oil and gas wells, new electric transmission lines, and heavy transport, construction, and ongoing well production traffic, all of which would cumulatively affect the context, setting, and historical integrity of the park.”²¹

Inaccurate/Misleading Statement #3: CCNHP and important cultural resources in the surrounding landscape are already protected. The Chaco culture’s sphere of influence encompassed much—if not the entirety—of the Four Corners region. Evidence of this is found at Wupatki National Monument in Arizona, Chimney Rock National Monument in Colorado, and the Bluff Great House in Utah. Yet, these protected places are exceptions to the norm, as oil and gas development—particularly on public lands in northwestern New Mexico—has “destroyed” many significant cultural features created by the Chacoans and turned others into “industrial parks.”

Further, while oil and gas development is not allowed within CCNHP, much of the surrounding landscape, including public lands bordering the national park, are currently open to leasing and drilling. According to NPS, there would likely be “significant adverse effects on park viewshed and related values” if federal lands in the proposed withdrawal area are leased and drilled.²² That is why ACHP has called for a “buffer zone” around CCNHP and why the All Pueblo Council of Governors and many others are supporting legislation that would statutorily withdraw federal lands within ten miles of CCNHP from future oil and gas leasing.

III. The Proposed Withdrawal is Needed to Fulfill DOI’s Obligations to Protect Chaco Culture National Historical Park and the Chaco Culture World Heritage Site

The proposed withdrawal would provide enhanced and much-needed protection for CCNHP. In particular, it would limit harmful development activity within the park’s viewshed. The withdrawal would also help prevent further degradation to the integrity of the Chaco Culture WHS.

A. *The proposed withdrawal is needed to limit harmful development activity within the park’s viewshed.*

By limiting oil and gas development within the park’s viewshed, the proposed withdrawal would help address “the greatest external threat to park resources.” According to NPS, there are several significant cultural locations within CCNHP that are susceptible to visual and auditory impacts from oil and gas development within the park’s viewshed, including Penasco Blanco, Pueblo Alto, Pueblo Pintado, and Tsin Kletsin.²³ Pueblos and Tribes that access and use these sites for traditional purposes have expressed concern for “the broad effects from oil and gas development that result in an altered landscape where individuals are no longer able to complete early morning prayers, night observances, or other ceremonies due to the impaired visual and auditory setting.”²⁴ ACHP has raised identical concerns:

Chaco also is a place of transcendent spiritual and traditional cultural importance to Indian tribes of the region. Many Pueblos and Indian Tribes in the Four Corners region recognize that the Chaco Culture area is rich

²⁰ FIMO, Oil and Gas Competitive Lease Sale EA 2021 98 (Sept. 2021).

²¹ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 4 (May 29, 2013) (emphases added).

²² *Id.*

²³ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 2 (May 29, 2013).

²⁴ BLM, Farmington Mancos-Gallup Draft RMPA/EIS, Appendix H-2 (Feb. 2018).

with sacred sites of utmost importance to them. The threats posed by continued development are not merely physical impacts on historic properties; they can impair the traditions and tribal way of life that has endured for centuries.²⁵

Accordingly, Pueblos and Tribes have repeatedly asked the Interior Department to avoid issuing any more oil and gas leases on federal lands within the proposed withdrawal area.²⁶

Additionally, all of these sites are open to and interpreted for members of the public, many of whom value the park because of its “solitude, natural quiet, remote high desert environment, and minimal park development,” which provide “an unparalleled opportunity to stand among the ruins and imagine the activity that occurred during the height of the Chacoan occupation.”²⁷ Thus, by limiting oil and gas development within the park’s viewshed, the proposed withdrawal would help protect these sites and further DOI’s obligation to “accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners” and “avoid adversely affecting the physical integrity of such sacred sites.”²⁸

Over the years, NPS, BLM, and ACHP have all found that there could be significant impacts on the park’s viewshed if widespread oil and gas development were to occur within the proposed withdrawal area. In 2013, NPS provided BLM with comments on a draft visual resources management plan for the Farmington Field Office. In those comments, NPS stated that

[t]he recent proposed lease sale of 36 BLM parcels for oil and gas development near Chaco Culture National Historical Park and World Heritage Site has drawn considerable concern from park management and other stakeholders. Though that sale has been postponed to January 2014, *we believe this scale of development has the potential for significant adverse effects on park viewsheds and related values.* The CCNHP viewshed contains numerous ancient road alignments, including portions of the Great North Road, and others that extend to the northeast and northwest. Should these lease sales go forward, park visitors will see construction and use of new oil and gas roads, interfering with their views of the ancient roads. Visitors will see oil and gas wells, new electric transmission lines, and heavy transport, construction, and ongoing well production traffic, *all of which would cumulatively affect the context, setting, and historical integrity of the park.*²⁹

NPS specifically highlighted the sparsity of development within the park’s viewshed, particularly to the north: “This landscape is not pristine or untrammelled, but it is largely intact and the fact the ancient features are still visible and detectable suggests that the level of integrity is high. Each additional modern feature, ground disturbance, or terrain modification obscures or outright obliterates these features.”³⁰ Separately, NPS has found that a “cultural landscape” exists that “encompasses the whole park, and includes the viewshed into and from adjacent lands, dark night sky, air quality, and resources and values of traditionally associated peoples,”³¹ and stated that “impacts to viewsheds have the potential to diminish integrity of the park cultural landscape.”³²

BLM has reached similar conclusions. Several years ago, after receiving lease nominations within the proposed withdrawal area, BLM prepared a series of

²⁵ Letter from Milford Wayne Donaldson, Chairman, ACHP, to Rep. Grijalva & Rep. Bishop, House Natural Resources Committee 1 (Apr. 30, 2019).

²⁶ See, e.g., Letter, All Pueblo Council of Governors, to State Director, BLM (Jan. 14, 2018) (protesting oil and gas leases within the proposed withdrawal area); Press Release, All Pueblo Council of Governors Response to BLM’s Preferred Plan for Greater Chaco (Mar. 3, 2020) (“For years, and at the urging of Pueblos and other tribes, DOI has designated federal land in this 10-mile area unavailable or otherwise removed parcels from oil and gas lease sales. APCG and many other stakeholders of this region have repeatedly called upon the federal government to protect this region.”).

²⁷ NPS, Chaco Culture National Historical Park General Management Plan Amendment/Environmental Assessment 15.

²⁸ Exec. Order 13,007, 61 Fed. Reg. 26,771 (May 29, 1996); see also NHPA XXX.

²⁹ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 4 (May 29, 2013) (emphases added).

³⁰ *Id.* at 3.

³¹ BLM, Draft EA/FONSI Jan. 2014 Oil & Gas Lease Sale 24; see also Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 6 (May 29, 2013) (“Surrounding lands outside the park boundary also contribute to the integrity of setting and feeling of the park cultural landscape.”).

³² Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 7 (May 29, 2013).

viewshed maps, which confirm that public lands through the proposed withdrawal area are visible from several key observation points within the park.³³ BLM concluded that development on these parcels “could impact visitor experience of sweeping, unimpaired views; appreciation of ancient sites with minimal distractions; and no intrusions of man-made noise or light (at night) at those points by introducing man-made structures into the landscape.”³⁴ BLM also found that development on lease parcels over twenty miles away would be visible from within the park.³⁵ For this reason, in 2018, BLM included an alternative in the Mancos-Gallup Draft RMP Amendment that would close federal lands to leasing up to fifteen miles from the park’s boundary—five miles beyond what is proposed in the withdrawal.³⁶

Finally, ACHP has echoed NPS and BLM’s findings concerning the impact of oil and gas development on the park’s viewshed. In 2013, in comments on Farmington’s draft visual resources management plan, ACHP advised BLM that “[i]t is particularly important to apply Class I or II designations to all areas within the Chaco viewshed, including those currently available for oil and gas leasing, in order to protect the viewshed from adverse visual effects.”³⁷ Further, in 2019, following then-Secretary of the Interior Bernhardt’s decision to recognize a congressional moratorium on leasing within the proposed withdrawal area by announcing an administrative moratorium on leasing within the withdrawal area, ACHP again raised concerns for how DOI was managing the landscape surrounding CCNHP: “The effects of continued development stand not only to directly impact historic properties; they may also impair the traditions and tribal way of life that has endured for centuries if not carried out with an understanding of these important connections.”³⁸ ACHP specifically endorsed the creation of a “buffer zone” around the park where oil and gas leasing on federal lands would be prohibited.³⁹

In sum, over the years, three DOI agencies—NPS, BLM, and ACHP—have repeatedly voiced concern for the impact of oil and gas development on the park, including its viewshed, and have recommended courses of action, including creation of a “buffer zone,” that are in complete harmony with the withdrawal proposed by Secretary Haaland.

B. The proposed withdrawal is needed to prevent further degradation of the Chaco Culture WHS.

The National Park Service and archaeological experts with decades of experience studying Chaco Canyon and the surrounding landscape have identified oil and gas development as the “greatest external threat” to the integrity of the Chaco Culture WHS. Notably, the landscape that surrounds and contextualizes the Chaco Culture WHS contributes to its “outstanding universal value.” According to NPS,

[t]he original [WHS] nomination underwent an important modification that led to the inclusion of five associated Chaco Greathouse communities managed by the BLM and Aztec Ruins [National Monument], another NPS unit. This unusual action (which followed the US congressional passage of PL 96-550) was done to recognize that the Chacoan civilization and its remains are not confined to the concentrated area in Chaco Canyon proper. . . . The listing is remarkable in that UNESCO recognized and requested that the additional ‘outlying’ segments be included in the listing because they illustrate the vast extent of the Chaco World in the 10th through the 12th centuries.⁴⁰

NPS has also noted that while “[m]ost of the Great North Road and numerous other road alignments are outside of the World Heritage boundaries[,] . . . views of and along those roads contribute to Chaco’s outstanding universal value.”⁴¹

³³ BLM, Penasco Blanco Viewshed Analysis Results; BLM, Pueblo Alto Viewshed Analysis Results; BLM, Pueblo Pintado Viewshed Analysis Results; BLM, Tsin Kletsin Viewshed Analysis Results.

³⁴ BLM, Draft EA/FONSI Jan. 2014 Oil & Gas Lease Sale 62.

³⁵ *Id.* at 63.

³⁶ BLM, Farmington Mancos-Gallup Draft RMPA/EIS, Appendix H-4 (Feb. 2018).

³⁷ Letter from Reid J. Nelson, ACHP, to Lindsay Eoff, Project Manager, BLM 1 (May 31, 2013).

³⁸ Letter from Milford Wayne Donaldson, Chairman, ACHP, to David Bernhardt, Secretary, DOI 1 (June 10, 2019).

³⁹ Letter from Milford Wayne Donaldson, Chairman, ACHP, to Rep. Grijalva & Rep. Bishop, House Natural Resources Committee 2 (Apr. 30, 2019).

⁴⁰ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 3 (May 29, 2013) (emphases added).

⁴¹ *Id.*

However, over the years, oil and gas development has impaired the “outstanding universal values” of the WHS, as detailed in a recent assessment of Pierre’s Site by Professor Ruth Van Dyke, a leading expert on Chaco Canyon. Professor Van Dyke found “that although the BLM has taken care not to place drill rigs on top of surface archaeological sites, there are major indirect and cumulative impacts to the resources—specifically, to the viewscales and soundscapes. Sadly, rather than a sacred landscape and part of a UNESCO World Heritage Site, the Pierre’s community today resembles an industrial park.”⁴² In a separate study, Professor Van Dyke and two of her colleagues indicated that “energy development in the 20th century has destroyed virtually any traces of the North Road between Kutz Canyon and Aztec.”⁴³ As noted earlier, “views of and along [the Great North Road] contribute to Chaco’s outstanding universal value.”⁴⁴

NPS has made similar findings. In a 2013 report on the state of the Chaco Culture WHS, NPS identified “energy development as the greatest external threat to park resources” and acknowledged that “[t]he ability to consistently and successfully manage external threats and their effects on the cultural values is not present.”⁴⁵ Also in 2013 and in response to a specific leasing proposal for public lands in close proximity to the WHS, NPS stated that “Chaco’s specific World Heritage values of sweeping, unimpaired views, clean air, and no intrusions of man-made noise or light would be affected by a high level of development near the World Heritage sites.”⁴⁶

This leasing proposal was just one of several in recent years that included public lands within the proposed withdrawal area. One of those proposals included a parcel that overlapped with the Great North Road about four miles north of the NHP. According to BLM, “[l]easing this parcel could potentially involve significant access issues. Access across Tsun Je Zhin Mesa north of parcel #64 *could intrude across the Chaco North Road*. Our staff have identified clear evidence for the North Road on Tsun Je Zhin Mesa as well as with the east half of the parcel in Ah-shi-sle-pah Wash.”⁴⁷ Fortunately, and in response to concerns from the Hopi Tribe, BLM deferred this parcel—but, like most of the landscape surrounding the park, it remains open to leasing and development.

To prevent further degradation to the Chaco Culture WHS, ACHP has endorsed the creation of a “buffer zone” around the park. In commenting on the Chaco Cultural Heritage Protection Act, which would withdraw the same federal lands from oil and gas leasing that DOI’s proposed withdrawal would, ACHP stated that:

[b]y creating the “Chaco Cultural Heritage Withdrawal Area,” the legislation would remove development threats on federal lands within and adjacent to the Chaco National Historical Park and other portions of the World Heritage Site. It should be noted that by doing so the Congress would be fulfilling the obligations of the World Heritage Convention for states party to protect their World Heritage Sites and, where necessary, to create buffer zones for that purpose. The provisions of H.R. 2181 would in large part meet the threats identified in the Chaco Culture World Heritage Site Statement of Outstanding Universal Value.⁴⁸

Creating such a “buffer zone” would also address NPS’s “considerable concern” for leasing in the landscape surrounding the Chaco Culture WHS,⁴⁹ and help avoid “reduc[ing] this landscape to dots on a map that threaten to destroy the most compelling, least-understood, and perhaps most significant aspects of [the Chaco] phenomenon.”⁵⁰

⁴² Ruth M. Van Dyke, *Impacts of Oil and Gas Drilling on Viewscales and Soundscapes at the Chaco Outlier of Pierre’s, San Juan County, New Mexico* 1 (Feb. 16, 2017).

⁴³ Van Dyke, Lekson, and Heitman, *Chaco Landscapes: Data, Theory and Management* 50 (Feb. 25, 2016).

⁴⁴ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 3 (May 29, 2013).

⁴⁵ *Id.*

⁴⁶ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 7 (May 29, 2013).

⁴⁷ Letter from David J. Mankiewicz, BLM, to Leigh Kuwanwisiwma, Director, Hopi Cultural Preservation Office 2 (Dec. 23, 2009).

⁴⁸ Letter from Milford Wayne Donaldson, Chairman, ACHP, to Rep. Grijalva & Rep. Bishop, House Natural Resources Committee 2 (Apr. 30, 2019).

⁴⁹ Letter from Lawrence T. Turk, Superintendent, Chaco Culture National Historical Park, to Lindsay Eoff, Project Manager, BLM 4 (May 29, 2013).

⁵⁰ Van Dyke, Lekson, and Heitman, *Chaco Landscapes: Data, Theory and Management* 1 (Feb. 25, 2016).

C. The proposed withdrawal would help DOI fulfill its legal obligation to achieve “maximum consistency” with state and local plans.

The proposed withdrawal would help DOI achieve consistency with the New Mexico State Land Office’s withdrawal of state lands surrounding CCNHP. Under the Federal Land Policy and Management Act, BLM must ensure that its land management efforts are consistent “with State and local plans to the maximum extent” possible.⁵¹ While this requirement does not require absolute consistency between federal and state/local plans, “it ensures that the States’ interests . . . will not be ignored. . . .”⁵²

On April 27, 2019, New Mexico State Land Commissioner Stephanie Garcia Richard issued Executive Order (EO) No. 2019-002—Moratorium on New Oil and Gas and Mineral Leasing in Greater Chaco Area. The EO explains that “the protection of Chaco Culture National Historical Park and other sites is essential to safeguard archaeological and cultural resources of the tribes, nations and pueblos, the State of New Mexico and the United States. . . .”⁵³ Accordingly, the EO “withholds” state trust lands “from new leasing for oil and gas or mineral purposes” within the proposed withdrawal area “until December 31, 2013. . . .”⁵⁴ Because DOI’s proposed withdrawal would have the same effect on federal lands (for a period for twenty years), it would help DOI achieve “maximum consistency” with the State of New Mexico’s current plan for the landscape surrounding Chaco Canyon.

VI. The Proposed Withdrawal is Needed to Protect Cultural Resources

The significance and importance of the 10-mile zone revolves around its values—spiritual, archaeological, and scientific. Chaco Canyon and the surrounding Greater Chaco Landscape constitute a living cultural and ancestral landscape of great spiritual significance to the Pueblo Tribes of New Mexico and the Navajo Nation. The Pueblos trace their ancestry to Chaco’s many ceremonial and sacred sites, as well as to traditional cultural places on this landscape. Pueblo ancestors have lived and practiced ritual within Chaco’s boundaries and across the Greater Chaco Landscape for thousands of years. Navajo residents of Greater Chaco have enduring ties to this landscape, as well, and the Pueblos and the Navajo Nation identify many traditional cultural places here.

In addition to years of previous work, archaeological survey and reconnaissance work (reflected in Figure 1) by Archaeology Southwest in 2020 revealed more than 4,200 archaeological and historic sites in the protective zone.⁵⁵ These places were created by diverse groups—including Paleoindian, Archaic, Puebloan, Navajo, Jicarilla Apache, and others—in time periods from about 10,000 BCE to the present. 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.

⁵¹ 43 U.S.C. § 1712(c)(9).

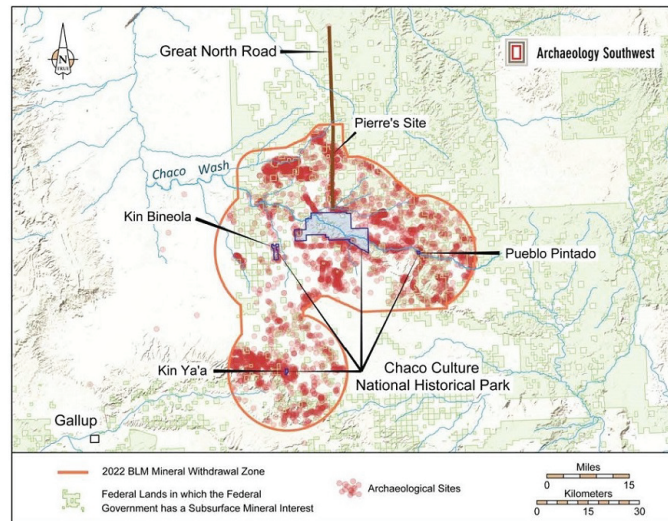
⁵² *Cal. Coastal Comm’n v. Granite Rock Co.*, 480 U.S. 572, 596 (1987) (Powell, J., dissenting).

⁵³ SLO EO 2019-002

⁵⁴ *Id.*

⁵⁵ Reed 2020.

Figure 1



At least 10 significant ancient Chacoan-Pueblo communities are known to lie within and just beyond the 10-mile zone around Chaco Park. These include the Bis san'ni Community, located a few miles northeast of Chetro Ketl, and the Pierre's Community, located up the Great North Road, at about the edge of the 10-mile protection zone. A linear community lies along the Ah-Shi-Sle-Pah road, which originates at Penasco Blanco and trends to the northwest for more than 25 kilometers (19 miles). Most of this linear ancient community lies within the 10-mile protection zone. Additional Chacoan communities within the 10-mile zone include Casa del Rio, Bee Burrow, Kin Indian-Escavada-Greasy Hill, Greenlee, Indian Creek, Mesa Tierra, and Tse Lichii'. As described below, these are significant sites—the characteristics and condition of which merit additional study and protection from oil-gas development.

- The ancient Pueblo community at Bis san'ni comprises at least 30 sites in a roughly 4 km-square or roughly 1000-acre area. The community lies about 5 miles northeast of Pueblo Bonito. The core of the site is a Chaco great house with about 40 rooms and 5 kivas. Pueblo sites in the community around Bis san'ni contain about 50 rooms and several kivas. In addition, the community contains resource procurement sites and other sites of limited use.
- The Pierre's site complex is the largest community on Chaco's Great North Road. Pierre's contains three small Chacoan great houses with perhaps 50 total rooms, single and second-story, and several kivas. The community also incorporates a watchtower-like feature called El Faro (the lighthouse). In the community around Pierre's core, at least 75 rooms are present at numerous small pueblo habitation or field house sites. Additional sites include artifact scatters, the Great North Road, and rock features. Additional discussion of Pierre's is provided below.
- Mesa Tierra is a Chacoan great house with 30 rooms and 5 kivas located southwest of Pueblo Bonito. The site was built on a mesatop and includes a small community of surrounding sites with perhaps 20 additional rooms.
- Casa del Rio lies along Chaco's West Road and comprises a great house with perhaps 140 rooms and several large, dense midden areas. An ancient reservoir lies south of the great house. The community around Casa del Rio is largely unknown, due to the lack of archaeological survey.
- Greenlee lies southeast of the Chaco Park boundary and consists of a Chacoan great house with 15 rooms and one kiva. It sits on a low mesatop. A Chacoan road segment runs to the east of the site. A probable community

of small sites surrounds Greenlee but its nature is unclear due to limited archaeological investigation.

- Bee Burrow is a small Chacoan great house with 11 rooms and 2 kivas located south of Pueblo Bonito and the Park boundary. Chaco's South Road passes by the site to the east. Petroglyphs are present along a cliff face southwest of the great house. The community surrounding Bee Burrow is poorly understood but contains dozens of small pueblo sites and perhaps 500 total rooms.
- The Indian Creek community lies west of Chaco and includes two small Chacoan great houses—Casa Cielo and Casa Abajo—and a community of 20 small pueblo sites with over 100 rooms. In addition to the communities listed above, there are others—clusters of sites that may constitute distinct communities and have not yet received detailed examination.

To better understand the nature and extent of cultural resources in the 10-mile zone, Archaeology Southwest undertook a reconnaissance project focusing on the northwest, north, and northeast portions of the 10-mile area.⁵⁶ A primary goal of the work was to identify or confirm cultural communities in the 10-mile zone, with the main criterion being spatial proximity. In several cases, the mix of sites across time periods was substantial. For these areas, then, the geographically proximate sites were not described as discrete communities, but rather as site clusters.

A larger objective in this work was connected to the currently ongoing RMPA and EIS planning process undertaken by the BLM and the Bureau of Indian Affairs (BIA). This goal involved looking at the Greater Chaco Landscape in not so much a totally unique manner, but at a different scale than is pursued by the Agencies. Typically, Federal Agencies in the western United States treat cultural sites as single phenomena during the Section 106 process. Thus, archaeological contractors identify sites or TCPs during projects, and the projects are redesigned, in most cases, to avoid the resources by 50–100 feet. In rarer cases, such as road alignments, the decision is made to conduct test excavations to mitigate effects on the cultural resources.

This avoidance policy has spared many cultural resources from outright destruction, but has also resulted in a highly fragmented cultural landscape across many places of the American West, and in particular, across the Greater Chaco Landscape. As a result, many indirect and cumulative effects have built up across Greater Chaco, as the ancient Chacoan-Puebloan landscape has been slowly but persistently in-filled by the industrial infrastructure of the oil-gas industry.

In our view, a better perspective looks at cultural sites not in isolation, but as pieces of larger communities on the landscape. This community- or landscape-based approach has been part of archaeological research for nearly 25 years, but it has not yet appeared in the Agencies' playbook. Although the BLM lands in Greater Chaco are currently leased at more than 90 percent, this landscape-level approach can be implemented to protect communities and site clusters that have not yet seen impacts, such as those seen at the Pierre's Community.⁵⁷

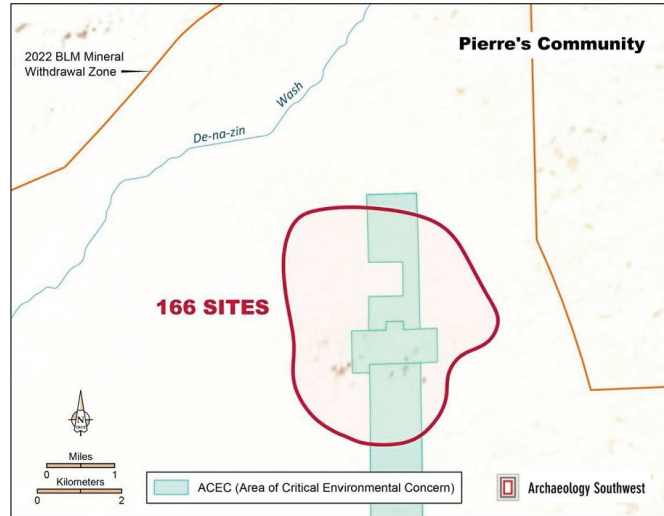
To add to what Van Dyke's study has revealed and what prior BLM GIS-based analysis also showed, we compiled a map of the Pierre's Community and then overlaid the current BLM ACEC that was put in place years ago in an effort to protect the community and keep oil-gas development away (Figure 2). Again, as Van Dyke has clearly illustrated, the number and density of oil-gas well pads and other facilities has compromised the viewshed and soundscape around the Pierre's Community. This study and the mapping exercise amplify this message.

Figure 2 shows sites in the ancient Pierre's Community and site cluster, encompassing at least 160 sites of varying ages (primarily Chacoan with some Archaic, Early Navajo, and Historic Navajo manifestations), with the BLM's ACEC zones of protection shown. The ACECs were designed to protect Pierre's and two sections of the Great North Road, both north and south of the community. As the map shows, however, the ACECs cut through the middle of the community—protecting some sites but not offering any protection for outlying sites that are part of the ancient and historic community. Although the Pierre's Community is recognized as part of the Chaco Culture World Heritage designation, beyond BLM small ACECs, this amazing place has no special protection from oil-gas or other development.

⁵⁶ Reed 2020.

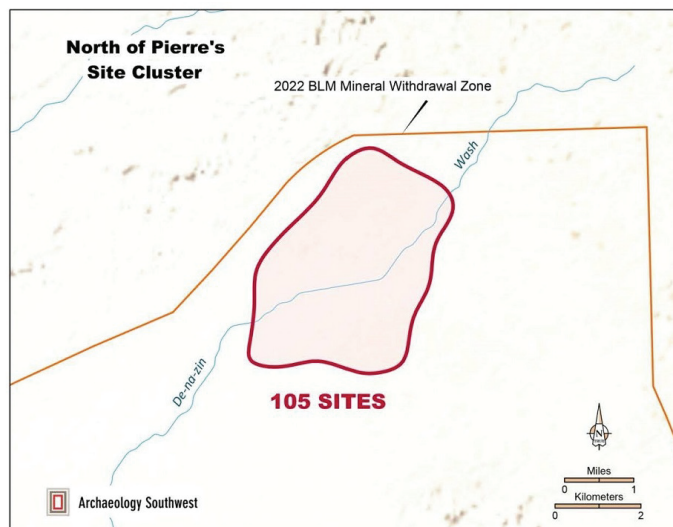
⁵⁷ See Van Dyke 2017.

Figure 2



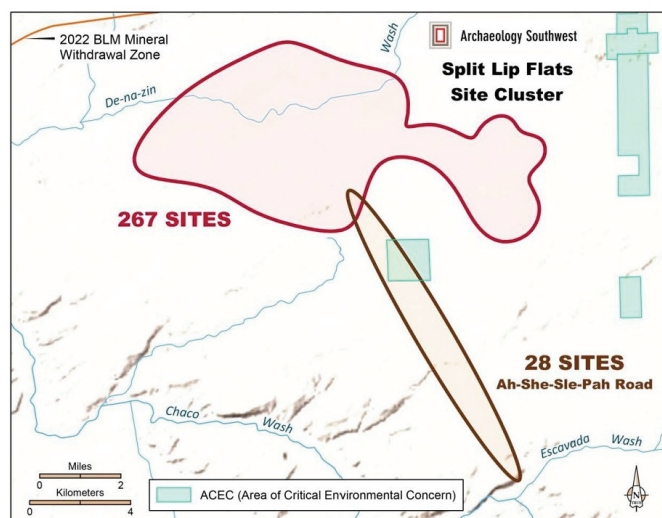
Moving north of the Pierre's Community, we come to a point that is near the northern margin of the 10-mile zone (Figure 3). This site cluster, described as "North of Pierre's," includes more than 100 sites of primarily historic Navajo and Archaic ages that lie on predominantly BLM lands. Beyond the initial recording of these sites on various projects, little additional research has been completed. At present, we do not know whether these sites constitute one or more discrete cultural communities. Additional research is necessary to better understand this very interesting site cluster. We do know that the density of sites in this cluster was the main reason that the withdrawal boundary that was drawn where it lies. Currently, this cluster of sites has little protection.

Figure 3



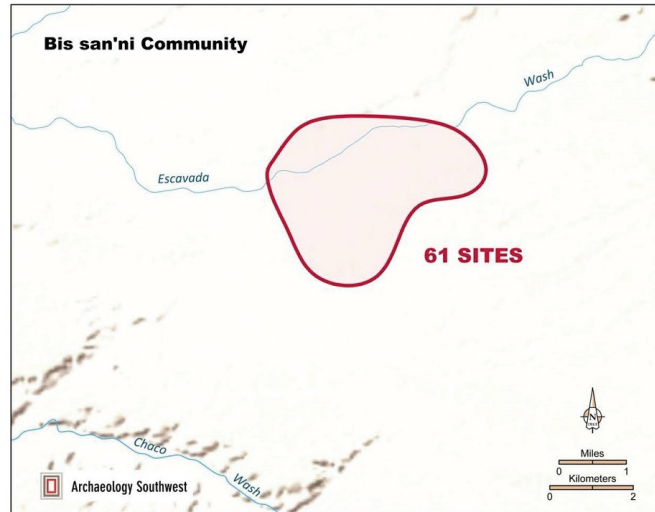
West of the Pierre's Community, we come to another dense cluster of sites identified as the Split Lip Flats cluster, after a local topographic feature (Figure 4). This very dense cluster contains at least 266 sites that are primarily of Middle-Late Archaic, Basketmaker II, and Pueblo I-III origin, located primarily on BLM-managed lands. The Chacoan road known as the Ah-She-Sle-Pah road is shown on the same map (in Figure 4), running northwest from just below the Chaco Canyon sites of Penasco Blanco and pointing to the core of the Split Lip Flats cluster. Although it has hardly been documented, there is a Pueblo II community in this cluster on the road alignment. More research would help us understand this area northwest of Chaco's boundary. As the map figure shows, there is an ACEC that encompasses a small portion of the Ah-She-Sle-Pah road. The bulk of this dense and poorly understood site cluster and community lies on BLM lands, and it is not protected in any way.

Figure 4



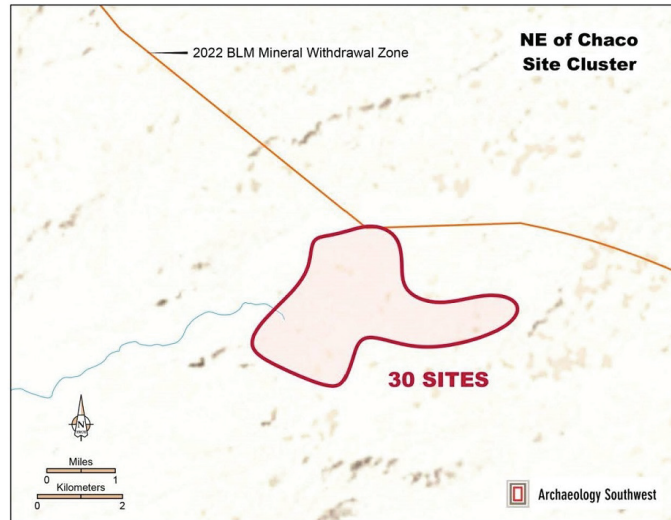
Next, we move to the east, past Chaco's boundary and to the community known as Bis san'ni (Figure 5). This Chacoan community was well studied in the late 1970s and early 1980s by Cory Breternitz, Mike Marshall, and others. The community encompasses at least 61 sites that are predominantly Pueblo II in age. Earlier and later Pueblo sites are present, as well as Archaic and Historic Navajo age sites. On the north, the community is largely bounded by the wide swath of Escavada Wash. BLM land is but a small percentage in the Bis san'ni area, mostly on the north end of the Chacoan community. Although Bis san'ni is recognized as unique Chacoan Outlier, it is afforded no special protection, and oil-gas wells could be placed in close proximity to the community.

Figure 5



Lastly, we move north of Bis san'ni to a location near the northeast edge of 10-mile zone. This site cluster is the smallest, with 30 sites, and is identified as the Northeast of Chaco site cluster (Figure 6). The sites are split between Historic Navajo camps and settlement dating between 1880 and 1960, and a range of Archaic and likely Archaic camps and scatter sites. Similar to the North of Pierre's site cluster, these sites are known only through limited, survey-level documentation. Data show the presence of a Navajo community in the area, from 1880 to 1960. Nevertheless, additional research is required to better understand the Navajo community and to tease out the parameters of Archaic period settlement in the cluster, from 5500 to 800 BCE. This site cluster is probably the most at-risk of all discussed here, because companies working in the Mancos Shale oil development have placed many wells in the area just beyond the site-cluster boundary and the 10-mile boundary. If the BLM and BIA do not honor the 10-mile protection zone in this area, it is very likely that the sites in this cluster will become mere islands of "preserved" remnants of Navajo and Archaic cultures embedded within a highly industrialized modern landscape.

Figure 6



The group of six ancient and historic communities and site clusters discussed here is just a sample of those that lie within the 10-mile protection zone. Along with the ten previously documented and described Chacoan communities, they clearly illustrate the high density of cultural and historic sites in this area directly adjacent to Chaco Park. These findings again reinforce our understanding that the 10-mile zone of protection is not an arbitrary boundary. The 10-mile zone contains irreplaceable ancient and historic sites and communities that merit much more protection than BLM and BIA policy and regulations currently provide.

Other than the Pueblo of Acoma's 2018 project with Archaeology Southwest (Anschuetz, Reed et al. 2019, little recent ethnographic work has been undertaken with any Tribal groups. Dozens of traditional cultural properties (TCPs) were revealed during the Acoma Project within the 10-mile zone, indicating that there are probably hundreds, if not thousands, of TCPs and other Tribal cultural sites as yet unidentified across Greater Chaco. Current, ongoing cultural studies (funded by the Bureau of Indian Affairs), with the Chaco Heritage Tribal Association—a coalition of Pueblo groups—and the Navajo Nation will add immeasurably to our understanding of the 10-mile zone and the Greater Chaco Landscape. A failure to protect Federal lands in the 10-mile zone would undoubtedly result in loss of sensitive cultural resources.

Beyond the specifics of TCPs, sacred sites, cultural and historic sites, other scientific aspects of the Greater Chaco Landscape attest to its significance, including the Chaco Park's International Dark Sky designation and the incredible viewsheds and soundscapes Ruth Van Dyke (2017) and other archaeologists are only beginning to document. Additionally, the 10-mile zone encompasses much of the Park's viewshed, and visitors are able to view and appreciate the significance of the largely-undeveloped landscape surrounding the Park from Pueblo Alto, Pueblo Pintado, and several other locations.

These values plainly underscore that the 10-mile zone of protection is not arbitrary. The 10-mile zone contains irreplaceable ancient and historic sites and communities that merit greater protection than BLM and BIA regulations currently provide. This reinforces the need for permanent withdrawal of the 351,000 acres in Secretary Haaland's order, as well as the need for legislation to permanently remove the threat of future oil-gas development from this land.

V. The Proposed Withdrawal Will Support Local Community Health and Well-Being

Not only does BLM have the inherent authority to withdraw these lands from mineral development, but it is imperative for a number of resource values as well as the surrounding communities that BLM withdraw these lands from mineral development.

A. *BLM must analyze impacts to community health and well-being throughout the environmental analysis.*

The proposed withdrawal can and should be an example of putting the commitments that the Biden Administration has emphasized into action for the benefit of the communities surrounding and historically connected to the greater Chaco landscape. As emphasized in Executive Order (EO) 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”, it is the Federal government’s responsibility to “promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory.” CCNHP is undoubtedly a national treasure rich in cultural history that deserves continued and improved protection. The EO emphasizes, in places “[w]here the Federal Government has failed to meet that commitment in the past, it must advance environmental justice.” Given the extensive amount of existing oil and gas development in the region, existing community health impacts, high poverty rates, and countless other harms against Indigenous communities tied to the region, CCNHP and the proposed withdrawal area is a prime location for the Federal government to make progress toward righting past wrongs and advancing public health and environmental justice. In doing so, the Federal government

must be guided by the best science and protected by processes that ensure the integrity of Federal decision-making. It is, therefore, the policy of [the Biden] Administration to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; . . . to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments.⁵⁸

The present environmental analysis is one of the most prime opportunities for the Biden administration to meet its commitments and stand up for environmental justice and community health.

Additionally, evaluating and addressing the impacts to the health and economic welfare of surrounding communities must be an integral part of the ongoing environmental analysis. As stated throughout these comments, it will be important for the agencies to incorporate into this assessment a clear commitment and framework for ongoing consultation and coordination with Pueblos, Tribes, and residents.

BLM must take a hard look at health and safety impacts to the community surrounding the proposed withdrawal. Local community and Tribal members have expressed serious concerns about the impacts of oil and gas development on local air and water quality, as well as noise and dust from nearby operations. Given the science supporting negative health impacts and continual requests from those most impacted by this decision, our coalition fully supports the proposed withdrawal area. This withdrawal would generally decrease risks to public health and safety from air emissions, noise, light pollution, and traffic, thus benefiting community health and wellbeing.

The impact to public health from industrialized drilling and associated climate impacts cannot be understated, particularly with such a rampant acceleration in the surrounding area in a short period of time. A 2014 review identified 15 different components of unconventional oil and gas development, everything from trucks and tanks to chemical and venting, which can present a chemical, physical and/or safety hazard.⁵⁹

⁵⁸ EO 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” January 20, 2021. Available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>

⁵⁹ John L. Adgate et al., Potential Public Health Hazards, Exposures and Health Effects from Unconventional Natural Gas Development, 48 ENVIRONMENTAL SCIENCE & TECHNOLOGY 8307 (Feb. 24, 2014).

Residents living near drilling and fracking operations experience increased reproductive harms, asthma attacks, rates of hospitalization, ambulance runs, emergency room visits, self-reported respiratory problems and rashes, motor vehicle fatalities, trauma, and drug abuse. A 2019 Physicians for Social Responsibility review concluded:

By several measures, evidence for fracking-related health problems is emerging across the United States. In Pennsylvania, as the number of gas wells increase in a community, so do rates of hospitalization. Drilling and fracking operations are correlated with elevated motor vehicle fatalities (Texas), asthma (Pennsylvania), self-reported skin and respiratory problems (southwestern Pennsylvania), ambulance runs and emergency room visits (North Dakota), infant deaths (Utah), birth defects (Colorado), high risk pregnancies (Pennsylvania), premature birth (Pennsylvania), and low birth-weight (multiple states). Benzene levels in ambient air surrounding drilling and fracking operations are sufficient to elevate risks for future cancers in both workers and nearby residents, according to studies. Animal studies show that two dozen chemicals commonly used in fracking operations are endocrine disruptors that can variously disrupt organ systems, lower sperm counts, and cause reproductive harm at levels to which people can be realistically exposed.⁶⁰

Across the country, multiple studies have pointed to the negative impacts of oil and gas development on community health, raising deep environmental justice concerns. In Pennsylvania, the following symptoms were reported by over half the people living near gas development who responded to a health survey. They included fatigue (62%), nasal irritation (61%), throat irritation (60%), sinus problems (58%), burning eyes (53%), shortness of breath (52%), joint pain (52%), feeling weak and tired (52%), severe headaches (51%), and sleep disturbance (51%). The survey was completed by 108 individuals (in 55 households) in 14 counties across Pennsylvania.⁶¹ Similar impacts are probable to exist across impacted communities in New Mexico.

In one study, health experts surveyed agreed that oil and gas setbacks of over 1,000 feet were likely inadequate to protect public health, and additional setbacks were necessary to protect young children and elderly people.⁶² Many unconventional oil and gas setback rules, for setbacks of 1000 feet or less, do not adequately protect health, especially children's respiratory health, that "the majority of municipal setback ordinances are not supported by empirical data," and calling for a one-mile minimum for setbacks between drilling facilities and schools, hospitals, and occupied dwellings in light of the heightened health risks of residing within .5 mile or less of unconventional oil and gas drilling sites.

One such study found that babies whose mothers lived near multiple oil and gas wells were 30% more likely to be born with heart defects than babies born to mothers who did not live close to oil and gas wells.⁶³

In general, research indicates that the potential cumulative effects of social and environmental stressors and social determinants of health in the context of oil and natural gas activity can increase the risk or magnitude of exposure and the frequency and/or severity of adverse health impacts of oil and gas drilling (e.g., pollution sources are often located closer to communities of color and low-income "environmental justice" communities—in this context largely Navajo residents currently already being hit very hard by COVID-19—underlying health conditions can increase vulnerability to pollution-related health impacts, and pollution-related health impacts can exacerbate existing health and socioeconomic stressors); and they can present obstacles to preventing, diagnosing, managing, and treating adverse health impacts.

A study by Johns Hopkins University, which examined 35,000 medical records of people with asthma in Pennsylvania, found that people who live near a higher number of, or larger, active gas wells were 1.5 to 4 times more likely to suffer from asthma attacks than those living farther away, with the closest groups having the

⁶⁰ See <https://www.psr.org/blog/resource/compedium-of-scientific-medical-and-media-findings-demonstrating-risks-and-harms-of-fracking/>

⁶¹ Nadia Steinzor, et al., Investigating links between shale gas development and health impacts through a community survey project in Pennsylvania, *New Solutions*, vol. 23 iss. 1. (2013).

⁶² See Celia Lewis et al., Setback Distances for Unconventional Oil and Gas Development: Delphi Study Results. 13 *PLoS One* e0202462 (Aug. 16, 2018).

⁶³ Lisa M. McKenzie et al., Birth Outcomes and Maternal Resident Proximity to Natural Gas Development in Rural Colorado, 122 *ENVIRONMENTAL HEALTH PERSPECTIVES* 412 (April 2014).

highest risk.⁶⁴ These asthma-related impacts are of particular concern in the communities adjacent to the proposed withdrawal and the Farmington Field Office. In San Juan and Rio Arriba Counties, child asthma hospitalizations exceed the New Mexico state average.⁶⁵ The New Mexico Department of Health has noted that low-income populations and “environmental justice” populations face not only disproportionate asthma risks, but also significant difficulty managing their asthma, in part due to lack of access to health care. Rio Arriba and McKinley Counties have some of the highest rates of asthma emergency department visits in Northern New Mexico, also higher than the state average.

In 2017, over 40% of San Juan county residents stated that they have difficulty accessing health care often due to geographic constraints but also for economic reasons.⁶⁶ Cumulative health effects result throughout the course of life of a person suffering from air pollution related asthma: children with asthma are much more likely to miss school, hurting their educational prospects as well as their health (with some adverse health effects enduring into adulthood), and resulting in significant funding losses for local schools.⁶⁷

The agency should consider this scientific information in full and acknowledge that oil and gas development and resulting climate change impacts will have direct, indirect, and cumulative impacts to the health and welfare of surrounding communities. In the planning area, these impacts can also have a differential adverse impact on low-income populations or communities of color, creating environmental justice concerns that can and should be addressed in the plan and in any subsequent approved activities. Supporting a 20-year withdrawal for the proposed area would significantly benefit community health and wellbeing.

B. BLM should analyze socio-economic impacts and develop measures to mitigate those impacts as necessary.

In addition to health impacts, oil and gas development can have socioeconomic impacts on local communities. For instance, the influx of construction and operations workers associated with oil and gas development and ancillary facilities in communities with low-income and Indigenous populations could lead to the undermining of local community social structures and, consequently, could lead to a range of changes in social and community life. BLM should evaluate socioeconomic impacts and include those in considering the costs and benefits of approving the proposed withdrawal.

A study by Headwaters Economics recommends what data to track along with ideas for how to approach and develop monitoring protocols to help planners, local leaders, industry, and community members understand and respond to the social and economic impacts of a high intensity industrial activity like hydraulic fracturing.⁶⁸

The Headwaters study recommends that the following five areas be monitored to more fully assess the impact of oil and gas development on communities:

1. Population growth & worker residency patterns: an influx of temporary and transient workers may create an inflated demand on social services, housing, and infrastructure, straining the capacity of small communities to meet that need.
2. Employment, personal income, and local business effects: monitoring this data can help states and communities understand which types of businesses may be most vulnerable to energy-related economic impacts and guide how and where to direct support before, during, and after boom periods.
3. Cost of living and housing: the average wages in a community experiencing an energy boom may not rise concurrently with the increased energy development. An increased price of living may adversely impact those whose wages do not increase with the rise of energy activity.
4. Service, infrastructure, capacity, and revenue: a region’s tax base may increase with a growth in energy activity, but the appropriation of those funds to address environmental and health impacts may be difficult. A boom

⁶⁴Rasmussen, Sara G. et al., Association Between Unconventional Natural Gas Development in the Marcellus Shale and Asthma Exacerbations, 176 JAMA Internal Medicine 1334 (2016).

⁶⁵New Mexico Dept. of Health, The Burden of Asthma in New Mexico: 2014 Epidemiology Report (Jan. 2014), at 41, available at <https://nmhealth.org/data/view/environment/54>.

⁶⁶2017 Community Health Needs Assessment Report San Juan County, New Mexico.

⁶⁷See Attendance Works, Mapping the Early Attendance Gap (2017). Available at http://www.attendanceworks.org/wp-content/uploads/2017/05/Mapping-the-Early-Attendance-Gap_Final-4.pdf

⁶⁸See <https://headwaterseconomics.org/energy/oil-gas/energy-monitoring-practices/>.

in the energy sector of a community may result in an increased need for police, fire protection, roads, water treatment, landfills, and other government activities, all of which can be costly.

5. Quality of life and other local concerns: as reflected in multiple community accounts of health concerns, citizen science health assessment studies, numerous complaints filed to the Energy, Minerals, and Natural Resources Department Oil Conservation Division regarding leaks and emissions from oil and gas sites in the Greater Chaco Region, the rapid growth of energy development in the area has resulted in measurable detriments to public and environmental health.

We urge BLM to incorporate into its approach for the proposed withdrawal a thorough assessment of the socioeconomic impacts of the projected oil and gas development in the planning area and to develop mitigation measures to address those impacts.

VI. The Proposed Withdrawal Will Benefit the Climate and Mitigate the Impacts of Climate Change

The primary purpose of the proposed withdrawal is to protect Chaco Canyon and the greater connected landscape's rich Tribal and cultural legacy. It is important to note that in addition to the vast cultural values and the need to protect the landscape, the proposed action also provides progress toward the necessary climate goal of limiting warming to 1.5 degrees Celsius. The Federal government is at a critical moment in time—the decisions made now will impact the climate and quality of life for future generations.

DOI has the authority to adopt a programmatic as well as a localized approach to phase out and ultimately eliminate fossil fuel development and production on public lands and waters.⁶⁹ BLM must manage public lands according to “multiple use” and “sustained yield” and “in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archeological values.”⁷⁰ Multiple use obligates the agency to make the “most judicious use” of public lands and their resources to “best meet the present and future needs of the American people.”⁷¹ This requires taking “into account the longterm needs of future generations,” ensuring “harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment.”⁷² Importantly, BLM must also “take any action necessary to prevent unnecessary or undue degradation of the lands.”⁷³ The significant adverse impacts caused by burning fossil fuels from oil and gas development and production on public lands directly and urgently threaten BLM's ability to uphold its statutory mandates under FLPMA.

As documented in the Farmington Field Office—Mancos-Gallup Draft Environmental Impact Statement and Resource Management Plan Amendment (RMPA) completed in February 2020, oil and gas development has been the predominant use in the Farmington Field Office for decades.⁷⁴ BLM has already leased 1.8 million acres in the Farmington Field Office for development—an astonishing “92% of Federal fluid minerals within the planning area.”⁷⁵ Industry has also drilled over 37,000 wells and built a 15,000-mile long network of access roads within the planning area.⁷⁶ And if nothing changes (i.e., under the Draft RMPA's no-action alternative), then oil and gas leasing could continue on 95 percent of the planning area.⁷⁷

BLM's multiple use mandate requires careful and thoughtful balancing between developing and conserving resources and decision-making based on current inventories of “public lands and their resource and other values.”⁷⁸ Over the years, the

⁶⁹ See 43 U.S.C. § 1701-1785; 42 U.S.C. § 4321-4370h; 30 U.S.C. § 226(a), (b), (m); 43 C.F.R. § 3101.1-2 (2019).

⁷⁰ 43 U.S.C. § 1701(a)(7) & (8), § 1712(c)(1), § 1732(a).

⁷¹ *Id.* § 1702(c).

⁷² *Id.*

⁷³ *Id.* § 1732(b).

⁷⁴ See Farmington Mancos-Gallup Draft Environmental Impact Statement and Resource Management Plan Amendment, available online at: <https://eplanning.blm.gov/eplanning-ui/project/68107/510>

⁷⁵ *Id.* at 1.

⁷⁶ *Id.* at AE-92.

⁷⁷ *Id.* at 3-121.

⁷⁸ See 43 U.S.C. § 1702(c) (directing BLM to achieve “a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable

balance in the Farmington Field Office has swung decidedly away from conserving cultural and natural resources and toward development. Accordingly, BLM and DOI have an affirmative obligation to comply with the multiple use mandate by prioritizing conservation alternatives for the Greater Chaco Landscape. The proposed withdrawal area is a necessary and, in the context of the larger field office, minimal, buffer required to prioritize protection over additional development in the Greater Chaco Region.

VII. The Proposed Withdrawal is Needed to Protect Chaco's International Dark Sky Certification

CCNHP was first established as a national monument in 1907 to preserve and tell the story of Chaco Canyon, which continues to be an important cultural center for tribal communities today. The park protects many of these impressive structures and is one of the largest collections of ancestral sites north of Mexico. While the footprint of CCNHP itself is small, the larger connected cultural landscape is vast. In and around the park, ecological resources, cultural sites, properties, and resources are greatly significant and essential to the integrity of the landscape—including clean air and water, wildlife habitat, culturally significant sites including vegetation, and dark night skies.

Chaco has long been considered by many night sky enthusiasts to be one of the best places in America to stargaze. Today, amidst this ancient landscape, visitors can experience the same dark sky that the Ancestral Puebloans with ties to Chaco Culture observed a thousand years ago. The protection of dark night skies is a priority at Chaco not only for the enjoyment of star-gazing visitors, but for the natural environment as well. Nocturnal wildlife relies on darkness for survival, and the natural rhythms of humans and plants depend on an unaltered night sky. And night skies and astronomy are essential to understanding and fully engaging with the formation and continued significance of Chacoan sites.

Archaeoastronomer Anna Sofaer, who studied the sites for 20 years beginning in 1977, has documented the intricate astronomical system in the design of this vast Puebloan site, extending beyond the Park boundaries. Astronomical alignments have been noted in many sites at Chaco. Seven buildings in Chaco Canyon have alignments with the Maximum and Minimum risings and settings of the Moon. No other culture in the world is known to build structures in alignment with this long cycle.⁷⁹

In 2013, CCNHP was officially designated a Dark Sky Park by the International Dark Sky Association. The park's natural nighttime darkness, commitment to reducing light pollution, and ongoing public outreach led to its certification. Chaco takes advantage of this asset through evening astronomy programs at their public observatory, where visitors can observe the clear and dark night sky.⁸⁰

In addition to the harm unchecked industrial development can have on dark skies, a 2018 study out of Cornell/Iowa showed that park visitation drops 8% or more when pollution is high.⁸¹

"Air Quality Resource Values" or AQRVs, are parks' identified lists of values that the National Park Service is concerned about being impacted by pollution—including dark skies and ecosystems.⁸² According to the National Park Service, more than 3,300 after dark visitor contacts are recorded annually at Chaco Culture National Historical Park.⁸³ Sky glow adversely impacts nighttime scenic quality and visual resources by inhibiting park visitors' ability to view celestial objects. Disruption of the natural cycles of light and dark also have detrimental effects on wildlife, including bats and the insects on which they feed. Bright flaring operations less than 10 miles from Chaco are often easily discernible. This proposal will safeguard air-quality related resources by better regulating this light and air pollution.

and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values").

⁷⁹ Sofaer, Anna. *Chaco Astronomy: An Ancient American Cosmology*. Ocean Tree Books, 2008.

⁸⁰ <https://www.nps.gov/chcu/learn/nature/darkskypark.htm>

⁸¹ Air pollution and visitation at U.S. national parks. *Science Advances*. 4. eaat1613. 10.1126/sciadv.aat1613.

⁸² Air Quality Related Values in National Parks. [https://www.nps.gov/articles/aqrv-assessment.htm#:~:text=Air%20quality%20related%20values%20\(AQRVs,%2C%20ecological%2C%20or%20recreational%20resource.&text=particles%20affecting%20visibility%2C%20and](https://www.nps.gov/articles/aqrv-assessment.htm#:~:text=Air%20quality%20related%20values%20(AQRVs,%2C%20ecological%2C%20or%20recreational%20resource.&text=particles%20affecting%20visibility%2C%20and)

⁸³ Chaco Night Sky Program. <https://www.nps.gov/chcu/planyourvisit/nightsky.htm#:~:text=Over%203%2C000%20visitors%20and%20school,to%20image%20deep%2Dspace%20objects.>

VIII. The Proposed Withdrawal Directly Benefits the Species in the Area, and Supports the Protection of federally listed Threatened and Endangered Species

All of the benefits stated above indirectly benefit all species of plant and animal in the region by limiting human-species conflicts, reducing light pollution which can disrupt routines, and contributing to a better balanced climate. The limitation on oil and gas development will also directly improve the lives of species that call Chaco home including “elk, deer, bobcats, rabbits, badgers, porcupines, bats, snakes, lizards and other amphibians, and diverse bird populations.”⁸⁴

Additionally, this proposed withdrawal will directly support the protection of listed threatened and endangered species. A quick search of the Fish and Wildlife Service’s iPac mapping tool shows the potential existence of several threatened and endangered species in the withdrawal area. These include Canada lynx, Mexican spotted owl, Southwestern willow flycatcher, yellow-billed cuckoo, Colorado pikeminnow, razorback sucker, Monarch butterfly, Knowlton’s cactus, Mancos milk-vetch, Mesa Verde cactus, and the Zuni fleabane. Creating development-free space around the Park will benefit these species in their recoveries.

VI. Conclusion

Once again, the undersigned strongly support this proposal and encourage the Bureau of Land Management (BLM) to act swiftly and ensure protection for the next 20 years. This withdrawal allows the BLM to better meet its obligations to the CCNHP and the WHS of which it is part. This withdrawal will also significantly benefit a number of resources, as well as the surrounding communities. Please include this letter in the project record. We look forward to continuing to work with the BLM, and the Farmington Field Office, to protect Greater Chaco.

Sincerely,

Logan Glasenapp
Staff Attorney
New Mexico Wild

Michael Casaus
NM State Director
The Wilderness Society

Ángel Peña
Executive Director
Nuestra Tierra

Paul F. Reed
Chaco Scholar
Archaeology Southwest

Emily Wolf
NM Sr. Program Coordinator
National Parks Conservation
Association

Ellen Montgomery
Public Lands Campaign Director
Environment America

⁸⁴Chaco Culture National Historical Park-Nature, <https://www.nps.gov/chcu/learn/nature/index.htm>

ENVIRONMENT AMERICA
Washington, DC

July 12, 2023

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

Dear Chairman Stauber and Ranking Member Ocasio-Cortez:

We are writing in opposition to H.R. 4374, which would nullify Public Land Order No. 7923, withdrawing certain land in San Juan County, New Mexico, from mineral entry. We support Order No. 7923, which will protect the greater Chaco Canyon landscape.

Chaco Culture National Historical Park preserves part of an important place that was once the center of life for Ancestral Puebloans. The park provides a safe haven for diverse plant and animal species that were once more numerous in the San Juan Basin. Oil and gas activity have long threatened the last undeveloped portions of the Greater Chaco Landscape.

Chaco Canyon is known for its dark skies. Situated in an often-cloudless desert far from the lights of development and industry, it's so uniquely perfect for stargazers that in 2013 it was designated an "International Dark Sky Park." In this darkness and isolation, desert wildlife thrive. Elk, bobcats, badgers, bats and lizards all make their homes here in dense concentrations, living and roaming among the ruins and the red rock formations that surround them. Some of them are nocturnal, adapted to, and dependent on, the dark night skies.

In developing Public Land Order No. 792 to protect this national treasure, the Department of Interior followed all necessary processes. During a public comments period which included public meetings throughout 2022, they received more than 130,000 comments from the public in favor of the withdrawal.

We urge you to oppose H.R. 4374 and to support the protection of Chaco Canyon.

Sincerely,

Lisa Frank,
Executive Director, Washington
Legislative Office

Ellen Montgomery,
Public Lands Campaign Director

Submission for the Record by Rep. Grijalva

Rep. Grijalva submitted e-mail messages from 956 constituents. The messages can be viewed on the Committee Repository at:

<https://docs.house.gov/meetings/II/II06/20230713/116135/HHRG-118-II06-20230713-SD011.pdf>

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

July 12, 2023

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

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 16 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 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

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>

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>

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 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 19 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 Lujan, had co-sponsors from both sides of the aisle, and the bill passed the House in 2019 with bipartisan support. The legislation was reintroduced in the 117th Congress (S. 5124¹⁴; H.R. 9344¹⁵) and most recently in

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

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>

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>

the 118th Congress (S. 1404¹⁶; H.R. 3062¹⁷), sponsored by Senator Ben Ray Luján and Representative Teresa Leger Fernández, and co-sponsored 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,
NM Sr. Program Coordinator
National Parks Conservation
Association

Paul F. Reed,
Preservation Archaeologist
Archaeology Southwest

Sally Paez,
Staff Attorney
New Mexico Wilderness Alliance

Michael Casaus,
NM State Director
The Wilderness Society

Ellen Montgomery,
Public Lands Campaign Director
Environment America

Romir Lahiri,
NM Associate Program Director
Conservation Lands Foundation

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).

Submissions for the Record by Rep. Leger Fernández

Statement for the Record

Governor Brian D. Vallo
Pueblo of Acoma

April 15, 2019

On behalf of the Pueblo of Acoma (“Pueblo” or “Acoma”), I thank members of the Committee for traveling here to learn about the impacts of oil and gas development, and the importance of protecting *Wáphrba’shuka*—Chaco Canyon, and the Greater Chaco Region.

I. Cultural Resources

Chaco Canyon and the Greater Chaco Region, plays an integral role in Acoma’s living history, our culture, and identity. Our discussion of Chaco cannot be separated from our discussion of our present-day home and community of *Haakú*, Acoma. As Acoma people, Chaco Canyon and the Greater Chaco Region are deeply rooted in our collective memory, and the experiences of our ancestors. It is an extension of our ancestral homeland, where our Ancestors lived for generations to form the foundations of our cultural practices, traditions, and beliefs that help define our identity as Acoma people today. Chaco Canyon, and its vast landscape, are not abandoned—but contain the cultural resources that tie Acoma to Chaco, and from Chaco to the place of our emergence.

The Greater Chaco Region, is therefore a living landscape, depended on by living Indigenous communities, like Acoma. Within the Greater Chaco Region are archaeological and significant cultural resources, left by our Creator, utilized by our Ancestors, and accessible to us for the continuance of our cultural practices. As Acoma, we have a culturally embedded and inherent responsibility to protect these resources. Many of these cultural resources remain unidentified in the Greater Chaco Region. While archaeologists are adept at recognizing many types of archaeological resources (potsherds, room blocks, pit houses, etc.), many of the cultural resources important to the Pueblo are outside the domain of archaeology. For Acoma, all ancestral pueblo archaeological resources are cultural resources, but not all cultural resources are archaeological in nature, and therein, lies the major issue. When we are confronted with unchecked oil and gas development in a region we know to be rich in cultural resources, we are forced to rely upon federal agencies, as our trustee, to safeguard these resources. However, these agencies are often unable or unwilling to take the necessary first step needed to engage with tribal experts to identify these significant cultural resources. This necessary first step includes providing us with the opportunity to survey nominated lease parcels and potential drilling sites before federal action is taken.¹

II. Current Oil and Gas Development Issues

Currently, oil and gas development is overwhelming this fragile and sacred landscape. The BLM Farmington Field Office, whose boundaries include the primary bulk of the New Mexico portions of the Greater Chaco Region, has exhausted nearly all available lands for leasing. Due to developments in oil and gas technology, previously inaccessible reaches of oil are now open, dangerously encroaching upon Chaco Canyon. This renewed interest by industry has spilled east into a portion of the neighboring BLM Rio Puerco Field Office that juts into the Greater Chaco Region.² Under the guise of “streamlining,”³ the BLM issued Instruction Memorandum 2018-034, “Updating Oil and Gas Leasing Reform—Land Use Planning and Lease Parcel Reviews” which has made an already fraught situation worse by strictly adhering to a mandatory quarterly leasing schedule, dismantling

¹See “Uncited Preliminary Brief (Deferred Appendix Appeal) of Amici Curiae All Pueblo Council of Governors and National Trust for Historic Preservation, in Support of Appellants”, Dine Citizens Against Ruining Our Environment, et al v. Ryan Zinke, et al, Civ. No. 18-2089 (Sept. 7) (10th Cir. 2018). All Pueblo Council of Governors, amicus brief describing violations of the National Historic Preservation Act, and implementing regulations in failing to consult with Pueblo tribal governments during applications for permits to drill (“APDs”), in order to gather required information about potentially affected historic properties including traditional cultural properties (TCPs), and how approving the APDs would adversely affect Pueblo TCPs.

²See Attachment 1 “Map—BLM Lease Parcels Overview.”

³See BLM Instruction Memorandum 2018-034, “Updating Oil and Gas Leasing Reform—Land Use Planning and Lease Parcel Reviews.”

many land management processes, and all but ensuring oil and gas leases are sold within in a minimum six month time frame. This rush to sell leads to incomplete and inadequate analyses under the National Environmental Policy Act and the National Historic Preservation Act.⁴

A. March 2018 Lease Sale (BLM Farmington Field Office)

In March 2018, the Pueblo of Acoma protested the nomination of parcels in the Greater Chaco Region, some coming within 10-miles of the Chaco Culture National Historical Park (“CCNHP”). Acoma demanded site visits to view the parcels in order to determine the presence of Acoma cultural resources. In the single sample field investigation, Acoma, along with representatives from other Pueblos, observed features viewed by them as cultural resources. Many of these cultural resources were unaccounted for by the BLM. For example, Acoma representatives observed tracts with a type of ancestral agricultural land modification found throughout the core of Acoma’s traditional homeland, to which they refer to as *na baa’ma*. *Na baa’ma* tracts are more than simply settings suitable for farming, rather these areas are integral in Acoma’s age-old cultural-historic traditions about how its people learned to interact with land and water resources to sustain their community over centuries. These locations are often associated with other cultural and archaeological resources which Acoma’s representatives observed. With these observations, and limited tribal consultation thereafter, the Pueblo of Acoma, along with the All Pueblo Council of Governors (“APCG”), protested the lease sale. Subsequently, the Department of the Interior made the correct decision, by choosing to defer all leases in the BLM Farmington Field Office due to concerns about the adequacy of its cultural resource analysis.

Citing concerns about the uncertainty of cultural impacts, then Secretary Ryan Zinke stated: “I’ve always said there are places where it is appropriate to develop and where it’s not. This area certainly deserves more study [...] . . . We understand the cultural importance of this area, and the need to gather additional information about this landscape before holding a lease sale.”⁵ Since then, the BLM has not worked with the Pueblo of Acoma to address deficiencies in its cultural resource information, and the BLM has never offered another site visitation.

B. December 2018 Lease Sale (BLM Farmington & Rio Puerco Field Offices)

In December 2018 the BLM Farmington and Rio Puerco Field Offices nominated additional parcels in the Greater Chaco Region, with the BLM Farmington Field Office having parcels within 10-miles of the CCNHP. The Pueblo of Acoma, APCG, and individual Pueblos, protested, offering the same reasons cited during the protest of the March 2018 Lease Sale—the insufficiency of the agency’s efforts to identify Acoma’s cultural resources known to exist in the region. No sample field investigations were offered by either field office, despite the Pueblo’s requests and offers to allow Acoma representatives into the field to assist the BLM in identifying critical cultural resources. Acoma and APCG protested the lease sale, resulting in the BLM Farmington Field Office deferring all of its parcels. However, the BLM Rio Puerco Field Offices chose to sell leases for all its parcels.

This discrepancy baffled the Pueblo. Only divided by district boundaries, many of the parcels offered by the two offices were in the same vicinity, some less than ½ mile from each other, and therefore suffering from the same lack of information concerning Pueblo cultural resources. The Pueblo of Acoma can only conclude that an arbitrary and capricious action occurred.

⁴Under the National Historic Preservation Act (“NHPA”), 54 U.S.C. § 300101 et seq. and its implementing regulations, Pueblo cultural resources may be considered historic properties or traditional cultural properties under proper analysis and may be eligible for listing on the National Register of Historic Places. Under the NHPA when a federal undertaking takes place, a process, often referred to as the Section 106 process begins. Section 106 is a critical, step-driven process, meant to determine, in order, the 1) area of potential effects; 2) identification of historic properties; 3) the assessment of adverse effects; and 4) the resolution of adverse effects. The Section 106 process is where meaningful tribal consultation is required to advise the agency on the identification and evaluation of historic properties, including those of traditional religious and cultural importance. The National Environmental Policy Act (“NEPA”) incorporates NHPA analysis into its environmental assessments and environmental impacts statements, requiring simultaneous analyses in order to assess the full impact of an undertaking.

⁵See BLM Press Release “BLM Defers Oil and Gas Lease Sale in New Mexico” available at: <https://www.blm.gov/press-release/blm-defers-oil-and-gas-lease-sale-parcels-new-mexico>

C. March 2019 Lease Sale (BLM Farmington & Rio Puerco Field Offices)

Most recently, the BLM Farmington and Rio Puerco Field Offices nominated parcels in the BLM's March 2019 Oil and Gas Lease Sale. Again, the BLM Farmington Field Office nominated parcels in the Greater Chaco Region, with nine coming within 10-miles of CCNHP. In February, these nine parcels were withdrawn due to pressure from the Pueblos. However, the Farmington Field Office retained nearly 22 parcels in its lease sales, many just outside the 10-mile area surrounding CCNHP. Several of these parcels were adjacent to, or near, parcels previously deferred in March and December 2018 due to deficiencies in the agency's cultural resource analysis under NHPA and NEPA.

The Pueblo of Acoma requested tribal consultation with both field offices through the BLM New Mexico State Office, at its earliest opportunity after the lapse in federal appropriations ended, but prior to the issuance of the draft environmental assessments. The lapse in federal appropriations had closed all communication with staff at district levels, including key tribal consultation coordinators.⁶ Despite the government shutdown, no delay in the leasing schedule occurred commensurate with the 35 days lost during the shutdown. Instead, Acoma only consulted with the Farmington Field Office about a week before the lease sale, and the Rio Puerco Field Office failed to meet with the Pueblo. Again, no sample field investigations occurred, despite Acoma's requests and offers to allow Acoma representatives into the field to assist the BLM in identifying cultural resources that the agency failed to identify in the previous lease sale analyses. To Acoma's knowledge, no additional or substantive work occurred that would correct the issue of BLM's inability to identify Acoma cultural resources. As a result, the BLM Farmington and Rio Puerco Field Offices moved forward and sold the remaining 30 leases in the March 2019 lease sale.

D. BLM Farmington Field Office—Resource Management Plan Amendment and draft Environmental Impact Statement

In 2014, due to new developments in horizontal drilling and hydraulic fracturing technology, the BLM Farmington Field Office began the process of amending its 2003 Resource Management Plan. Due to the extent of tribal land within the jurisdiction of this field office, the Bureau of Indian Affairs, Navajo Regional Office, is also participating in this process as a co-lead agency. This Resource Management Plan Amendment ("RMPA"), would analyze the impact of this new technology in the Farmington Field Office planning area and its impact on previously inaccessible portions of the Greater Chaco Region (much of which comes to the north and east of CCNHP, which is now a high target for development). This guiding planning document is critical for appropriately regulating all BLM oil and gas activity in the Greater Chaco Region. Despite this important process to formulate appropriate land management policies, the BLM continues to move forward with oil and gas leasing and development, like those described above, as well as issuing permits to drill wells, and granting rights of way for related infrastructure. These backdoor processes mean new leases, like those in the December 2018 and March 2019 lease sales, and associated development will not be subject to the RMPA. Instead, these activities go forward without being subject to well-thought-out policies that Acoma, and other Pueblos and tribes, are attempting to address with the BLM and the Bureau of Indian Affairs in the RMPA.

Under the Federal Land Policy and Management Act, the federal law that guides the BLM in stewarding our public lands, the RMPA must strike a critical balance in addressing the needs of ongoing development in the Greater Chaco Region, and at the same time protecting its complex cultural and living landscape. This takes time. Our fear is that once all parties complete an adequate RMPA, there will be nothing left to save—as the BLM will have leased much of the remaining available land in the Greater Chaco Region.

III. Acoma Efforts

The Pueblo of Acoma has never been uncooperative and/or unresponsive where these issues are concerned, in fact, the Pueblo has always, offered solutions to address the critical lack of information about Acoma's ties to Chaco Canyon, the Greater Chaco Region, and its cultural resources therein. In consultation, Acoma repeatedly underscored the need for a comprehensive ethnographic assessment and cultural landscape analyses by federal agencies to identify previously unidentified

⁶See, Protest Letter from Aaron M. Sims, Chestnut Law Offices on behalf of the Pueblo of Acoma, to State Director, Bureau of Land Management—New Mexico State Office (Feb. 20, 2019) (on file with the Pueblo of Acoma and BLM NM Office).

cultural resources, and has offer to assist agencies in reevaluating the archaeological sites it has identified. In particular, the BLM has repeatedly responded that it does not have the funding, resources, or frankly, the time, to conduct such studies.⁷ As such, our interpretation is that the agency is stating it does not have the time to comply with the clear mandates of federal law. As a result, the Pueblo of Acoma, alongside outside partners, is conducting a limited ethnographic assessment of Acoma's ties to the Greater Chaco Region. This important study to document Acoma's relationship with Chaco Canyon, provides critical information about the types of cultural resources expected to be found, information to analyze previously identified archaeological sites, and areas of critical importance to the Pueblo. Through the expense of Acoma's time and admittedly limited financial resources, our hope is that this work will inform the BLM's current data that we know to be insufficient and incomplete.

IV. Requests

Acoma has a number of requests for you that we believe together will help protect the cultural resources in the Greater Chaco Region.

First, we request that you support the Chaco Cultural Heritage Area Protection Act, which would remove federal minerals in the designated withdrawal area from future oil and gas development.

Second, we request that, until the legislation is passed, pressure be placed on the Department of the Interior ("DOI") to prospectively deem the parcels within the withdrawal area unavailable for oil and gas development *before* DOI takes the step of including them in a lease sale. And, until DOI takes this prospective action, we ask that you mandate DOI to remove parcels within that area from each lease sale in which they are listed.

Third, we request that pressure be placed on DOI for active collaboration with the Pueblos, to prospectively identify and analyze the cultural resources, in compliance with federal law, on proposed parcels for oil and gas leasing even outside the withdrawal area *before* listing the parcels in a lease sale. This is especially critical for parcels that fall just outside the withdrawal area boundary—similar to those sold in the most recent March 2019 lease sale. And, when DOI does list those parcels without sufficient study as required by law, we ask that you instruct DOI to remove them from the particular lease sale until the studies are conducted, just as Secretary Zinke did in March 2018.

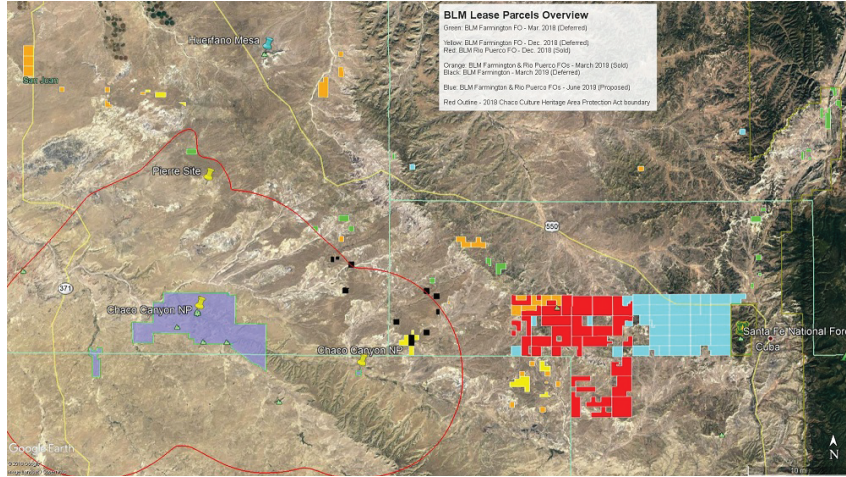
Fourth, we request that you place pressure on DOI to rescind haphazard directives including BLM Instruction Memorandum 2018-034, that leads to forced development, insufficient analysis, and the likely destruction of our cultural resources in violation of federal law. We ask that directives like BLM Instruction Memorandum 2018-034 be rescinded, or exclude the BLM-New Mexico Office from its application, to allow for the RMPA to be developed and implemented without undermining by oil and gas leasing and permitting activities.

Last, we request that you encourage DOI to work with Acoma, individual Pueblos, and the APCG to study the cultural resources in the Greater Chaco Region. APCG is currently in discussions with DOI on a proposed study of an area within the Greater Chaco Region. This study and studies of this type could serve to fill the critical gap in information about Pueblo cultural resources that the BLM currently suffers.

⁷This is despite duties under Section 106 during an undertaking to fill critical information gaps, when an agency does not have the information it needs. Or, despite the BLM's standing obligation under 54 U.S.C. Section 306101, and its implementing regulations, requiring the agency to establish its own historic preservation programs for the identification, evaluation, and protection of historic properties in its control (this is often referred to as "Section 110" of the NHPA).

ATTACHMENT 1

“Map—BLM Lease Parcels Overview”



**Greater Chaco Coalition Coordinating Group Members
&
Coalition Members and Supporting Organizations**

July 13, 2023

Dear Secretary Haaland:

We are writing to express our strong support for your efforts to protect the Greater Chaco region. This vast and culturally significant landscape spanning northwestern New Mexico, northeastern Arizona, southeastern Utah, and southwestern Colorado holds immense importance not only for the present generation but also for future generations to come.

As a coalition of organizations and individuals committed to safeguarding the Greater Chaco region, we have long advocated for the Department of the Interior and the Bureau of Land Management to take decisive action against unchecked fossil fuel development. The impact of oil and gas drilling, fracking, pipelines, processing facilities, and mining on the region's public lands, clean air and water, and community health cannot be ignored. Over the years, millions of voices have joined together, calling on you and other leaders to put an end to the costly and unsustainable industrial exploitation that jeopardizes this precious landscape. Federal courts have even ruled that the current levels of exploitation are unjustified and unlawful. The overwhelming support for safeguarding Greater Chaco has remained steadfast and resolute.

We commend President Biden for launching the Honoring Chaco Initiative in 2021, which offers immense promise in delivering the necessary protections and paving the way for preserving this invaluable cultural landscape.

Today, we urge you to recommit yourself to the protection of Greater Chaco, its communities, and the pursuit of a just and equitable transition. The Honoring Chaco Initiative provides an opportunity to establish a new paradigm for the management of public lands and resources in this region, one that prioritizes principles of health, justice, equity, and sustainability.

While we appreciate the steps that have been taken to protect certain areas of Greater Chaco from industrial exploitation, we recognize that more needs to be done beyond mere buffer zones and lines on maps to truly safeguard the safety and well-being of this cultural landscape.

Looking ahead, we call on you to ensure the Honoring Chaco Initiative continues to progress and advance the following core goals:

- Wind down and phase out fossil fuel exploitation in Greater Chaco.
- Develop and implement Tribal co-management strategies for the region's public lands and resources.
- Fully protect and restore the air quality, ground and surface waters, and healthy lands of the region.
- Allocate resources to enable communities to achieve economic security and sustainability.

Now is the time to redouble our efforts in support of the Honoring Chaco Initiative. With the momentum built over the years in the fight to safeguard Greater Chaco, we must take decisive action to guide a just and equitable transition away from exploitation for this cherished landscape and its communities.

The future of Greater Chaco lies in our collective hands, and we deeply appreciate and value your leadership in this crucial endeavor. We would also like to address the unacceptable attacks directed personally at you, Secretary Haaland. We strongly condemn such behavior and reaffirm our unwavering support for your dedication and commitment to fostering the first-of-its-kind Honoring Chaco Initiative.

The Greater Chaco Coalition (Frack Off Chaco) stands united as a collaborative effort between Indigenous community leaders, Native organizations, nonprofits, and public lands and water protectors. Guided by the Jemez principles, the Coalition works together to advance the following platform:

- An end to sacrifice zones and further oil and gas extraction across the Greater Chaco region.
- Meaningful Tribal and community consultation and consent at every stage of decision-making.
- Consideration of cumulative impacts and the health and holistic wellness of impacted communities.

- Advancement of environmental justice and just transitions for the Greater Chaco region beyond extraction.

The overwhelming support for this platform over the past decade and through three administrations highlights the depth and breadth of commitment to advancing these principles. Notable instances of support include:

- **2013:** Eastern Navajo Agency Council resolution calling for a moratorium on horizontal fracking.
- **2015:** Resolutions from Torreon Chapter, Counselor Chapter, and Ojo Encino Chapter on Navajo Nation calling for a moratorium on horizontal fracking.
- **2015–Present:** The Greater Chaco Coalition’s protests against federal oil and gas lease sales in New Mexico, including the Greater Chaco Landscape and the Permian Basin, resulting in over 2 million individual protest comments submitted.
- **2016:** Publication of an amended notice of intent that includes the Bureau of Indian Affairs (BIA) as a co-leading agency with the BLM in the Farmington Resource Management Plan Amendment (RMPA) process, marking the first collaboration of its kind between the agencies. Impacted community members provide over 1,000 in-person comments during the RMPA public scoping process.
- **2017:** Joint statement from the All Pueblo Council of Governors and Navajo Nation President and Vice President opposing horizontal fracking in the Greater Chaco region.
- **2017:** Passage of a resolution by the National Congress of American Indians to support a moratorium on leasing and permitting in the Greater Chaco region.
- **2017:** Passage of House Memorial 70 to protect the Greater Chaco Canyon Landscape by the New Mexico Legislature.
- **2018:** Rally with over 200 advocates at the BLM New Mexico State Office protesting the oil and gas lease sale, including 44,000 acres in the Greater Chaco region and 40,000 acres near Carlsbad Caverns National Park. Department of the Interior Secretary Ryan Zinke deferred the parcels in the Greater Chaco region to further analyze over 5,000 cultural sites within the leasing area.
- **2019:** Delivery of over 33,000 protests by the Greater Chaco Coalition opposing a BLM oil and gas lease sale in Greater Chaco and Greater Carlsbad regions.
- **2022:** BLM and BIA host a series of public Q&A sessions and a 90-day comment period on the proposed administrative mineral withdrawal. Members of the Greater Chaco Coalition delivered nearly 80,000 comments to the BLM New Mexico State Office, urging broader landscape-level protections beyond a 10-mile buffer and calling for the agencies to ‘Truly Honor Chaco’. In response to widespread criticism of the public engagement process and a request from the leadership at the All Pueblo Council of Governors, the BLM and BIA held additional public meetings, changed the format to allow for public comment, and extended the comment deadline by an additional 30 days.
- **2023:** Diné CARE, et al. v. Bureau of Land Mgmt., et al. The U.S. Court of Appeals for the 10th Circuit rejected nearly 200 Trump-era approved drilling permits defended by the Biden administration in favor of conservation groups. The ruling found that the agency violated NEPA by failing to account for the health impacts of toxic air pollution from oil and gas activities and the carbon pollution impacts to the climate. This marks the first time the 10th Circuit has ruled in favor of citizen groups on these issues, resulting in a halt to new drilling permits.

Given this resounding support and the significant milestones achieved over the years, we urge you to continue championing the cause of Greater Chaco. The Honoring Chaco Initiative represents a beacon of hope for the preservation and protection of this cherished landscape.

Thank you for your tireless dedication to safeguarding Greater Chaco, promoting justice and equity, and ensuring a sustainable future for all. We stand ready to support your efforts and work collaboratively to honor the legacy of this extraordinary cultural landscape.

Sincerely,

Greater Chaco Coalition Coordinating Group Members:

Samuel Sage, Community Services Coordinator
Counselor Chapter of Navajo Nation

Julia Bernal, Executive Director
Pueblo Action Alliance

Lauren Howland, Representative
Diné Allottees Against eXploitation (DAAX)

Mike Eisenfeld, Energy and Climate Program
Manager
San Juan Citizens Alliance

Cheyenne Antonio, Greater Chaco Coordinator
**Diné Citizens Against Ruining Our
Environment (Diné C.A.R.E.)**

Miya King-Flaherty, Organizing Representative
Sierra Club Rio Grande Chapter

Silas Grant, New Mexico Campaigner
Center for Biological Diversity

Rose Rushing, Attorney
Western Environmental Law Center

Kendra Pinto, Four Corners Indigenous
Community Field Advocate
Earthworks

Rebecca Sobel, Organizing Director
WildEarth Guardians

Coalition Members and Supporting Organizations:

Susan Penner, Co-Chair Legislative Working
Group
1000 Grandmothers for Future Generations

Jane Williams, Executive Director
California in Communities Against Toxics

Rachael Lehman, Chair, Healthy Communities
I-70 Citizens Advisory Group

Robina Suwol, Executive Director
California Safe Schools

Crystal Cavalier, Founder
7 Directions of Service

Marie Venner & Stef Klass, Co-Chairs
Call to Action Colorado

JL Andrepont, Senior Policy Analyst
350.org

Jennifer Wexler, President
Canton for a Sustainable Equitable Future

Sherry Pollack, Co-Founder
350 Hawaii

Stefanie Klass & Marie Venner, Co-Chair,
Founder
Catholic Network US

Jim Mackenzi, Co-Director
350 New Mexico

Isaac De Luna Navarro, Communications
Director
Center for Civic Policy

Sandra Adams, Executive Director
350 Pensacola

Anson Wright, Coordinator
Chaco Alliance

Karen Bueno, Leaders Team Member, ANCA
Accelerate Neighborhood Climate Action

Marie Venner & Jim Smith, Co-Chairs
Colorado Businesses for a Livable Climate

Nicole Cantello, President
AFGE Local 704

Elaine Cimino, Director
Common Ground Rising

Joseph Zuppon, Executive Director
Amigos Bravos

Fred Kirsch, Director
Community for Sustainable Energy

Sarah Stewart, President
Animals Are Sentient Beings, Inc.

Hazel James, Coordinator
Diné Center for Research & Evaluation

Ted Glick, Organizer
Beyond Extreme Energy

Mary Gutierrez, Director
Earth Ethics, Inc.

Fran Ludwig, Co-Chair
Boston Catholic Climate Movement

Tara Thornton, Deputy Director
Endangered Species Coalition

Beata Tsosie and Belin Marcus, Co-Directors
Breath of My Heart Birthplace

Leah Redwood, Action Coordinator
Extinction Rebellion San Francisco Bay Area

Marie Venner, Co-Chair
Businesses for a Livable Climate

Elizabeth Schuster, Government Affairs
Representative
Food & Water Watch

Jenni Siri, Coordinator
Frack Free Four Corners

Shannon Smith, Executive Director
FracTracker Alliance

Louise Lears, Creation Care Advocacy
Franciscan Action Network

Raena Garcia, Senior Fossil Fuels and Lands
Campaigner
Friends of the Earth US

Gita McCutcheon, Proprietor
Gita Group

Shelley Silbert, Executive Director
Great Old Broads for Wilderness

Nichelle Taylor, Program Director for Policy
Development and Implementation
Greater New Orleans Housing Alliance

Sara Shor, Organizing and Campaigns Director
GreenFaith

Ángel Peña, Public Lands
GreenLatinos

Harmony Cummings, Co-Founder
The Green House Connection Center

Cheryl Barns, Coalition Coordinator
Honor the Earth

Tom BK Goldtooth, Executive Director
Indigenous Environmental Network

Philip Beck, Co-Founder
Indivisible Ambassadors

Indivisible Ventura

August Allen, Executive Director
In the Shadow Of The Wolf

Petuuche Gilbert, Vice-President
**Laguna Acoma Coalition for a Safe
Environment**

Doug Henderson and Ed Behan,
Representatives
**Larimer Alliance for Health, Safety and
Environment**

Patrick Santana, Chair
Littleton Business Alliance

Debbie Thornburg James, Board
**Mayfair Park Neighborhood Association
Board**

Amy Petré Hill, Founder/Community Chaplain
Mental Health & Inclusion Ministries

Lauren Swain, Executive Director and Founder
The Mind's Eye

Emmett Hogley, Co-Chair
**Montbello Neighborhood Improvement
Association**

Jamie Valdez, Organizing Lead
Mothers Out Front Colorado

Mitch Buszek, Director
MoveOn New Mexico

Susan Gordon, Coordinator
Multicultural Alliance for a Safe Environment

Carol Davis, Managing Director
Native Organizers Alliance

James Povijua, Regional Director
Natural Resources Defense Council (NRDC)

Janene Yazzie, Southwest Regional Director
NDN Collective

Maríel Nanasi, Executive Director
New Energy Economy

Anni Hanna, Director
New Mexico Climate Justice

Virginia Necochea, Executive Director
New Mexico Environmental Law Center

Delese Dellios, President
Niko Dellios Legacy Fund

Jerry Rivers, Representative
North American Climate, Conservation and Environment (NACCCE)

Cari Gardner, Director
NYPAN Greene

Sally Jane Gellert, Member
Occupy Bergen County (New Jersey)

Leah Redwood, Climate Justice Organizer
Oil and Gas Action Network

Allie Rosenbluth, U.S. Program Co-Manager
Oil Change International

Kyle Crider, Program and Policy Director
The People's Justice Council

Wendy Volkmann, Co-Chair
PNM Shareholders for a Responsible Future

John Beard, Jr., CEO
Port Arthur Community Action Network (PACAN)

Annie Baker, Digital Director
Progressives for Climate

Russell Chisholm, Managing Director
Protect Our Water, Heritage, Rights

Ruth Kastner, Director
The Quantum Institute

Ruth Breech, Senior Campaigner
Rainforest Action Network

Marie Venner, Chair/Founder
RapidShift Network

William Clark, President
Rio Arriba Concerned Citizens

Daniel Timmons, Rio Grande Waterkeeper
Rio Grande Waterkeeper

Sally Roberts, Chair
Rise Up WV

Jeff Hart, Co-Founder
Save EPA (former employees)

Grace Nichols, Science Coordinator
Save the Pine Bush

Emma Coopersmith, Co-Leader
Seattle Academy Climate Empowerment Club

Bradley Williams, Associate Director of Advocacy
Sierra Club

Marie Venner, Chair/Staff
Small Business Alliance

Martha Camacho Rodriguez, Director
Social Ecological Education-LA (SEE)

Mazeda Uddin, CEO
South Asian Fund For Education Scholarship and Training Inc

Terry Sloan, Director
Southwest Native Cultures

Anna Ramirez, Staff
Southwest Organization for Sustainability

Siqiniq Maupin, Director
Sovereign Inupiat For A Living Arctic

Shannon Francis, Executive Director
Spirit of the Sun, Inc.

Margaret Rossoff, Co-Coordinator
Sunflower Alliance

Trupti Suthar, Representative
Sunnyside United Neighbors, Inc (SUNI)

Maura Stephens, Coordinating Committee
Member
System Change Not Climate Change

Timothy Edward Duda, Interim Director
Terra Advocati

Fran Aguirre, Acting President
Unite North Metro Denver

Paddy McClelland, Co-Founder
Wall of Women

Mark LeClaire, Organizer
We Are One River

Chris Calwell, Co-Chair
**Western Slope Businesses for a Livable
Climate**

Renée M. Chacon, Executive
Director/Co-Founder
Womxn from the Mountain

Anna Ramirez, Staff
Working for Racial Equity

Seneca Johnson, Campaign Organizer
**YUCCA Youth United for Climate Crisis
Action**

Aaditi Lele, Policy Director
Zero Hour

July 11, 2023

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

Re: H.R. 4374, Nullifying Public Land Order No. 7923, Withdrawing Certain Land
 in San Juan County, New Mexico, from Mineral Entry

Dear Chairman:

I, _____, Navajo Nation enrolled citizen and/or Allottee of _____, thank the Committee for the opportunity to provide written testimony on the bill to nullify Public Land Order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry, H.R. 4374. The bill was introduced by Representative Elijah Crane, R-AZ-2. I write to express strong opposition to this legislation and request this Committee's solidarity to stand with front line Navajo community and Allottee members for permanent and broad protections of the Greater Chaco Landscape.

I. Background (Context)

My name is _____, I am an enrolled citizen of the Navajo Nation from _____. My community is approximately _____ miles away from Chaco Culture National Historical Park (Chaco Canyon). As a Diné citizen who has experienced the harmful legacy of oil and gas development, I am uniquely qualified to speak upon the need for a 10-mile withdrawal area and the Department of the Interior's (DOI) administrative decision to withdraw federal lands and minerals surrounding Chaco Canyon from future mineral development for a 20-year term.

Since time immemorial, my clan, family, and community have resided in _____. In adherence to our Diné Traditional Law, these teachings have served to guide our existence on Mother Earth as stewards of her body and ecosystems. Unfortunately, the Navajo Nation, like many tribes, have been subject to impositions of colonialism, law, and policy designed to fracture our internal governance and responsibilities. During a painful period of Navajo history, the people sought to defend our sovereignty from the Dawes Act of 1887 and the beginning of the Federal Indian Boarding School era of 1890. Many Navajo community members from the Eastern Agency were provided individual allotment land when their children were removed from Dinétah (the ancestral homeland for Navajo). This era is partially responsible for the establishment of the checkerboard land parcels on the Eastern Navajo Agency that encompasses land in the state of New Mexico.

Over the past one hundred years across federal, state, tribal, and allotment lands, the oil and gas development has encroached Chaco Canyon for petrochemical exploration and development. The legacy of extraction has harmed the land and the cultural landscape important to the Diné people, Pueblos, and Tribes who claim cultural affiliation to the sacred and irreplaceable landscape. Unfortunately, upwards of 90 percent of available federal lands and minerals have been leased for development surrounding Chaco Canyon without sufficient cumulative environmental and ethnographic analyses. Furthermore, inadequate environmental analyses and measures have subjected our front line Navajo communities to severe negative health impacts and depletion of important water systems vital to livelihood, agriculture, and many cultural practices. The increased mineral development has brought immense challenges to my personal health and the future vitality of my community.

Therefore, as a Diné citizen, I extend my strong support for the 2023 public land order from the Department of the Interior (DOI) to administratively withdraw federal lands in an approximate 10-mile withdrawal area surrounding Chaco Culture National Historical Park and including its outliers for a 20-year term. And, I strongly support the Honoring Chaco Initiative (HCI) as an ongoing effort to create better land co-management practices in the Greater Chaco Region. DOI's June 2, 2023 administrative withdrawal decision comes after long standing Navajo Allottee and community calls to address legacy impacts of oil and gas leasing. This effort preserves Navajo Nation and Allottees rights to seek mineral development on their own land, and supports Navajo Nation resolutions from the Eastern Navajo Agency Council, Counselor Chapter, Ojo Encino Chapter, Dilkon Chapter, and Torreon/Star

Lake Chapter. It supports the status quo of yearly Congressional appropriations moratorium language that prevents the Bureau of Land Management from utilizing resources to conduct mineral leasing on public lands within the withdrawal area, and finally supports Pueblo and Diné Solidarity. We ask that the Navajo Nation President and the Navajo Nation Council to uphold their original stewardship responsibilities.

II. Impacts

Since 2013, local Navajo Chapter Houses have adopted Resolutions calling upon the federal government including Congress and DOI to initiate steps towards better land management and prevention of further leasing on Public Lands under certain conditions, including the support for Navajo Nation and Allottees to continue exploring options for oil and gas leases. These calls to action derived from community members experiencing declining air quality through venting and flaring of oil and gas development without much stewardship leading to thousands of abandoned oil wells, and increased vehicular traffic of industrial oil and gas semi-trucks. There is major concern that oil and gas wells are depleting and contaminating community aquifers by multistage hydraulic fracturing. These actions have brought forth a rise in health complications and illnesses like cancer and respiratory problems, which increased COVID deaths.

The cumulative health and environmental impacts of oil and gas extraction are devastating. In 2016, the Counselor Health Impact Assessment—K'é Bee Hózhoggo Iná Silá Committee began to account for the legacy of mineral development and assess the health complications and impacts for Diné communities. This work culminated in the completion of the study "A Cultural, Spiritual and Health Impact Assessment Of Oil Drilling Operations in the Navajo Nation area of Counselor, Torreon and Ojo Encino Chapters" in 2021. The research and findings of this study were approved by the Navajo Nation Human Research Review Board.

The study's findings were numerous. Among them:

- Air monitoring conducted in Counselor Chapter in 2018 revealed levels of airborne formaldehyde that far exceeded permissible exposure levels, levels of particulate matter that routinely spiked to unhealthy and hazardous levels, as well as the continuous presence of VOCs, all of which can be harmful to human respiratory health, and in the case of formaldehyde, lead to nose and throat cancer.
- Mapping of wells in Counselor Chapter in 2018 found that most of Counselor's 700 residents live within a mile of at least one oil and gas facility that emits pollutants.
- Among Counselor residents surveyed for the health impact assessment portion of the study, 90% reported sinus problems (discharge, obstruction and pain); 80% reported coughs, headaches, itching/burning of eyes, joint pain, fatigue and sleep disturbance; 70% reported nosebleeds and wheezing (loud breathing); 60% reported shortness of breath; and 42% reported itching of skin/rash. All these symptoms are consistent with exposure to pollution from oil and gas production.
- The study also found that local Diné community members (including allotment owners) in Counselor, Ojo Encino, and Torreon Chapters experience significant cultural, spiritual, and social harms from oil and gas extraction. These include: familial and community conflicts; desecration of sacred sites; degradation of the land; disrespect of tribal sovereignty by oil companies; concern about being able to sustain a livelihood from the land; disappearance of traditional herbs and medicines; feelings of not being heard by federal, state, and tribal leaders.
- The study found that balance and harmony in these communities has been eroded by oil and gas drilling, deeply affecting Diné lifeways.

III. History of Diné, Pueblo, and Cross-Organizational Engagement to Support Greater Chaco Landscape Protections

While our front line communities are well aware of the legacy health and landscape impacts, there has always been a strong understanding that Navajo Allottees rely on the economic benefits of mineral exploration. After numerous internal family discussions and community meetings, a consensus emerged that any calls for protections would incorporate the need to preserve Navajo Trust lands and Allotment lands to seek mineral development.

- Navajo Nation was originally a driving force behind the Chaco withdrawal. At the urging of local Chapter Houses, the Navajo Nation helped design a 10-mile withdrawal area surrounding Chaco Culture National Historical Park including its outliers and included in the Chaco Heritage Area Protection Act bill language to preserve the rights of Navajo and Allottees to develop on their land even within this withdrawal area.
- President Biden and Interior Secretary Haaland initiated concurrent administrative efforts to protect Chaco Canyon and Greater Chaco Region and improve land management practices through the Honoring Chaco Initiative.
- Stated concerns regarding withdrawal of surrounding federal land isolating or land-locking allotment parcels and thereby making them less attractive to developers for new development have largely been dispelled according to DOI's Environmental Assessment on the effects of the withdrawal.
- DOI conducted extensive consultation with former Navajo President Nez and Council leadership and current leadership at every stage of its proposed and contemplated Administrative Withdrawal proceedings.
- DOI facilitated public comment opportunities at every stage of the administrative withdrawal proceedings, including the participation of Navajo community and Allottee members to express their position.

IV. Request

I request you to oppose H.R. 4374 the bill to nullify Public Land Order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry.

The above form letter was signed by the following Navajo Nation citizens:

Virginia Brown,
Baca Prewitt

Johnny Slim,
Baca Prewitt

Eloise Brown,
Tse Axinaozti'i, NM

Hazel James-Tohi,
Mex Springs, NM

Verna Craig,
Churchrock

Katey Vandever,
Baca Prewitt

Edward Etcitty,
Gadiiahi Tokoi

Obie Vandever,
Baca Prewitt

Nathaniel Etcitty,
Greenwood Springs, AZ

Ira Vandever,
Baca Prewitt

Donna House,
Oak Springs, AZ

Joe Vandever,
Baca Prewitt

Terry James,
Greasewood Springs

Daniel Vandever,
Baca Prewitt

Kyle Jim,
Shiprock, NM

Stephanie Vicra,
Tuba City, AZ

George Nez,
Baca Prewitt

Jennifer Nez,
Coyote Canyon

Bertha Nez,
Coyote Canyon

Karen Noon,
Huerfano

Clorissa Pierce,
Huerfano

Michaela Pino,
Pine Hill, NM

Sharon Sandman,
SheepSprings

Virginia Washburn,
Gadiiahi Tokoi

Valerie Wickstrom,
Huerfano

Linda Williams,
ChurchRock

Althea Yazzie,
Twin Lakes

Chili Yazzie,
Shiprock, NM

Janene Yazzie,
Lupton, AZ

Statement for the Record

Dr. David J. Tsosie
Nahata Dziil Chapter
Enrolled Navajo Nation Citizen
Diné Centered Research and Evaluation

Navajo Citizen and Medicine Man thanks the Committee for the opportunity to provide written testimony on the bill to nullify Public Land Order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry, H.R. 4374. The bill was introduced by Representative Elijah Crane, R-AZ-2. I write to express strong opposition to H R. 4374 and to express my strong support for the protection of the Greater Chaco Landscape, including Secretary Haaland's recent decision to withdraw federal minerals from future oil and gas leasing near Chaco Culture National Historical Park.

I. Background

My name is David J. Tsosie. I am an enrolled citizen of the Navajo Nation from Nahata Dziil Chapter. I hold a Doctorate in Education from Arizona State University. I am a medicine man and a member of the Diné Hataalii Association. I am also a research consultant with Diné Centered Research and Evaluation (DCRE), a Navajo think-tank that uses Diné Traditional law and ways of knowing to address contemporary social and environmental problems. DCRE is a proud participant in the Department of the Interior's Honoring Chaco Initiative.

In my role with DCRE, I served as the Principal Investigator for the study "A Cultural, Spiritual and Health Impact Assessment of Oil Drilling Operations in the Navajo Nation area of Counselor, Torreon and Ojo Encino Chapters", or the HIA-KBHIS study. The HIA-KBHIS was conceptualized by the Counselor Health Impact Assessment—Ké Bee Hózhoggo Iiná Silá Committee, composed of community members from the Greater Chaco region. The research and findings of the HIA-KBHIS were approved by the Navajo Nation Human Research Review Board. Some of the findings were also published in the *American Journal of Public Health*. It was also presented to various standing committees of the Navajo Nation Council and Navajo Nation Departments having oversight authority over environmental issues.

The HIA-KBHIS is a two-part study. The first part presents air monitoring and health survey data from residents in Counselor Chapter. The second part distills results of a survey about the cultural and spiritual impacts of oil and gas extraction in the three Chapters of Counselor, Ojo Encino and Torreon. Together, both parts of the study demonstrate that Diné people in the Greater Chaco Landscape are suffering health, environmental, social, and cultural harms from oil and gas extraction. The HIA-KBHIS is part of a large body of evidence that supports broad landscape-level protections for the Greater Chaco Landscape. Public Land Order No. 7923 is an important step toward achieving the protections for the Greater Chaco Landscape and frontline communities that many Indigenous communities, Tribes, Nations, and allied groups have long advocated for.

II. HIA-KBHIS Findings

I want to highlight several findings of the HIA-KBHIS that support Public Land Order No. 7923 and additional actions to protect the Greater Chaco Landscape through co-management and cultural landscape-level management.

Key Health and Air Monitoring and Survey Findings

- A. Locally specific air monitoring conducted in Counselor Chapter revealed levels of airborne formaldehyde that far exceeded permissible exposure levels, levels of particulate matter that routinely spiked to unhealthy and hazardous levels, as well as the continuous presence of VOCs, all of which can be harmful to human respiratory health, and in the case of formaldehyde, lead to nose and throat cancer.
- B. Most of Counselor's 700 residents live within a mile of one or more oil and gas facility.
- C. Among Counselor residents surveyed, 90% reported sinus problems (discharge, obstruction and pain); 80% reported coughs, headaches, itching/ burning of eyes, joint pain, fatigue and sleep disturbance; 70% reported nosebleeds and wheezing (loud breathing); 60% reported shortness of breath; and 42% reported itching of skin/rash. All these symptoms are consistent with exposure to pollution from oil and gas production.

Key Cultural and Spiritual Survey Findings

Area of Knowledge	Survey Question	Percentage of Strong Agreement Among 136 Respondents
Nitsáhákees - East (Thinking) <i>Restore balance</i>	Our local leaders have spoken out against drilling and no one at the tribal, state or federal level, including BLM and BIA, has listened	104 or 74%
	Despite communities objecting, the drilling continues	110 or 81%
	People were misinformed when they agreed to permits, they thought was for testing, not drilling	109 or 79%
Nahat'a - South (Planning) <i>Planning for a meaningful consultation</i>	Our effort to pass on a healthy and prosperous environment to our children is being broken	113 or 83%
	The peace of the people has been disrupted as a result of drilling & fracking	115 or 85%
liná – West (Lifeway) <i>Protect wellbeing</i>	The oil companies have no respect for land, people & life	117 or 86%
	Actions by oil companies have divided families/community	115 or 85%
	Since oil companies made their presence here, all life is continually changing for the worse	112 or 82%
	The behavior of oil companies in getting a permit to drill shows their lack of concern for the community	113 or 83%
	Monies from oil companies for right to drill divided many families	112 or 82%

<p>Sih Hasin – North (Wisdom and Sharing) <i>Assure environmental justice</i></p>	<p>Because the land is being ruined, it will not be able to sustain an economy</p>	<p>113 or 83%</p>
	<p>The insensitivity of oil & fracking companies toward our community leads to mental- & physical hardship</p>	<p>109 or 80%</p>
	<p>The oil companies know the community is in financial need and inappropriately entice landowners with money</p>	<p>112 or 82%</p>
	<p>Oil companies do not respect sovereignty or Navajo Nation law</p>	<p>117 or 86%</p>
<p>Sodizin dóó Sin (Prayer and Song) <i>Establish spiritual connection</i></p>	<p>What I believe to be sacred is being destroyed by drilling</p>	<p>115 or 85%</p>
	<p>Rare herbs that can help with health are disappearing since the drilling started</p>	<p>84 or 62%</p>

III. Discussion and Request

Recently, fossil fuel interests have promoted a narrative that local Diné communities in the Greater Chaco Landscape do not support actions to protect the land or transition to a clean energy future. However, the community-led and community-based research represented in the HIA-KBHIS shows that a majority of Diné citizens in this region are concerned about the health impacts and harms of oil and gas pollution and have experienced negative social and cultural harms from the influx of industry. There is great concern about what this means for their future.

Diné people in Eastern Navajo Agency care about protecting sacred places, being able to practice Diné lifeways, and living in harmony with the land and one another. The oil and gas industry has created conflicts in Eastern Diné communities. These conflicts can make it difficult for some community members to speak up, but many of their voices come through clearly in these survey responses. I urge you to listen to their voices and oppose H.R. 4374.

Statement for the Record

**Cheyenne Antonio
Greater Chaco Coalition
Diné Citizens Against Ruining Our Environment**

On behalf of the Greater Chaco Coalition (Frack Off Chaco), I hereby submit this official testimony in response to the House Natural Resources Committee Hearing regarding H.R. 4374. I appreciate the committee's attention to the critical issues surrounding the protection of the Greater Chaco region and its cultural landscape.

The Greater Chaco Coalition, a collaborative effort between Indigenous community leaders, Native organizations, nonprofits, and public lands and water protectors, is dedicated to advocating for greater protections for the Greater Chaco Landscape. Guided by the Jemez principles of democratic organizing, our coalition collectively pursues a platform that includes crucial goals such as:

- Putting an end to sacrifice zones and further oil and gas extraction across the Greater Chaco region.
- Ensuring meaningful Tribal and community consultation and consent at every stage of decision-making.
- Considering the cumulative impacts and the health and holistic wellness of impacted communities.
- Advancing environmental justice and just transitions for the Greater Chaco region beyond extraction.

We express our unwavering support for the Department of the Interior and the Bureau of Land Management in their efforts to foster the groundbreaking Honoring Chaco Initiative. This initiative provides a crucial opportunity to address the legacy impacts of sacrifice zones across the Greater Chaco Landscape and prioritize the health, justice, equity, and sustainability of this culturally significant region.

Throughout the past decade, the Greater Chaco Coalition has actively engaged in numerous actions to advocate for the protection of the Greater Chaco region, garnering overwhelming support from diverse stakeholders, including Indigenous communities, conservation organizations, and concerned citizens. Notable milestones in our collective efforts include:

- In 2013, the Eastern Navajo Agency Council passed a resolution calling for a moratorium on horizontal fracking.¹
- Resolutions from the Navajo Nation Torreon Chapter, Counselor Chapter, and Ojo Encino Chapter in 2015 also called for a moratorium on horizontal fracking.²
- Since 2015, the Greater Chaco Coalition has actively protested quarterly federal oil and gas lease sales in New Mexico, resulting in over 2 million individual protest comments.
- In 2016, the Bureau of Indian Affairs (BIA) joined the Bureau of Land Management (BLM) as a co-leading agency in the Resource Management Plan Amendment (RMPA) process for the Farmington Field Office (within the Greater Chaco region), facilitating collaboration between the agencies. The Greater Chaco Coalition mobilized impacted community members to provide over 1,000 in-person comments during the RMPA public scoping process.³
- A joint statement opposing horizontal fracking in the Greater Chaco region was issued in 2017 by the All Pueblo Council of Governors and the Navajo Nation President and Vice President.
- The National Congress of American Indians passed a resolution in 2017 to support a moratorium on leasing and permitting in the Greater Chaco region.
- In 2017, the New Mexico Legislature passed House Memorial 70 that reaffirmed the state's commitment to protecting and preserving tribal, cultural, and historical sites and resources in the Greater Chaco landscape.⁴

¹Resolution No. ENAC 12-2013-03.

²See for example the Resolution 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.

³See Frack Off Chaco blog for lease sale actions and comments submitted: <https://www.frackoffchaco.org/blog#blog>

⁴House Memorial 70, 2017 1st Regular Legislative Session, available at: <https://www.nmlegis.gov/Sessions/17%20Regular/final/HM070.pdf>

- In 2018, over 200 advocates rallied at the BLM New Mexico State Office, leading to the deferral of parcels in the Greater Chaco region for further analysis of cultural sites.
- In 2019, the Greater Chaco Coalition delivered over 33,000 protests opposing a BLM oil and gas lease sale in the Greater Chaco and Greater Carlsbad regions.
- The All Pueblo Council of Governors and Navajo Nation Office of the President and Vice President held a historic summit in 2019 to support protections for the Greater Chaco Landscape.⁵
- The New Mexico State Land Office issued Executive Order 2019-002, imposing a moratorium on new oil and gas and mineral leasing within a roughly 12-mile area around Chaco Culture National Historical Park.
- The completion of the Counselor Health Impact Assessment—K'é Bee Hózhoggo Iiná Silá Committee (HIA/KBHIS) study in 2021, approved by the Navajo Human Research Review Board which culminated from a health and cultural impact assessment that began in 2016.⁶
- In 2021, during the Biden-Harris administration's first White House Tribal Nations Summit, President Joe Biden and Interior Secretary Deb Haaland announced steps to protect Chaco Canyon and the greater connected landscape, including initiating a 20-year moratorium on new oil and gas development on unleaded federal lands within a 10-mile radius of Chaco Culture National Historical Park. Secretary Haaland also unveiled the Honoring Chaco Initiative.⁷
- In 2022, the BLM and BIA conducted public Q&A sessions and extended the comment period on the proposed mineral withdrawal. Members of the Greater Chaco Coalition delivered nearly 80,000 in-person comments, emphasizing the need for broader landscape-level protections and truly honoring Chaco.
- In 2023, the U.S. Court of Appeals for the 10th Circuit ruled in favor of conservation groups, rejecting nearly 200 Trump-era approved drilling permits defended by the Biden administration, due to the Bureau of Land Management's violation of NEPA.

These milestones and the broad support they reflect underscore the urgent need to prioritize the protection of the Greater Chaco region. I call on the House Natural Resources Committee to champion the cause of Greater Chaco and support legislation that aligns with the goals outlined by the Greater Chaco Coalition.

In conclusion, I express my deep appreciation to the committee for addressing this critical matter and providing an opportunity to submit our official testimony. We remain steadfast in our commitment to safeguarding the Greater Chaco region, advancing justice and equity, and ensuring a sustainable future for all.

Thank you for your dedicated service, and I appreciate your consideration of our testimony. I am available for further information or clarification.

⁵See press release from All Pueblo Council of Governors, available at: [Historic Joint Convening between the All Pueblo Council of Governors and Navajo Nation 2019](#)

⁶K'é Bee Hózhoggo Iiná Assessment available at: [Final HIA-KBHIS July 2021.pdf](#)

⁷See BLM's Honoring Chaco Initiative website at: [Honoring Chaco Initiative/Bureau of Land Management](#)

MEMORANDUM**23rd Navajo Nation Council
Honorable Lorenzo C. Bates, Speaker**

TO: Resources & Development Committee

DATE: October 13, 2016

SUBJECT: Concerns of Tri-Chapters of Eastern Agency Regarding Sacred Sites

First, I would like to extend my sincere appreciation to the Resources & Development Committee (RDC) for addressing numerous issues and considering many legislations that impact the Navajo Nation.

With this in mind, concerns were brought to the attention of the Sacred Sites Task Force Sub-Committee by the Tri-Chapters consisting of Counselor, Ojo Encino, and Torreon regarding ongoing petroleum drilling activities occurring on identified areas of culturally and historically sacred areas. The three communities hosted a meeting in Counselor, NM on October 11, 2016 to provide information to the task force.

The meeting resulted in additional concerns. These concerns include health issues, air quality, protection of sacred sites, road conditions, human rights, public safety, jurisdiction, lack of community consultation, and lack of communication. The task force took the initial approach on minimal information due to the proximity of the activities related to cultural and historical areas.

In addition, a list of tasks were proposed in coordination with Division of Natural Resources, Historic Preservation Department, and Navajo Nation Human Rights Commission on how to address the chapter's concerns. The following tasks were identified:

- Position Statement of the Navajo Nation
- Identify the issues as it applies to jurisdiction issues
- Describe the direction the Navajo Nation will take in addressing community concerns
- Identify the role of BLM and BIA as it applies to community concerns

The task force recognized the complexities in addressing these concerns that involve potential violations of drilling related activities and the negative impact it places on the communities. One argument the Navajo Nation continues to encounter is the various jurisdictional issues as it relates to BLM boundaries, allotment boundaries, and trust boundaries. It is suggested a form of communication needs to be established to help determine the jurisdictional issues.

Recognizing RDC as the oversight authority, it is able to address these concerns. With this, I recommend that Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM) to meet with RDC on this matter. In addition, I recommend the Tri-Chapters to present a thorough report to RDC. The Sacred Sites Task Force Sub-Committee can assist in arranging the meeting details, which should occur no later than 30 days.

It is important for players to come together to further discuss and attempt to identify solutions. BIA and BLM are vital in addressing the situation. Therefore, I am requesting your guidance in addressing these issues.

Your consideration is greatly appreciated. Please feel free to contact Office of the Speaker at (928) 871-7160 if you have any questions or suggestions for the next meeting.

**RESOLUTION OF COUNSELOR CHAPTER
COUNSELOR, NEW MEXICO
RESOLUTION #COUN-2015-03-___**

Requesting the New Mexico Congressional Caucus to Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and, To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and, To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs of allottees are protected; and, related actions

WHEREAS;

Pursuant to Navajo Nation Code, Counselor Chapter is certified to plan, to oversee community development, and to govern for the benefit of the community residents; and

Counselor Chapter has the inherent right to position itself for the public interest, public safety and the general welfare of their community and its residents; and,

Counselor Chapter has steadfastly communicated, coordinated and cooperatively planned the regional development of the five most Eastern Chapters of the Navajo Nation; and,

Counselor Chapter reads that the 2003 Resource Management Plan for the Farmington BLM District does not sufficiently address the technological development of horizontal drilling and hydraulic tracking; and, at best had minimal input and participation in the drafting, development and finalization the Plan; and,

Counselor Chapter is keenly aware of the Bureau of Land Management's actions to lease the public lands for oil/gas exploration in a manner that precludes its multiple use to a singular use for energy development; and,

The Counselor Chapter and its residents have personal knowledge of the adverse impacts their relatives are experiencing with the declining air quality through the venting and flaring, the increased vehicular traffic, and the familial discord resulting from the bonus payments for the leasing of the allotments; and

As well, Counselor Chapter has knowledge that the Pinon Pipeline proposed by Saddle Butte Midstream, LLC is proceeding post haste absent a proper Environmental Impact Statement; and,

The Counselor Chapter has community voters who have allotments, are heirs and have an interest in the Mancos-Gallup shale formation areas, wherein Land Agents contracted by the many layered interests of the energy exploration corporations are leading the allottees to sign the leases without proper legal advisement; and, the Bureau of Indian Affairs have not held individual advisement and PUBLIC HEARINGS to ensure that the trust status of the allottees are protected; and

Counselor Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies for the Federal government to assure the needs, interests and points regarding land use priorities, protection of culturally grounded ways of life and safe guarding the environment which are imbued in Articles 26, 27, 29 and 32 of the U.N. Declaration.

Above all concerns, Counselor Chapter positions itself to have the Federal agencies recognize the home sites, traditional and customary use areas to be protected as there is the living Navajo society and culture in place since before the agencies were authorized

NOW THEREFORE BE IT RESOLVED THAT:

Counselor Chapter requests the New Mexico Senators Tom Udall, Heinrich and Congressman Lujan to:

1. Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and,
2. To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and,
3. To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs of allottees are protected; and,

Furthermore, Counselor Chapter requests assistance to secure funding to conduct health impact assessments, baseline water and soil testing and air quality monitoring for the impacted areas.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Counselor Chapter, Navajo Nation, in the State of New Mexico, at which a quorum was present and that same was passed by a vote of 13 in favor, 0 opposed and 3 abstained on this 10th day of March, 2015.

Harry J. Willeto, Chapter President

Laura C. Lopez, Vice President

Marlene Thomas, Chapter Secretary/Treasurer

Elizabeth Stoney, Land Board Member

Statement for the Record**Daniel E. Tso****Chair of the Counselor Health Impact Assessment****K'é Bee Hózhoggo Iná Silá Committee**

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'é Bee Hózhoggo 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 14 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 Hózhoggo Iná 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.

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

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

The HIA-KBHIS further found that community members in Counselor, Ojo Encino, and Torreón/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 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.

²Tsosie 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>

³Ibid.

⁴Ibid.

⁵The 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 communization 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”. U.S. 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

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>; Navajo-Hopi Observer. 2017. "Fracking and drilling near Chaco Canyon challenged by Begaye, Nez". Navajo-Hopi Observer. February 28, 2017. Accessed July 8, 2023. <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.

Diné Medicine Men's Association, Inc.**RESOLUTION**

THE DINÉ MEDICINE MEN ASSOCIATION, INC. HEREBY PRESENTS THIS RESOLUTION TO SUPPORT THE DINE AND THE EASTERN NAVAJO AGENCY TO DISCONTINUE THE FRACKING AND DRILLING OF THE 31 CHAPTERS. THE OIL COMPANIES THAT ARE VIOLATING THE COMMUNITY MEMBERS RIGHTS BY DEVELOPING FRACKING AND DRILLING WITHOUT PRIOR NOTIFICATION WITH THE MEMBERS IN THE ABOVE AREA. THE FRACKING AND DRILLING IMPEDES THE LIFE STYLE OF THE DINE COMMUNITY MEMBERS WHERE ALL THE SACRED SITES ARE LOCATED.

WHEREAS:

1. The Diné Medicine Men's Association, Inc. is a non profit organization incorporated with Navajo Nation Commerce and has been in existence since the early 1970s. The Association consists of members from the grass roots level of traditional spiritual leaders (hataalii, cultural educators and traditionalists, and holds a sacred trust from the Holy people as a Diné Way of Life; and
2. On Diné tah and the Eastern Navajo Agency of 31 Chapters There documented historic sacred sites recorded at the Navajo Nation Historic Preservation Office. Diné traditional stories (Hane') are documented as being related to the Emergence, the White Shell Woman, the Water Monster and the Sacred Mountains Offering sites. To the Diné people, The sacred sites exist to Perpetuate life, and are revered through offering of prayers for the wellness of self, families and relatives on their land and in their communities; and
3. The Diné Medicine Men's Association as Medicine People of the Navajo Nation do hereby take a defensive position against Fracking and Drilling and further development by the Oil Companies in and around the Diné' tah in the Eastern Navajo Agency's 31 Chapters; and
4. The Diné community members are spiritually and emotionally threatened by the outsiders who do not understand the significance of what is sacred to the Indigenous people who are called Diné altsé kee hatiinii, first inhabitants of Diné land before the arrival of the European colonizers. It is believed by many of our Diné people that the Fracking and Drilling business is leading to damage and further extinction of the Diné Way of life; and
5. Under some important expressions of international law and policy, including the United Nations Declaration Rights of the Indigenous Peoples (which the Navajo Nation helped develop and officially supported), Indigenous Peoples have the rights to: 1) protect and have private access to their sacred places (Article 12); 2) strengthen their spiritual relationships with traditionally used lands (Article 25); and 3) determine their own development priorities and strategies through free, prior, and informed consent (Article 32); and
6. Under current laws, rules, and regulations, the U.S. Bureau of Indian Affairs, the U.S. Bureau of Land Management, The State of New Mexico Department of Energy, Minerals, and Natural Resources Oil Conservation Division, and the Navajo Nation Historic Preservation Division should have individually and collectively notified the Diné Medicine Men's Association, Inc. and the Eastern Navajo Agency of 31 Chapters of the proximity to sacred sites in Diné tah of the Fracking and Drilling locations. As well, these governmental agencies should have performed the inspections, hearings, and investigations required of them under the laws of due process and equal protection.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Diné Medicine Men's Association, Inc. supports the Diné tah and Eastern Navajo Agency 31 Chapters' request to stop the Fracking and Drilling that is desecrating, defiling, and despoiling the sacred sites in and around the area of the Diné tah and in and on the Eastern Navajo Agency Chapters.
2. The Oil Companies' business development is threatening further extinction of the Diné Way of Life by bringing disharmony to the spirits on the sacred sites, and that development impedes the rights of the traditional members to make their ceremonial offerings at the sacred sites and where the sacred Herbs grow and are picked for healing.

3. The Medicine People as leaders, are ethically and justly obligated to protect, serve, and heal with ceremonies, and to protect their people from all harm and danger on the Diné land (Diné Bikeya). As such leaders, the Medicine People demand that the BIA, the BLM, the New Mexico State OCD, the New Mexico Counties and the New Mexico and Navajo Nation Historic Preservation Departments perform the duties required of them by law to assist the Eastern Navajo Agency of 31 Chapters in safeguarding our sacred sites and Diné way of life.
4. Therefore, let it be known that we, the members of the Diné Medicine Men's Association are taking the position that there must be an immediate and permanent moratorium issued against all further extractive activities by commercial or government energy entities in and around Diné tah and the Eastern Navajo Agency of 31 Chapters; and we, as Medicine People take this stance to safe guard the sacred sites with our prayers for our present and future generations.

CERTIFICATE

We hereby certify that the foregoing resolution of the Diné Medicine Men's Association, Inc., was duly considered by the Association and Board of Directors at a duly called meeting at Huerfano Mesa, Dzilth-na-o-dith-hle New Mexico, at which a quorum was present, and that the same was approved by the vote of 26 in favor, 0 Opposed on the 11th day of October 2015.

Johnson Dennison, President

Roland Begay, Vice President

Virginia L. Edgewater, Secretary/Treasurer

DINÉ MEDICINE MEN ASSOCIATION RESOLUTION DMMA #111917-2

REQUESTING THE NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT, ALL PUEBLO COUNCIL OF GOVERNORS, AND GREATER CHACO COALITION AND PARTNERS TO CONSULT WITH DINE MEDICINE MEN ASSOCIATION FOR ANY POSITIONS TAKEN ON FRACKING AND HORIZONTAL DRILLING IN GREATER CHACO AS PART OF DINE FUNDAMENTAL LAW AND OUR CULTURAL AND TRADITIONAL INHERENT RIGHTS.

WHEREAS:

1. The Diné Medicine Men Association, Inc. (Diné Bi Nahaga Yee Da'ahota') is a non-profit organization incorporated with the Navajo Nation Business Regulatory and has been in existence since the early 1970s; and
2. Diné traditional medicine people always have the commitment to teach, preserve, and protect the welfare of the Diné People as well as the welfare of the Diné Nation through providing exceptional protocol of the traditional knowledge of the distinctive oral philosophy of Indigenous way of life based on the Diné Infinite Oral Sacred Philosophy of the Spiritual Belief foundation. Hence, it always has been the moral principle that guided the ceremonial sacred songs and prayers interwoven with intellectual oral planning and teaching with dignity and integrity which is still the effectual foundation of Diné Life Way since time immemorial; and
3. Diné Medicine Men Association has always strongly advocated that Diné People have sacred cultural and historical ties to the Greater Chaco just like sacred cultural and historical ties to the Dzilth-na-o-dith-hle Mesa which is near the Greater Chaco; and
4. Navajo Nation President Russell Begaye joined forces with All Pueblo Council of Governors to state their position on tracking and horizontal drilling in Greater Chaco without consulting with the Diné Medicine Men Association; and

5. Navajo Nation President Russell Begaye sent a letter dated February 6, 2017 to Bureau of Land Management-Farmington Field Office in reference to Concerns Regarding Chaco Canyon Cultural which he didn't consult with Diné Medicine Men Association before sending the letter; and
6. Diné Medicine Men Association strongly believes Navajo Nation Office of President and Vice-President should be consulting with Diné Medicine Men Association instead of outside entities and partners on the fracking and horizontal drilling in Greater Chaco; and
7. Diné Medicine Men Association is adamant that consultation be provided by Diné Medicine Men Association on the fracking and horizontal drilling in Greater Chaco due to the Diné People having sacred cultural and historical ties to the Greater Chaco.

NOW, THEREFORE, BE IT RESOLVED:

THE DINÉ MEDICINE MEN ASSOCIATION HEREBY REQUESTS NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT, ALL PUEBLO COUNCIL OF GOVERNORS, AND GREATER CHACO COALITION AND PARTNERS TO CONSULT WITH DINÉ MEDICINE MEN ASSOCIATION FOR ANY POSITIONS TAKEN ON FRACKING AND HORIZONTAL DRILLING IN GREATER CHACO

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Diné Medicine Men Association at a duly called meeting in Nageezi Chapter, at which a quorum of membership was present and that the same was passed by a vote of 29 in favor, 0 opposed this 19 day of November 2017.

Mr. Kenneth Maryboy, President

State of New Mexico Commissioner of Public Lands**Executive Order No. 2019-002****Moratorium on New Oil and Gas and Mineral Leasing
in Greater Chaco Area**

WHEREAS, the Commissioner of Public Lands has broad constitutional authority and statutory jurisdiction over the direction, control, care and disposition of state trust lands, in accordance with the acts of Congress relating thereto and such regulations as may be provided by law (*see* NM Const., art. XIII, Sec. 2 and NMSA 1978, § 19-1-1); and

WHEREAS, the Commissioner is authorized to withhold any tracts of state trust lands from leasing for oil and gas or other purposes if in her opinion the best interests of the state land trust will be served by so doing (*see* NMSA 1978 §§ 19-8-33 and 19-10-19; 19.2.100.31 NMAC); and

WHEREAS, the Commissioner and the State Land Office have a duty to exercise due caution to ensure that cultural properties on state trust lands are not inadvertently damaged or destroyed (*see* NMSA 1978 § 18-6A-5); and

WHEREAS, the Chaco Culture National Historical Park is a state, national and international treasure; and

WHEREAS, the Chaco Culture National Historical Park was designated a World Heritage Site by UNESCO in 1987 and is one of only 23 World Heritage Sites in the United States; and

WHEREAS, the Chaco Culture National Historical Park attracts tourists from around the world; and

WHEREAS, Chacoan roads and Great Houses are important archaeological resources, but also significant cultural resources to the Native American nations, tribes and pueblos of New Mexico; and

WHEREAS, many Native American nations, tribes and pueblos of New Mexico have an archaeological, historical and cultural connection to the Chaco Culture National Historical Park, and consider the national historical park and other areas within the greater Chaco landscape to be sacred sites; and

WHEREAS, the protection of Chaco Culture National Historical Park and other sites is essential to safeguard archaeological and cultural resources of the tribes, nations and pueblos, the State of New Mexico and the United States; and

WHEREAS, a moratorium on new oil and gas or mineral leasing in the greater Chaco landscape will enable the State Land Office to explore other land uses that are more consistent with the protection and preservation of the landscape; and

WHEREAS, a moratorium will provide an opportunity to engage Native American nations, tribes and pueblos of New Mexico as well as other interested stakeholders regarding the management of state trust lands within the greater Chaco region; and

WHEREAS, a moratorium will provide an opportunity to consult with the New Mexico Congressional Delegation and United States Bureau of Land Management about proposed federal legislation concerning leasing restrictions and overall landscape management practices in the region;

NOW, THEREFORE, I, Stephanie Garcia Richard, Commissioner of Public Lands, do hereby order and direct that the state trust lands described in Appendix A shall be withheld from new leasing for oil and gas or mineral purposes until December 31, 2023; and

BE IT FURTHER ORDERED that the withdrawal from leasing ordered herein shall be recorded in the State Land Office oil and gas and minerals tract books by means of a land use restriction;

BE IT FURTHER ORDERED that nothing herein shall restrict the State Land Office from issuing permits, rights of way or business leases related to existing oil, gas or mineral leases within the area subject to the land use restriction; and

BE IT FURTHER ORDERED the State Land Office will convene a Chaco Working Group to make recommendations to the Commissioner of Public Lands regarding land management practices in the greater Chaco region as they relate to state trust lands.

SIGNED THIS 27 DAY OF April 2019.

Stephanie Garcia Richard

Commissioner of Public Lands

**STATE OF NEW MEXICO COMMISSIONER OF PUBLIC LANDS
NEGATIVE MINERAL EASEMENT ON FUTURE DEVELOPMENT LAND
USE RESTRICTION OR CONDITION
LURC No. 01-19**

This Land Use Restriction or Condition (“LURC”) is executed by the Commissioner of Public Lands for the State of New Mexico (the “Commissioner”), Trustee for the State of New Mexico (the “State”) under the Act of June 20, 1910, 36 stat. 557, ch. 310 (the “Enabling Act”), and is effective as of the date of the Commissioner’s signature.

1. **Purpose.** Pursuant to Executive Order 2019-002, the Commissioner has issued a moratorium on new oil, gas and mineral leasing on lands under her authority (“State Trust Lands”) within the Chaco Canyon landscape to safeguard archaeological and cultural resources of the tribes, nations and pueblos, the State of New Mexico and the United States.
2. **Mineral Rights.** The Commissioner, as manager of the trust established by the Enabling Act, and specifically of mineral rights on State Trust Lands, is executing this LURC on behalf of the State, which retains ownership of and has reserved the rights to, all minerals of whatsoever kind, including oil and gas, in these lands, and to it, or persons authorized by it, the right to prospect for, mine, produce and remove the same, and perform any and all acts necessary in connection therewith, upon compliance with the conditions and subject to the limitations of the laws of the State of New Mexico.
3. **Property.** The Property covered by this LURC (the “Property”) is approximately 72,776 subsurface acres as described in the Exhibit A (a table identifying the relevant State Trust Lands, with an accompanying map).
4. **Term.** This LURC shall be effective as of the date of the Commissioner’s signature and shall terminate December 31, 2023.
5. **Restriction on Future Use; Right to Develop Mineral Rights from Other Land.**
 - a. **Restriction on Use.** The Commissioner shall not execute new leases on the Property for the purpose of conducting activities with respect to exercising mineral rights. For the term of this LURC, the Commissioner shall not issue any new mineral leases to exercise the right to engage in or permit exploration for, mining, exploitation or extraction of minerals of whatsoever kind on or under the Property, including but not limited to oil and natural gas, geothermal resources, helium, carbon dioxide, coal and lignite, uranium, saline, brine, copper, iron, lead, talc, barite, gold and silver, precious and semi-precious stones, caliche, building stones, shale, clay, sand, gravel and rock for crushing. Nothing in this LURC shall limit the rights, privileges, and obligations contained in leases that came into effect prior to the execution of this LURC.
 - b. **Right to Develop Mineral Rights from Other Land.** This LURC shall not be construed as a waiver of the right of the State to explore for, develop, mine, or produce the mineral rights, including without limitation, oil and gas with wells drilled on the surface of land other than the Property, including, but not limited to, directional wells bottomed beneath or drilled through any part (other than the surface) of the Property, or by pooling its oil, gas and other mineral interests with lands adjoining the Property in accordance with the laws and regulations of the State, so long as no activity takes place between the surface and a depth of five hundred feet (500’).

- c. **Reservations.** The Commissioner reserves the right to grant rights-of-way, easements, permits, or business leases over, upon, or across the Property for uses related to existing oil, gas or mineral leases within the area subject to this LURC. Reserved uses related to existing oil, gas or mineral leases include, but are not limited to, pipelines and ingress and egress across the Property that may be necessary for mineral development or production authorized through existing leases.
- 6. **No Waiver, Release, or Relinquishment of Rights.** Nothing herein shall be construed as waiving, releasing or relinquishing any right, title or interest of the State of New Mexico in and to any rights with respect to the Property, including mineral rights in and under, and that may be produced from, the Property.

IN WITNESS WHEREOF, the Commissioner has executed this Land Use Restriction or Condition effective as of the date of her signature below.

STATE OF NEW MEXICO COMMISSIONER OF PUBLIC LANDS

Stephanie Garcia Richard
 Commissioner of Public Lands
 Date: 4-27-19

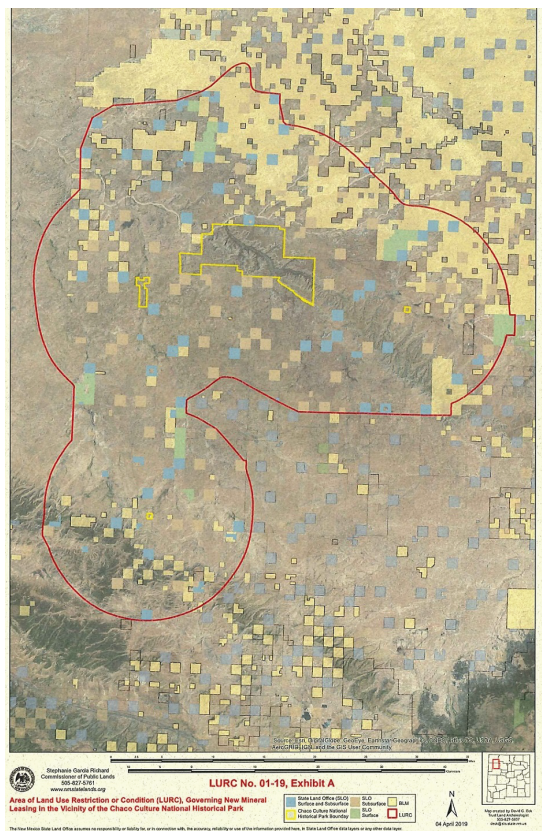


Exhibit A
Land Covered by LURC

TWN	Range	Sec	TWN	Range	Sec	TWN	Range	Sec	TWN	Range	Sec
0150N	0120W	16	0190N	0100W	2	0200N	0110W	36	0220N	0100W	36
0160N	0110W	2	0190N	0100W	10	0200N	0120W	2	0220N	0110W	2
0160N	0110W	32	0190N	0100W	16	0200N	0120W	16	0220N	0110W	16
0160N	0120W	16	0190N	0100W	28	0200N	0120W	32	0220N	0110W	36
0160N	0120W	36	0190N	0100W	36	0200N	0120W	36	0220N	0120W	2
0160N	0130W	16	0190N	0110W	2	0200N	0130W	2	0230N	0120W	16
0160N	0130W	36	0190N	0110W	16	0200N	0130W	16	0230N	0120W	36
0160N	0140W	2	0190N	0120W	2	0200N	0130W	32	0220N	0130W	16
0170N	0110W	16	0190N	0120W	16	0200N	0130W	36	0220N	0130W	32
0170N	0110W	18	0190N	0120W	32	0210N	0070W	16	0220N	0130W	36
0170N	0110W	32	0190N	0120W	36	0210N	0070W	32	0230N	0100W	16
0170N	0110W	36	0190N	0130W	2	0210N	0070W	36	0230N	0100W	32
0170N	0120W	2	0190N	0130W	16	0210N	0080W	2	0230N	0100W	36
0170N	0120W	16	0190N	0130W	21	0210N	0080W	3	0230N	0110W	2
0170N	0120W	32	0190N	0130W	28	0210N	0080W	4	0230N	0110W	16
0170N	0120W	36	0190N	0130W	29	0210N	0080W	5	0230N	0110W	17
0170N	0130W	2	0190N	0130W	33	0210N	0080W	7	0230N	0110W	19
0170N	0130W	36	0190N	0130W	36	0210N	0080W	8	0230N	0110W	20
0170N	0140W	36	0200N	0060W	17	0210N	0080W	9	0230N	0110W	29
0180N	0110W	16	0200N	0060W	18	0210N	0080W	16	0230N	0110W	30
0180N	0110W	32	0200N	0060W	19	0210N	0080W	17	0230N	0110W	31
0180N	0110W	36	0200N	0060W	20	0210N	0080W	18	0230N	0110W	32
0180N	0120W	1	0200N	0060W	30	0210N	0080W	36	0230N	0110W	36
0180N	0120W	2	0200N	0070W	2	0210N	0090W	16	0230N	0120W	1
0180N	0120W	13	0200N	0070W	16	0210N	0090W	32	0230N	0120W	2
0180N	0120W	16	0200N	0070W	36	0210N	0090W	36	0230N	0120W	16
0180N	0120W	24	0200N	0080W	16	0210N	0100W	2	0230N	0120W	32
0180N	0120W	25	0200N	0080W	32	0210N	0100W	32	0230N	0120W	36
0180N	0120W	32	0200N	0080W	36	0210N	0110W	32	0230N	0130W	36
0180N	0120W	36	0200N	0090W	2	0210N	0110W	36	0240N	0100W	32
0180N	0130W	2	0200N	0090W	16	0210N	0120W	16	0240N	0110W	31
0180N	0130W	16	0200N	0090W	28	0210N	0120W	36	0240N	0110W	32
0190N	0070W	2	0200N	0090W	32	0210N	0130W	2	0240N	0110W	36
0190N	0070W	16	0200N	0090W	36	0210N	0130W	16			
0190N	0070W	32	0200N	0100W	16	0210N	0130W	32			
0190N	0080W	32	0200N	0100W	30	0210N	0130W	36			
0190N	0080W	36	0200N	0100W	32	0220N	0070W	32			
0190N	0090W	2	0200N	0100W	36	0220N	0080W	36			
0190N	0090W	16	0200N	0110W	2	0220N	0090W	2			
0190N	0090W	30	0200N	0110W	16	0220N	0090W	16			
0190N	0090W	32	0200N	0110W	26	0220N	0090W	36			
0190N	0090W	36	0200N	0110W	32	0220N	0100W	16			

Gadii'ahi-To'koi, Navajo Nation

July 11, 2023

Hon. Pete Stauber, Chairman
Subcommittee on Energy and Mineral Resources
House Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Re: Opposition to H.R. 4374, the "Energy Opportunities for All Act"

Dear Chairman Stauber:

I am an enrolled member of the Navajo Nation and a New Mexico San Juan County resident where my family and I hold the "Notah Sosa" allotment with the listed track number 23N 8W 36 in the Betonnie Tsosie Wash Unit. This is located south of the Nageezi Chapter House above the Escavado Wash and outside of the 10-mile protected radius (buffer zone) around Chaco Culture National Historical Park (CCNHP). Since my childhood I have always been told that we are from Chaco Canyon. My late mother Rita Cason always talked to me about our five times great maternal grandfather and grandmother who were forced at gunpoint by the United States Government to walk over 400 miles to Fort Sumner in what is known as the Long Walk. After the signing of the Treaty of 1868 my grandparents returned to their homeland "Diné Bikeyah" located within our Four Sacred Mountains. When they returned from Hwéeldi "Bosque Redondo" the United States Government only gave them a section of the land that today my family and I hold ownership of surface and mineral rights in a checkerboard region of different land status jurisdictions.

Today, we receive royalty payments from DJR Energy, a private upstream oil and gas company. These payments are never the same and are always different. Also, we have known that some Navajo Allottees receive substantial amounts of royalties, we are far from that and have always talked about building a house and a farm on our land there. We also understand that the allotment has a special land status and gives us allottees a unique relationship with the Secretary of the Department of Interior (DOI) who holds this land into Trust for us and future generations. About 10 years ago the Navajo Nation pursued to get all of these allotment lands through the federal "Land Buy Back Program". My family was offered a low market value that we would receive a one time payment for giving up our ownership. Many of my relatives came to the consensus to Not sell their land but to hold on to it. It was around this time that my family became aware about discussions between the Bureau of Land Management (BLM), DOI, Navajo Nation, and the All Pueblo Council of Governors (APCG) about establishing a mineral withdrawal for future oil and gas development around Chaco Canyon. Through numerous family gatherings this topic of a "buffer zone" came up and we talked through about where we stand on it. We all had our different reasons but we have had a consensus to support the land protection designation of a 10-mile "buffer zone".

Furthermore, I have shared information to my family about Representative Crane Legislation H.R. 4374 the "Energy Opportunities for All Act" and I stand in solidarity with my family to oppose this legislation. My aunt Annie C. Begay told me "there have been many different oil and gas companies taking from the land but if you look around we have nothing in our community to show for it". I carry her reason as well as many other Navajo Tribal members that we want to have a thriving community like other oil and gas producing communities. We have a once in a generation opportunity to make meaningful investments in communities like Nageezi to build homes and community centers. A library or even a laundromat to help give hope to many people. The opportunities that leadership of all levels should be working toward is securing energy democracy for all Navajos to ensure every house is electrified and has running water.

Ahéhee',

JOSEPH F. HERNANDEZ,
Community Organizer

Statement for the Record**Kendra Pinto
Counselor Chapter Navajo Nation****July 13, 2023**

Thank you for the opportunity to provide this letter of opposition to H.R. 4374, legislation that would prevent Public Lands Order No. 7923, known as the Chaco Area mineral withdrawal. My name is Kendra Pinto, I live in the Counselor Chapter of Navajo Nation, within the Greater Chaco landscape and what is now known as the San Juan Basin. My family and I are Diné and have lived and worked on our ancestral lands for generations. Our home and ancestral lands are now surrounded by oil and gas development with at least 5 active well sites within a mile of me.

Over the last decade, truck traffic, well sites, compressor stations, and related infrastructure have blighted our landscape disturbing wild trees, wild grasses, dwindling rare cacti, and plants used for medicinal purposes. These drastic changes to our natural environment have also impacted our human environment. The influx of unfamiliar oil field workers has corresponded with more violence, drug, and alcohol abuse in my community, leaving me in fear for my own safety. Women in the community are told to be alert of their surroundings, a common suggestion in recent years with the hydraulic fracturing boom, with workers that typically do not live in or reside in the Chaco region. Due to our location in a remote area, emergency services for people who live in the Chaco Canyon are limited and may be significantly delayed if weather is a factor.

In July 2021, I became a certified optical gas imaging (OGI) thermographer. As staff for Earthworks, a national nonprofit dedicated to protecting communities and the environment from mineral development, I operate a specialized infrared camera, used by industry and regulators, that can see otherwise invisible methane and other volatile organic compounds (VOC) generated by oil and gas facilities. In April 2022, I filmed OGI videos detecting these emissions over the course of two days in and near the 10 mile buffer of the Chaco Area mineral withdrawal, and subsequently found one facility within the buffer zone and two facilities on the outskirts of the zone that were emitting. Three complaints were filed with the New Mexico Environment Department (NMED).¹ Since 2018, I have filed more than 50 complaints to NMED regarding methane and VOC emissions from oil and gas facilities in the Four Corners region. These complaints document how oil and gas development has damaged my air quality, ancestral lands, traditional resources, and quality of life.

Over 90% of the public lands surrounding me and my family have been leased for mineral resource exploration and development, and it has not been entirely beneficial to all who live in this area. Public health and public safety are major concerns for local residents who are living with the impacts of development. The Chaco Area mineral withdrawal will ensure me and my family have a future and the lands surrounding us will have the potential to remain pristine and livable. I request you oppose H.R. 4374. Thank you for your consideration.

¹The YouTube links to the OGI videos are available here: Morrison SWD #2, San Juan County, NM (April 2022) and Federal 21-6-28 SWD #33, Sandoval County, NM (April 2022) and Federal 21-6-29 #2 Sandoval County, NM (April 2022)

Statement for the Record

Myron Lizer
Navajo Nation Vice President

Thank you Chairman Lowenthal, Representative Grijalva, Representative Haaland, and Representative Luján. My name is Myron Lizer and I am the Vice President of the Navajo Nation. I appreciate the opportunity to testify today at this field hearing on the impacts of oil and gas development for air pollution and sacred sites. Oil and gas development has provided sustained income for the tribal government and provided jobs for the Navajo Nation, which has about 42% unemployment. In the past, the Navajo Nation has used its carbon-based natural resources to provide energy to the United States. However, the ability for the Navajo Nation to determine where oil and gas development occurs and the ability to regulate oil and gas development is fundamental to providing a clean environment and protecting Native American sacred sites.

While oil and gas development on the Navajo Nation has provided royalties to the Navajo Nation for government services and general funds, we are also looking toward the future and alternative sources of energy to provide revenue for the Nation. Most recently, Navajo Nation President Jonathan Nez and myself issued the "Navajo Hayoolkaál Proclamation" or the "Navajo Sunrise Proclamation" to diversify the Navajo Nation energy portfolio from carbon-based energy to renewable energy development, and to restore the environment, provide electricity to rural homes, and support new community and utility-scale renewable energy projects to provide power to the Navajo Nation and the Western United States. By setting this direction for the Navajo Nation, we look to be the leader in the clean energy market.

With regards to oil and gas development, we are sensitive to the location of these facilities near our sacred and cultural sites. This is dictated by our Navajo culture and tradition to respect our relatives who have come before us. This is the reason we continue to support the protection of the Chaco Canyon area from mineral mining and development and the long-awaited Chaco Cultural Heritage Area Protection Act that Senator Udall introduced.

Although we are not direct descendants of the pueblo who inhabited Chaco, our people have long settled in the area and many of our traditional stories are connected to the Chaco area and the surrounding region. As native people, we are connected to the land and it is important to preserve and protect the dwellings and the belongings of ancestral Native people from disturbance. This is not only a Navajo teaching but an acknowledgement of a way of life for all indigenous peoples.

The Bureau of Land Management (BLM) has postponed oil and gas lease sales near Chaco Canyon to allow for the further review of the cultural impacts. With regards to BLM's development of a management plan for the area, the Navajo Nation supports the BLM's development of a sustainable management plan that would prevent federal oil and gas extraction in a 10-mile radius or Protection Zone from the epicenter of the Chaco Cultural National Historical Park.

If there is increased oil and gas development in the Chaco region there will be increased risk for disturbance of the structures and artifacts. Waste from oil and gas extraction can further contaminate the region. Increased truck traffic as well as gas powered machinery can also negatively impact air quality. Oil and gas development activities will also contribute to an increase in emissions such as particulate matter (PM), methane, VOCs and other greenhouse gases. Over time, emissions can damage the sensitive structures and cultural artifacts within the Chaco region.

Ambient air quality on the Navajo Nation is classified by the U.S. Environmental Protection Agency (U.S. EPA) as attainment/unclassifiable of all monitored air pollutants except for a portion of Coconino County, Arizona located within 50-km of Navajo Generating Station, which has been designated unclassifiable with the 2010 SO₂ National Ambient Air Quality Standards (NAAQS). The NAAQS consists of six (6) criteria pollutants for which the Navajo Nation currently monitors four (4) of these criteria pollutants: particulate matter 2.5 (PM_{2.5}, or airborne particles 2.5 microns in diameter and smaller), ozone (O₃), sulfur dioxide (SO₂), and nitrogen dioxide (NO₂). In the case of the designated non-attainment area, the applicable threshold for a proposed source or modification is determined based on the designation where the source is or would be located. If the source straddles the two areas, the more stringent thresholds apply.

The U.S. EPA regulates criteria pollutants using the NAAQS, which establish ambient levels for each criteria pollutant using health and welfare-based criteria. There are two series of standards. As per the CAA § 109(b), the "primary" standards are designed to provide an adequate margin of safety that is essential to protecting public health. The "secondary" standards are intended to protect public welfare from

any known or anticipated adverse effects associated with the presence of a criteria pollutant in the ambient air. The primary standards protect public health and secondary standards protect public welfare by preventing damage to property such as farm crops and buildings, visibility impairment in national parks and wilderness areas, and the protection of ecosystems (U.S. EPA NAAQS Table).

The Navajo Nation Environmental Protection Agency (NNEPA) has some of the most advanced tribal environmental programs in the country. The NNEPA holds primacy over air and water quality standards and conducts permitting for water programs. The Nation has received delegation approval for a Part 71 Operating Permit Program (also known as Title V) from U.S. Environmental Protection Agency (EPA) Region IX on October 13, 2004 and March 21, 2006. This authority allows the NNEPA to administer a Title V air program under the Clean Air Act. Under this delegation, fourteen (14) major sources with potential to emit pollutants over 100 tons per year, are regulated.

The Navajo Nation has proposed a rule to establish a minor source permitting program under the Navajo Nation Clean Air Act. Under the proposed *Navajo Nation Minor Source Permit Regulations*, the Nation will provide air pollution permits for minor sources to help reduce methane and volatile organic compounds (VOCs) emissions. As proposed, minor sources must not emit more than 5 tpy (tons per year) of VOCs in an attainment area. Also, under the proposed rule, if the Navajo Nation were to become designated as non-attainment, the applicable threshold for a proposed source or modification will be determined based on the designation where the source is or would be located. If the source straddles the two areas, the more stringent thresholds would apply.

Methane emissions not only have an economic impact but also can have an impact on the environment. Methane is a greenhouse gas that contributes to climate change by increasing the atmospheric temperature. The Navajo Nation's proposed minor source rule will help reduce methane emissions by identifying oil and gas facilities on the Navajo Nation through a permitting process. Tracking oil and gas emissions from wells, monitoring the types of oil and gas wells and retaining location information of oil and gas wells will provide a foundation for future assessments and recommendations on reducing emissions, including planning for regulatory initiatives to further reduce emissions from applicable sources. The Navajo Nation then can provide recommendations to industrial sources such as oil and gas facilities, agriculture, and businesses and homes to lessen emissions.

The "Tribal Minor New Source Review Program for Indian Country", (76 Fed. Reg. 38784 (July 1, 2011), 40 C.F.R. §§49.151-161), currently regulates minor sources on the Navajo Nation. After the Navajo Nation issues its own Minor Source Program regulations, NNAQCP will seek to implement this program in place of the federal government. The NNAQCP implementation will give the Navajo Nation greater control over its air resources, and will allow the Navajo Nation to regulate emissions of air pollution that may impact the environment, public health and welfare, and cultural and religious resources. The proposed rule also would impose fees to cover the costs of administering the minor source program, including permit application, revision and renewal fees, annual emissions fees, fees for coverage under general permits, and registration fees.

On September 28, 2018, finalized the DOI BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation rule for methane (83 Fed. Reg. 49184). The Navajo Nation provided comments on the proposed rule and requested tribal consultation.

The Navajo Nation also fears that there will be an increase in the already high number of oil spills from broken pipes, particularly during the winter when pipes freeze and break. Given our limited resources, remoteness of Chaco, and, in some cases, authority, the Navajo Nation is severely limited to responding to spills. If a spill were to occur, we would have to call upon US EPA who then notifies its On-Scene Coordinator, who then oversees the process and shares information with us. In the past our OSC representatives would come from California or Nevada, further delaying response times. While a spill eventually gets addressed, we have concerns with response time and oversight given the limiting factors.

With that said, I also want to address uranium mining and make clear that we do not support development of any uranium mining. Uranium mining has been detrimental to the Navajo people for many decades and I want to make sure that it does not harm any family again. Navajo law also supports a moratorium on uranium mining and processing activity in Navajo Indian Country.

In summary, the Navajo Nation is looking to diversify its energy portfolio to combat climate change and provide clean energy to the Navajo Nation and the Western United States. I appreciate the committee's invitation to testify.

**OJO ENCINO CHAPTER
RESOLUTION OJOE-03-09-15/002**

Requesting the New Mexico Congressional caucus to Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and, To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and, To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs of allottees are protected; and, related actions

WHEREAS:

Pursuant to Navajo Nation Code, Ojo Encino Chapter is certified to plan, to oversee community development, and to govern for the benefit of the community residents; and

Ojo Encino Chapter has the inherent right to position itself for the public interest, public safety and the general welfare of their community and its residents; and,

Ojo Encino Chapter has steadfastly communicated, coordinated and cooperatively planned the regional development of the five most Eastern Chapters of the Navajo Nation; and,

Ojo Encino Chapter reads that the 2003 Resource Management Plan for the Farmington BLM District does not sufficiently address the technological development of horizontal drilling and hydraulic tracking; and,

Ojo Encino Chapter is keenly aware of the Bureau of Land Management's actions to lease the public lands for oil/gas exploration in a manner that precludes its multiple use to a singular use for energy development; and,

Ojo Encino Chapter and its residents have personal knowledge of the adverse impacts their relatives are experiencing with the declining air quality through the venting and flaring, the increased vehicular traffic, and the familial discord resulting from the bonus payments for the leasing of the allotments; and

Ojo Encino Chapter is expressly concerned that the wells supplying the Ojo Encino-Torreon-Rincon Marquis community water system will be adversely impacted by the horizontal drilling and hydraulic tracking explorations near the Ojo Encino aquifer; Moreover, Torreon/Starlake Chapter knows that the Water system supplying Pueblo Pintado and Whitehorse Lake communities has wells using the Ojo Encino aquifer as a source; and,

As well, Ojo Encino Chapter has knowledge that the Pinon Pipeline proposed by Saddle Butte Midstream, LLC is proceeding post haste where a proper Environmental Impact Statement is warranted; and,

Ojo Encino Chapter has community voters who have allotments, are heirs and have an interest in the Mancos-Gallup shale formation area wherein Land Agents contracted by the many layered interests of the energy exploration corporations are leading the allottees to sign the leases without proper legal advisement; and, the Bureau of Indian Affairs have not held PUBLIC HEARINGS to ensure that the trust status of the allottees are protected; and

Ojo Encino Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies for the Federal government to assure the needs, interests and points regarding land use priorities, protection of culturally grounded ways of life and safe guarding the environment which are imbued in Articles 26, 27, 29 and 32 of the U.N. Declaration.

NOW THEREFORE BE IT RESOLVED THAT:

Ojo Encino Chapter requests the New Mexico Senators Tom Udall, Heinrich and Congressman Lujan to:

1. Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and,
2. To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and,
3. To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are—heirs of allottees are protected; and,

Ojo Encino Chapter requests assistance to secure funding to conduct health impact assessments, baseline water and soil testing and air quality monitoring for the impacted areas.

CERTIFICATION

WE HEREBY CERTIFY the foregoing resolution was duly considered by the Ojo Encino Chapter at a duly called meeting at Ojo Encino Chapter, Navajo Nation, (New Mexico) at which a quorum was present and that same was passed with a vote of 13 in favor, 0 opposed this 9 day of March 2015.

George Werito Jr., President

Jeanette Vice, Vice President

Brandon Sam, Secretary/Treasurer

THE NAVAJO NATION
Window Rock, AZ

August 22, 2018

Hon. Lisa Murkowski, Chairwoman
Hon. Maria Cantwell, Ranking Member
Senate Committee on Energy & Natural Resources
Dirksen Senate Office Building
Washington, DC 20510

Hon. Mike Lee, Chairman
Hon. Ron Wyden, Ranking Member
Senate Subcommittee on Public Lands, Forest & Mining
Dirksen Senate Office Building
Washington, DC 20510

Re: Support for S. 2907, The Chaco Cultural Heritage Area Protection Act of 2018
Dear Senators Murkowski, Cantwell, Lee and Wyden:

I write to you as President of the Navajo Nation to express our support and request yours for the passage of S. 2907, the Chaco Cultural Heritage Area Protection Act of 2018, which was introduced by Senator Udall and Senator Heinrich. This bill will help protect the sacred and cultural Native American sites and artifacts within the Chaco Canyon National Historic Park from further mineral development on federal land while maintaining the rights of the owners of trust and tribal allotments.

The Navajo Nation has a strong interest in this legislation as the Chaco Canyon National Historic Park sits within our borders, and we have deep ties to the land. We believe in protecting our native cultural resources because they are invaluable, historical, irreplaceable and embody a strong spiritual significance for the Indian tribes in the region. As such, we consider any further disturbance to this area as culturally and morally unacceptable. S. 2907 reflects hundreds of public comments and is supported by the All Pueblo Council of Governors, the New Mexico Wilderness Alliance, the Wilderness Society, and Southwest Native Cultures. Therefore, I urge the Senate Committee on Energy and Natural Resources to move the bill forward to the full Senate for passage. Thank you.

Sincerely,

RUSSELL BEGAYE,
President

THE NAVAJO NATION
RESOLUTION OF DILKON CHAPTER DIL-07-075-15

REQUESTING THE NEW MEXICO CONGRESSIONAL CAUCUS TO INTERVENE ON BEHALF OF THEIR CITIZENS REGARDING THE ACTIONS OF THE BUREAU OF LAND MANAGEMENT ON THE LEASING OF CERTAIN PARCELS OF PUBLIC LANDS FOR HORIZONTAL DRILLING AND HYDRAULIC FRACTURING BY CALLING FOR A MORATORIUM UNTIL THE RESOURCE MANAGEMENT PLAN IS REVISED OR AMENDED; AND TO CALL FOR AN ENVIRONMENTAL IMPACT STUDY TO BE CONDUCTED ON THE ROUTE OF THE PROPOSED PINON PIPELINE; AND TO IMPLORÉ THE BUREAU OF INDIAN AFFAIRS NAVAJO REGION EXERCISE DUE DILIGENCE TRUST RESPONSIBILITY TO ASSURE THAT THE TRUST STATUS RIGHTS OF THE NAVAJOS CITIZENS WHO ARE ALLOTEES OR ARE HEIR OF ALLOTEES ARE PROTECTED; AND RELATED ACTIONS.

WHEREAS:

1. Dilkon Chapter is a certified chapter of the Navajo Nation in accordance to Navajo Tribal Council resolution CJ-20-55, and further recognized as a local governmental entity with the responsibility and authority to implement community projects that will benefit the Dilkon Community; and
2. By Navajo Nation Council resolution CAP-34-98, also known as the Local Governance Act, the Navajo Nation Council authorized Chapters “[to] make decisions over local matters, “within the Chapter area”; and
3. Dilkon Chapter supports the regional development of the five most Eastern Chapters of the Navajo Nation—said chapters have steadfastly communicated, coordinated and cooperatively planned; and
4. Dilkon Chapter understands that the 2003 Resource Management Plan for the Farmington (NM) Bureau of Land Management District does not sufficiently address the technological development of horizontal drilling and hydraulic tracking; and
5. Dilkon Chapter is aware of the Bureau of Land Management’s actions to lease the public lands for oil and gas exploration in a manner that precludes its multiple use to a singular use for energy development; and
6. Dilkon Chapter is further aware of the adverse impacts experienced by those who reside within the affected area—declining air quality through the venting and fracturing flares, the increased vehicular traffic, and the familial discord resulting from the bonus payments for allotment leasing; and
7. Dilkon Chapter is expressly concerned that the wells supplying the impacted area—Ojo Encino, Rorreon, Rincon Marquesis—community water system will be adversely impacted by the horizontal drilling and hydraulic fracking exploration near the Ojo Encino aquifer; moreover, Roreron/Starlake Chapter issues that the water system supplying the Pueblo Pintado and Whitehorse Lake communities has wells using the Ojo Encino aquifer as a source; and
8. Dilkon has learned from Ojo Encino community members that they have knowledge that the Pinon Pipeline proposed by the Saddle-Butte Midstream, LLC is proceeding with great immediacy where a proper Environmental Impact Statement is warranted; and
9. Dilkon Chapter is aware that the impacted area has community members who have allotments, are heirs an interest in the Mancos-Gallup shale formation area wherein Land Agent contracted by the many layered interest of the energy exploration are encouraging the allottees to sign the leases without proper legal advisement, and the Bureau of Indian Affairs have not held PUBLIC HEARINGS to ensure that the trust status of the allottees are protected; and
10. Dilkon Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies of the federal government to ensure the needs, interests and points regarding land use priorities, protection of culturally grounded ways of life and safe guarding the environment which are imbued in Articles 26, 27, 29 and 32 of the United Nations Declaration.

NOW, THEREFORE BE IT RESOLVED

Dilkon Chapter requests the New Mexico Senators Tom Udall, Heinrich and Congressman Lujan to:

1. Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and,
2. To call for an Environmental Impact Study to be conducted on the route of the proposed pinon Pipeline; and
3. To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs are protected; and
4. Dilkon Chapter requests assistance to secure funding to conduct health impact assessments, baseline water and soil testing and air quality monitoring for the impacted areas.

CERTIFICATION

I hereby certify, the forgoing resolution was duly considered by the Dilkon Chapter at a duly called meeting at the Dilkon Chapter, Navajo Nation, (Arizona) at which a quorum was present and that same was passed with a vote of 26 in favor, 0 opposed on this July 13, 2015.

Lorenzo Lee, Sr., President

Dilkon Chapter

Statement for the Record**Samuel Sage
Enrolled Navajo Nation Citizen****July 11, 2023**

I Samuel Sage, Navajo Nation enrolled citizen, thank the Committee for the opportunity to provide written testimony on House Resolution H.R. 4374. The bill was introduced by Representative Elijah Crane, R-AZ-2. I write to express strong opposition to this legislation and request this Committee's solidarity to stand with front line Navajo community and Allottee members for permanent and broad protections of the Greater Chaco Landscape.

I. Background (Context)

My name is Samuel Sage, I am an enrolled citizen of the Navajo Nation from Counselor, NM. My community is approximately 34 miles away from Chaco Culture National Historical Park (Chaco Canyon). As a Diné citizen who has experienced the harmful legacy of oil and gas development, I am uniquely qualified to speak upon the need for a 10-mile withdrawal area and the Department of the Interior's (DOI) administrative decision to withdraw federal lands and minerals surrounding Chaco Canyon from future mineral development for a 20-year term.

Since time immemorial, my clan, family, and community have resided in Counselor, NM. In adherence to our Diné Traditional Law, these teachings have served to guide our existence on Mother Earth as stewards of her body and ecosystems. Unfortunately, the Navajo Nation, like many tribes, have been subject to impositions of colonialism, law, and policy designed to fracture our internal governance and responsibilities. During a painful period of Navajo history, the people sought to defend our sovereignty from the Dawes Act of 1887 and the beginning of the Federal Indian Boarding School era of 1890. Many Navajo community members from the Eastern Agency were provided individual allotment land when their children were removed from Dinétah (the ancestral homeland for Navajo). This era is partially responsible for the establishment of the checkerboard land parcels on the Eastern Navajo Agency that encompasses land in the state of New Mexico.

Over the past one hundred years across federal, state, tribal, and allotment lands, the oil and gas development has encroached Chaco Canyon for petrochemical exploration and development. The legacy of extraction has harmed the land and the cultural landscape important to the Diné people, Pueblos, and Tribes who claim cultural affiliation to the sacred and irreplaceable landscape. Unfortunately, upwards of 90 percent of available federal lands and minerals have been leased for development surrounding Chaco Canyon without sufficient cumulative environmental and ethnographic analyses. Furthermore, inadequate environmental analyses and measures have subjected our front line Navajo communities to severe negative health impacts and depletion of important water systems vital to livelihood, agriculture, and many cultural practices. The increased mineral development has brought immense challenges to my personal health and the future vitality of my community.

Therefore, as a Diné citizen, I extend my strong support for the 2023 public land order from the Department of the Interior (DOI) to administratively withdraw federal lands in an approximate 10-mile withdrawal area surrounding Chaco Culture National Historical Park and including its outliers for a 20-year term. And, I strongly support the Honoring Chaco Initiative (HCI) as an ongoing effort to create better land co-management practices in the Greater Chaco Region. DOI's June 2, 2023 administrative withdrawal decision comes after long standing Navajo Allottee and community calls to address legacy impacts of oil and gas leasing. This effort preserves Navajo Nation and Allottees rights to seek mineral development on their own land, and supports Navajo Nation resolutions from the Eastern Navajo Agency Council, Counselor Chapter, Ojo Encino Chapter, Dilkon Chapter, and Torreón/Star Lake Chapter. It supports the status quo of yearly Congressional appropriations moratorium language that prevents the Bureau of Land Management from utilizing resources to conduct mineral leasing on public lands within the withdrawal area, and finally supports Pueblo and Diné Solidarity. We ask that the Navajo Nation President and the Navajo Nation Council to uphold their original stewardship responsibilities.

II. Impacts

Since 2013, local Navajo Chapter Houses have adopted Resolutions calling upon the federal government including Congress and DOI to initiate steps toward better land management and prevention of further leasing on Public Lands under certain conditions, including the support for Navajo Nation and Allottees to continue exploring options for oil and gas leases. These calls to action derived from community members experiencing declining air quality through venting and flaring of oil and gas development without much stewardship leading to thousands of abandoned oil wells, and increased vehicular traffic of industrial oil and gas semi-trucks. There is major concern that oil and gas wells are depleting and contaminating community aquifers by multistage hydraulic fracturing. These actions have brought forth a rise in health complications and illnesses like cancer and respiratory problems, which increased COVID deaths.

The cumulative health and environmental impacts of oil and gas extraction are devastating. In 2016, the Counselor Health Impact Assessment—K'íe Bee Hózhoggo Iná Silá Committee began to account for the legacy of mineral development and assess the health complications and impacts for Diné communities. This work culminated in the completion of the study “A Cultural, Spiritual and Health Impact Assessment Of Oil Drilling Operations in the Navajo Nation area of Counselor, Torreon and Ojo Encino Chapters” in 2021. The research and findings of this study were approved by the Navajo Nation Human Research Review Board.

The study's findings were numerous. Among them:

- Air monitoring conducted in Counselor Chapter in 2018 revealed levels of airborne formaldehyde that far exceeded permissible exposure levels, levels of particulate matter that routinely spiked to unhealthy and hazardous levels, as well as the continuous presence of VOCs, all of which can be harmful to human respiratory health, and in the case of formaldehyde, lead to nose and throat cancer.
- Mapping of wells in Counselor Chapter in 2018 found that most of Counselor's 700 residents live within a mile of at least one oil and gas facility that emits pollutants.
- Among Counselor residents surveyed for the health impact assessment portion of the study, 90% reported sinus problems (discharge, obstruction and pain); 80% reported coughs, headaches, itching/burning of eyes, joint pain, fatigue and sleep disturbance; 70% reported nosebleeds and wheezing (loud breathing); 60% reported shortness of breath; and 42% reported itching of skin/rash. All these symptoms are consistent with exposure to pollution from oil and gas production.
- The study also found that local Diné community members (including allotment owners) in Counselor, Ojo Encino, and Torreon Chapters experience significant cultural, spiritual, and social harms from oil and gas extraction. These include: familial and community conflicts; desecration of sacred sites; degradation of the land; disrespect of tribal sovereignty by oil companies; concern about being able to sustain a livelihood from the land; disappearance of traditional herbs and medicines; feelings of not being heard by federal, state, and tribal leaders.
- The study found that balance and harmony in these communities has been eroded by oil and gas drilling, deeply affecting Diné lifeways.

III. History of Diné, Pueblo, and Cross-Organizational Engagement to Support Greater Chaco Landscape Protections

There is a long history of inter-Tribal and public engagement in support of protecting the Greater Chaco Landscape. For example, in 2013, the Eastern Navajo Agency Council called for a moratorium on hydraulic fracturing in the region. This was followed by the passage of multiple Navajo Nation Chapter resolutions supporting the protection of the landscape from oil and gas extraction. In 2017, the All Pueblo Council of Governors and Navajo Nation President and Vice President issued a joint statement opposing horizontal fracking in Greater Chaco, and the National Congress of American Indians passed a resolution to support a moratorium on leasing and permitting in the region. In 2019, the New Mexico State Land Office issued Executive Order 2019-002 Moratorium on New Oil and Gas and Mineral Leasing within a 12-mile area around Chaco Culture National Historical Park and convened a Chaco Working Group to make recommendations regarding land management practices in the Greater Chaco region. In 2019, APCI and the Navajo

Nation met in a historic summit to support the protection of the Greater Chaco Landscape.

While our front line communities are well aware of the legacy health and landscape impacts, there has always been a strong understanding that some Navajo Allottees currently rely on the economic benefits of mineral exploration due to lack of other opportunities in the area. After numerous internal family discussions and community meetings, a consensus emerged that any calls for protections would incorporate the option to preserve Navajo Trust lands and Allotment lands to seek mineral development.

Since 2016, over 2 million public comments have been submitted to federal agencies in support of protecting the Greater Chaco Landscape from oil and gas extraction.

In 2021, President Biden and Interior Secretary Haaland initiated concurrent administrative efforts to protect Chaco Canyon and the Greater Chaco Region and improve land management practices through the Honoring Chaco Initiative.

IV. Request

I request you to oppose H.R. 4374 the bill to nullify public land order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry.

National Congress of American Indians
Resolution #MKE-17-008

TITLE: To Support Moratorium on Leasing and Permitting In Greater Chaco Region

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the protection of each tribe's traditional cultural properties and sacred sites is necessary to each tribe's cultural preservation now and into the future; and

WHEREAS, preserving the traditional cultural properties and sacred sites that exist in the Greater Chaco Region, including, but not limited to, the Great North Road, the West Road, and Pierre's Site, along with protection of the night skies, soundscapes, view shed and sight-lines within and surrounding Chaco Canyon is essential to the cultures and traditions of tribes in the region; and

WHEREAS, in 1907, President Theodore Roosevelt created the 36,000-acre Chaco Culture National Historical Park to protect significant ancient ruins for future generations but thousands of traditional cultural properties and sacred sites are located throughout the Greater Chaco Canyon Region and are unprotected; and

WHEREAS, the Greater Chaco Canyon Region was historically a center of tribal culture and economic life where Native people over thousands of years built great houses, astronomical observation sites, and ceremonial kivas, and these areas continue to be places of prayer, pilgrimage and living connections to their ancestors; and

WHEREAS, the Chaco Culture National Historical Park and other sites in the Greater Chaco Canyon Region, administered by the Federal Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA), have been designated a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO); and

WHEREAS, it is the responsibility of a federal agency to make the determination of whether a traditional cultural property exists prior to taking federal action; and

WHEREAS, the BLM and BIA have not initiated any ethnographic work with tribes in the region to determine whether cultural landscapes in the Greater Chaco Region/San Juan Basin exist that qualify as a traditional cultural property, but are proposing leasing of lands and considering the issuance of permits for development at this time; and

WHEREAS, oil and gas drilling and related infrastructure in the Greater Chaco Canyon Region harm tribal traditional cultural properties and sacred sites and degrade and impair the cultural landscape(s) that include these traditional cultural properties and sacred sites; and

WHEREAS, the oil and gas industry has developed new extraction technologies by combining horizontal drilling with industrialized hydraulic fracturing ("fracking"), creating increased industry interest in the Mancos shale in the Greater Chaco Canyon Region; and

WHEREAS, the BLM and the BIA acknowledge that the agencies have not analyzed the impacts of fracking in the Greater Chaco Canyon Region and yet have approved over 400 fracking wells since 2013, which have already harmed the cultural landscape(s) in the region; and

WHEREAS, the BLM and the BIA are working jointly to amend the BLM's 2003 Resource Management Plan to include consideration of the impacts of fracking in

the Greater Chaco Canyon Region and further agreed to halt all leases within a 10-mile radius of Chaco Canyon until it finished amending its Resource Management Plan, which it expects to issue in late 2018, and until completion of tribal consultations and community outreach; and

WHEREAS, in January 2017, over the opposition of the tribes in the region, the BLM issued leases on 843 acres of public lands for fracking activities within 19 miles of Chaco Culture National Historical Park; and

WHEREAS, despite its previous agreement not to do so, and without completion of any ethnographic study to determine the existence of one, if not more, traditional cultural landscapes within the Greater Chaco Region, the BLM and BIA have been issuing permits and recently began a process to lease areas adjacent to the 10-mile radius of Chaco Canyon Culture National Historical Park, and in close proximity to known sites of importance on the Great North Road; and

WHEREAS, the continuation of permitting and leasing of public lands by the BLM and the BIA for fracking activities in increasingly closer proximity to Chaco Culture National Historical Park threatens irreparable harm to Chaco Canyon and traditional cultural properties and sacred sites, including existing traditional cultural landscapes in the Greater Chaco Region; and

WHEREAS, NCAI has in the past called for moratoria on development of lands that would threaten tribal interests in lands and cultural resources, including by passing Resolution #PHX-08-020, To Support Moratorium on Exploration for Oil and Gas Drilling in the Galisteo Basin of New Mexico.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls upon the Department of the Interior, acting through the BLM and the BIA, to immediately issue a moratorium on all oil and gas permitting and leasing in the Greater Chaco Canyon Region to protect traditional cultural properties and sacred sites in the region until the BLM and BIA initiate and complete an ethnographic study of cultural landscape(s) within the Greater Chaco Region and the Farmington Field Office Resource Management Plan Amendment and Environmental Impact Statement for the Mancos-Gallup Formations 2003 Regional Management Plan; and

BE IT FURTHER RESOLVED, that NCAI supports the creation of a protection zone around Chaco Canyon where the Department of the Interior will prioritize the protection of traditional cultural properties and sacred sites, including, but not limited to, the Great North Road, the West Road, and Pierre's Site; and

BE IT FURTHER RESOLVED, that NCAI calls upon the Department of the Interior, including the BLM, BIA, and the National Park Service, pursuant to their authorities and responsibilities under the National Historic Preservation Act, the Archeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, the Federal Land Policy and Management Act, the National Environmental Policy Act, and Executive Orders 12898 and 13007, formally adopt and cooperate on the management of the aforesaid protection zone and conduct meaningful government-to-government consultations with the tribes in the region; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Annual Session of the National Congress of American Indians, held at the Wisconsin Center in Milwaukee, WI, Oct 15, 2017–Oct 20, 2017, with a quorum present.

Jefferson Keel, President

ATTEST:

Juana Majel Dixon, Recording Secretary

**TORREON/STAR LAKE CHAPTER
RESOLUTION**

Requesting the New Mexico Congressional Caucus to Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and, To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and, To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs of allottees are protected; and, related actions

WHEREAS:

Pursuant to Navajo Nation Code; Torreon/Starlake Chapter is certified to plan, to oversee community development, and to govern for the benefit of the community residents; and

Torreon/Star lake Chapter has the inherent right to position itself for the public interest, public safety and the general welfare of their community and its residents; and,

Torreon/Star lake Chapter has steadfastly communicated, coordinated and cooperatively planned the regional development of the five most Eastern Chapters of the Navajo Nation; and,

Torreon/Star lake Chapter reads that the 2003 Resource Management Plan for the Farmington BLM District does not sufficiently address the technological development of horizontal drilling and hydraulic fracking; and,

Torreon/Star lake Chapter is keenly aware of the Bureau of Land Management's actions to lease the public lands for oil/gas exploration in a manner that precludes its multiple use to a singular use for energy development; and,

The Torreon/Star lake Chapter and its residents have personal knowledge of the adverse impacts their relatives are experiencing with the declining air quality through the venting and flaring, the increased vehicular traffic, and the familial discord resulting from the bonus payments for the leasing of the allotments; and

The Torreon/Star lake Chapter is expressly concerned that the wells supplying the Ojo Encino-Torreon-Rincon Marquis community water system will be adversely impacted by the horizontal drilling and hydraulic fracking explorations near the Ojo Encino aquifer; Moreover, Torreon/Star lake Chapter knows that the Water system supplying Pueblo Pintado and Whitehorse Lake communities has wells using the Ojo Encino aquifer as a source; and,

As well, Torreon/Star lake Chapter has knowledge that the Pinon Pipeline proposed by Saddle Butte Midstream, LLC is proceeding post haste absent a proper Environmental Impact Statement; and,

The Torreon/Star lake Chapter has community voters who have allotments, are heirs and have an interest in the Mancos-Gallup shale formation area wherein Land Agents contracted by the many layered interests of the energy exploration corporations are leading the allottees to sign the leases without proper legal advisement; and, the Bureau of Indian Affairs have not held PUBLIC HEARINGS to ensure that the trust status of the allottees are protected; and

Torreon/Star lake Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies for the Federal government to assure the needs, interests and points regarding land use priorities, protection of culturally grounded ways of life and safe guarding the environment which are imbued in Articles 26, 27, 29 and 32 of the U.N. Declaration.

NOW THEREFORE BE IT RESOLVED THAT:

Torreón/Star lake Chapter requests the New Mexico Senators Tom Udall, Heinrich and Congressman Lujan to:

1. Intervene on behalf of their citizens regarding the actions of the Bureau of Land Management on the leasing of certain parcels of public lands for horizontal drilling and hydraulic fracturing by calling for a moratorium until the Resource Management Plan is revised or amended; and,
2. To call for an Environmental Impact Study to be conducted on the route of the proposed Pinon Pipeline; and,
3. To implore the Bureau of Indian Affairs, Navajo Region exercise due diligence trust responsibility to assure that the trust status rights of the Navajo citizens who are allottees or are heirs of allottees are protected; and,

Torreón/Star Lake Chapter requests assistance to secure funding to conduct health impact assessments, baseline water arid soil testing and air quality monitoring for the impacted areas.

CERTIFICATION

WE HEREBY CERTIFY the foregoing resolution was duly considered by the Torreón/Star lake Chapter at a duly called meeting at Torreón/Star lake Chapter, Navajo Nation, (New Mexico) at which a quorum was present and that same was passed with a vote of 36 in favor, 0 opposed this 9th day of March 2015.

David Rico, President

Joe L. Cayaditto, Jr., Vice President

Evangeline Tachine, Secretary/Treasurer

**TORREON/STAR LAKE CHAPTER
RESOLUTION TSL 04/2016-027**

OPPOSING THE MASTER LEASING PLAN AS PROPOSED BY CERTAIN GROUPS; TO IMPLORER THE BUREAU OF LAND MANAGEMENT (BLM), THE BUREAU OF INDIAN AFFAIRS (BIA), TO PRIORITIZE THE NAVAJO COMMUNITY CONCERNS ON HEALTH IMPACTS, AIR QUALITY FACTORS, SAFETY CONCERNS, INCLUDING BUT NOT LIMITED TO THE SCHOOL BUS ROUTES, AS AN INTEGRAL FACET OF THE PROPOSED RESOURCE MANAGEMENT PLAN—AMENDMENT (RMP-A) AND RELATED ACTIONS.

WHEREAS:

1. Torreon/Star Lake Chapter is a certified unit of Navajo Nation Government having the authority to enact certain provisions regarding the quality of life factors of its community residents, and;
2. The Torreon/Star Lake Chapter has many community residents as their voting constituents who have inheritance rights in BLM Farmington District Field Office Resource Management area, and;
3. The Torreon/Star Lake Chapter's area has more than 85,000 acres within its Chapter area of which the western chapter area is part of the BLM Farmington Field Office, and;
4. South West Archeologists and Nature Trust, among other groups, are purporting to pursue a Master Leasing Plan as has been used in other Field Offices in other States, and;
5. The Master Leasing Plan maps for the BLM Field Office resource management area shared by BLM does not, in proper detail, show the community area and residences,
6. The organizations pushing the Master Leasing Plan have not approached the affected community Chapters, much less the allotment landowners with respect to the written aspects of their proposed Master Leasing Plan, and;
7. The Master Leasing Plan proponents, the Bureau of Land Management, and the Bureau of Indian Affairs have not adhered to the Tribal Consultation process prior to making public the MLP concept and to which are included in written documents circulated at certain BLM meetings, and;
8. The Bureau of Land Management, at its December 05, 2015 meeting, distributed a fact sheet which named the Master Leasing plan as the only alternative;

NOW THEREFORE BE IT RESOLVED THAT:

The Torreon Star Lake Chapter hereby opposes the inclusion of the Master Leasing Plan and its maps for which the affected Chapters have not been informed, consulted and have not consented to, and;

The Torreon-Star Lake Chapter hereby implorers the Bureau of Land Management to Prioritize the Community concerns regarding the deteriorating air quality, the health impacts and safety factors, including but not limited to the School bus routes, as an integral part of the 2015 Resource Management Plan-Amendment.

CERTIFICATION

WE HEREBY CERTIFY the forgoing resolution was duly considered by the Torreon/Star Lake Chapter at a duly called meeting at Torreon/Star Lake Chapter, Navajo Nation, (New Mexico) at which a quorum was present and that same was passed with a vote of 32 in favor, 0 opposed this 4th day of April 2016.

David Rico, President

Joe L. Cayaditto, Jr., Vice President

Evangeline Tachine, Secretary/Treasurer

**TORREON/STAR LAKE CHAPTER
RESOLUTION TSL 04/2016-026**

SUPPORTING THE APPROVAL OF THE PROPOSED ENVIRONMENTAL PROTECTION AGENCY AND THE BUREAU OF LAND MANAGEMENT PROPOSAL ON AMENDING THE METHANE RULES REGARDING THE NEW AND EXISTING OIL/GAS FACILITIES SITUATED THROUGHOUT THE CHAPTER AREAS OF TORREON, OJO ENCINO AND COUNSELORS; AND, REQUESTING THE NM CONGRESSIONAL DELEGATION TO EXERCISE CAUTION AND PRUDENCE IN THE FACE OF THE POSITIONS OF THE COUNTIES AND MUNICIPALITIES; AND, RELATED ACTIONS.

WHEREAS:

Pursuant to Navajo Nation Code, Torreon/Star Lake Chapter is certified to plan, to oversee community development, and to govern for the benefit of the community residents; and

Torreon/Star Lake Chapter has the inherent right to position itself for the public interest, public safety and the general welfare of their community and its residents; and,

Torreon/Star Lake Chapter has steadfastly communicated, coordinated and cooperatively planned the regional development of the five most Eastern Chapters of the Navajo Nation; and,

Torreon/Star Lake Chapter reads that the 2003 Resource Management Plan for the Farmington BLM District does not sufficiently address the technological development of horizontal drilling and hydraulic fracking; and,

Torreon/Star Lake Chapter is keenly aware of the Bureau of Land Management's actions to lease the public lands for oil/gas exploration in a manner that precludes its multiple use to a singular use for energy development; and,

The Torreon/Star Lake Chapter and its residents have personal knowledge of the adverse impacts their relatives are experiencing with the declining air quality through the venting and flaring, the increased vehicular traffic, and the familial discord resulting from the bonus payments for the leasing of the allotments; and

The Torreon/Star Lake Chapter is expressly concerned that the wells supplying the Ojo Encino-Torreon-Rincon Marquis community water system will be adversely impacted by the horizontal drilling and hydraulic fracking explorations near the Ojo Encino aquifer; Moreover, Torreon/Star Lake Chapter knows that the Water system supplying Pueblo Pintado and Whitehorse Lake communities has wells using the Ojo Encino aquifer as a source; and,

Torreon/Star Lake Chapter is keenly aware of the meetings of the Environmental Protection Agency where there are proposed Rules applying to new oil and gas facilities to reduce the methane emissions; and,

The Torreon/Star Lake Chapter has informed knowledge that the Bureau of Land Management has proposed rules to effect the existing oil and gas facilities wherein the reduction of Methane emissions will be reduced; and

Torreon/Star Lake Chapter is aware that the Municipal governing council are pressuring the NM Congressional Delegation to push back on the proposed rules; and, These councils are taking the oil and gas industry's word at face value and do not have a keen awareness on the facilities in the remote and less populated areas of the Counties; and,

Torreon/Star lake Chapter has heard in meetings that the Bureau of land Management and the New Mexico Oil Conservation Division do not have sufficient personnel to conduct oil and gas site inspections—They are understaffed; and,

Torreon/Star Lake Chapter supports the rights identified in the United Nations Declaration on the Rights of Indigenous Peoples adopted by the United Nations General Assembly in September 2007 and was supported by President Obama in December 2010 by issuing that the Declaration has both moral and political force must guide the policies and practices of all the agencies for the Federal government to assure the needs, interests and points regarding land use priorities, protection of culturally grounded ways of life and safe guarding the environment which are imbued in Articles 26, 27, 29 and 32 of the U.N. Declaration.

NOW THEREFORE BE IT RESOLVED THAT:

Torreón/Star lake Chapter hereby supports the adoption of the Methane rules as they apply to the new and existing facilities of the oil and gas facilities as proposed by the Bureau of Land Management and the Environmental Protection Agency.

Torreón/Star lake Chapter hereby requests the New Mexico Congressional Delegation to exercise Caution and Prudence in adopting as proposed by the City municipalities.

CERTIFICATION

WE HEREBY CERTIFY the foregoing resolution was duly considered by the Torreón/Star Lake Chapter at a duly called meeting at Torreón/Star lake Chapter, Navajo Nation, (New Mexico) at which a quorum was present and that same was passed with a vote of 32 in favor, 0 opposed this 4th day of April 2016.

David Rico, President

Joe L. Cayaditto, Jr., Vice President

Evangeline Tachine, Secretary/Treasurer

Statement for the Record**Wendy Atcitty
Navajo Nation Enrolled Citizen**

I am Wendy Atcitty, Navajo Nation enrolled citizen. Thank you to the Committee for the opportunity to provide written testimony on the bill to nullify public land order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry, H.R. 4374. Representative Elijah Crane, R-AZ-2, introduced the bill. I strongly oppose the legislation and request this Committee's solidarity to stand with the front-line Navajo community and Allottee members for permanent and broad protection of the Greater Chaco Landscape.

I am a registered voter from Huerfano, approximately 50 miles from the Chaco Culture National Historical Park (Chaco Canyon), and an enrolled Navajo Nation citizen. Our family has resided in the region during the development and experienced the harmful legacy of oil and gas development within our homesite. I am uniquely qualified to speak upon the need for a 10-mile withdrawal area and the Department of Interior's (DOI) administrative decision to withdraw federal lands and minerals surrounding Chaco Canyon from future mineral development for a 20-year term.

There is an era partially responsible for establishing checkerboard land parcels on the Eastern Navajo Agency that encompasses land in New Mexico. However, since time immemorial, my clan, family, and community have resided in Huerfano. We adhere to Diné Traditional Law, which has teachings to guide our existence on Mother Earth as stewards of her body and ecosystems.

It cannot be denied that petrochemical exploration and development have encroached on and harmed land and cultural landscapes important to Diné people, Pueblos, and Tribes who have had cultural affiliation since time immemorial. Chaco Canyon has had 90 percent of federal land and minerals leased to oil and gas development without sufficient cumulative environmental and ethnographic analyses. Our health and ecological impact are real for front-line Diné communities as there is a connection to the fracked water systems used in oil and gas and the emissions. In 2016, a health study began to account for health complications that impact Diné communities from mineral development. It is called Counselor Health Impact Assessment. It culminated in another critical research in 2021, "A Cultural, Spiritual and Health Impact Assessment of Oil Drilling Operations in the Navajo Nation area of Counselor, Torreon, and Ojo Encino Chapters."

As a Diné citizen, I strongly support the 2023 public land order from the DOI to administratively withdraw federal lands in an approximate 10-mile withdrawal area surrounding the Chaco National Historical Park and its outliers for a 20-year term. I also support the Honoring Chaco Initiative (HCI) ongoing effort to create better land co-management practices in the Greater Chaco Region.

The region encompasses the impacts of oil and gas leasing. Several local Chapter resolutions supported the Navajo Allottee and community efforts to preserve the Navajo Nation and Allottees' rights for mineral development on their land. It supports a status quo of yearly Congressional appropriations moratorium language to prevent the Bureau of Land Management from using resources to conduct mineral leasing on public lands within the withdrawal area.

For 10 years, there have been resolutions by Navajo Chapter Houses to have the federal government implement better land management and prevention of further leasing on Public lands, with conditions to explore options for oil and gas leases that support the Navajo Nation and Allottees. It also carries a timeline of inter-Tribal and public engagement in support of protecting the Greater Chaco landscape.

- 2013—The Eastern Navajo Agency Council called for a moratorium on hydraulic fracturing in the region. It was followed by the passage of multiple Navajo Nation Chapter resolutions supporting the protection of the landscape from oil and gas extraction.
- 2016—Over 2 million public comments have been submitted to federal agencies in support of protecting the Greater Chaco Landscape from oil and gas extraction.
- 2017—The All Pueblo Council of Governors and Navajo Nation President and Vice President issued a joint statement opposing horizontal fracking in Greater Chaco, and the National Congress of American Indians passed a resolution to support a moratorium on leasing and permitting in the region.

- 2019—The New Mexico State Land Office issued Executive Order 2019-002 Moratorium on New Oil and Gas and Mineral Leasing within a 12-mile area around Chaco Culture National Historical Park. It convened a Chaco Working Group to make recommendations regarding land management practices in the Greater Chaco region.
- 2019—APCG and the Navajo Nation met in a historic summit to support the protection of the Greater Chaco Landscape.
- 2021—President Biden and Interior Secretary Haaland initiated concurrent administrative efforts to protect Chaco Canyon and the Greater Chaco Region and improve land management practices through the HCI.

There are numerous internal family and community meetings where a consensus emerged on protections that would incorporate the option to preserve Navajo Trust lands and Allotment lands to seek mineral development for economic benefits as there is a lack of opportunities in economic development.

I request you to oppose H.R. 4374, the bill to nullify public land order No. 7923, Withdrawing Certain Land in San Juan County, New Mexico, From Mineral Entry.

