

NEW MEXICO WILD * THE WILDERNESS SOCIETY * AMIGOS BRAVOS *
ARCHAEOLOGY SOUTHWEST * CONSERVATION LANDS FOUNDATION * ENVIRONMENT AMERICA *
EARTH KEEPERS 360 * GILA RESOURCES INFORMATION PROJECT * HEART OF THE GILA *
NATIONAL PARKS CONSERVATION ASSOCIATION * NATURAL RESOURCES DEFENSE COUNCIL *
NEW MEXICO WILDLIFE FEDERATION

July 29, 2026

Sarah Scott
BLM Farmington Field Office
Attn: PLO 7923
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Farmington, NM 87402

Submitted electronically via ePlanning: <https://eplanning.blm.gov/Project-Home/?id=D949F582-402D-F111-8341-001DD804183B>

Re: Comments on the Draft EA for the Evaluation of Proposed Revocation of Public Land Order No. 7923: Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary, New Mexico

Dear Ms. Scott:

On behalf of the undersigned organizations and our members and supporters, please accept these comments on the Revocation Draft EA for the proposal by the Department of the Interior (DOI) to revoke Public Land Order (PLO) No. 7923.¹ The order protects approximately 336,690 acres of public land within an approximately ten-mile cultural protection zone around Chaco Culture National Historical Park (NHP) from new oil and gas leasing and mining for twenty years.² Issued by the Secretary of DOI in 2023 with broad and substantial public input and support, PLO No. 7923 provides long-overdue protection for the area's public lands and the greater connected landscape, which holds deep cultural significance for many sovereign Tribes, Pueblos, and Nations. We strongly oppose the current proposal to revoke the order and deem the Revocation Draft EA to be legally deficient in several respects.

I. INTERESTS OF COMMENTING ORGANIZATIONS

The undersigned groups, along with our members, supporters, and volunteers, have been working for decades to protect the Greater Chaco Landscape and its unique cultural and natural resources. As part of our advocacy, we have participated in many different opportunities to provide public comments on proposals affecting the management and stewardship of public lands and resources in the region. For example, signatories to this letter provided comments in support of the Notice of Proposed Withdrawal³ issued by the Bureau of Land Management (BLM) in January 2022 and the accompanying

¹ U.S. Dep't of Interior, BLM, Proposed Revocation of Public Land Order No. 7923: Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary, New Mexico, Environmental Assessment DOI-BLM-NM-F010-2026-0002-EA (July 2026), available at <https://eplanning.blm.gov/Project-Home/?id=D949F582-402D-F111-8341-001DD804183B> (last visited July 27, 2026) [hereinafter Revocation Draft EA].

² Public Land Order No. 7923 for Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary; San Juan, Sandoval, and McKinley Counties, New Mexico, 88 Fed. Reg. 37,266 (June 7, 2023).

³ BLM, Notice of Proposed Withdrawal and Public Meetings; San Juan County, NM, 87 Fed. Reg. 785 (Jan. 6, 2022).

Draft Environmental Assessment issued in November 2022.⁴ Some of our groups also participated in and provided comments for the Honoring Chaco Initiative, which was a collaborative effort between the BLM, Bureau of Indian Affairs (BIA), interested Tribes and Pueblos, and other stakeholders committed to honoring the Greater Chaco Landscape's cultural and natural resources, building management partnerships, managing existing energy development, and securing a sustainable economic future for the region.⁵

Prior to the withdrawal process, many of the groups signing this letter participated in the BLM's preparation of the Farmington Mancos-Gallup Resource Management Plan Amendment (RMPA) and associated Environmental Impact Statement (EIS) by submitting scoping comments in 2014 and comments on the draft RMPA and draft EIS in 2020.⁶ Some of our also organizations participated in the development of a Programmatic Agreement under Section 106 of the National Historic Preservation Act (NHPA) related to this planning process.

Our groups have likewise submitted comments and protests on numerous oil and gas lease sales proposed by the BLM Farmington Field Office (FFO) in the Greater Chaco Landscape over the past ten plus years.⁷

Finally, on April 7, 2026, our groups submitted "scoping" comments in opposition to the proposed revocation of PLO No. 7923.⁸ These comments supplement the scoping comments submitted during the seven-day scoping period. The Revocation Draft EA does not respond to or resolve the issues we raised in our scoping comments; in fact, the Revocation Draft EA does not reference or address any of the scoping input received from any stakeholders.⁹

By engaging in these opportunities for public participation, our organizations, as members of the public, have demonstrated our commitment to protecting the unique and irreplaceable resources in the region.

II. INTRODUCTION

The Chaco withdrawal area is the core component of one of the most significant cultural landscapes in all of North America. The canyon itself is a national historical park administered by the National Park Service (NPS) as a unit of the National Park System. The park is also the hub of the Chaco Culture World Heritage Site (WHS), which is the only WHS under BLM management anywhere in the country.¹⁰

⁴ Archaeology Southwest et al., Comments on the Proposed Chaco Culture National Historical Park Area Withdrawal (May 6, 2022) (attached); New Mexico Wild et al., Comments on Draft Environmental Assessment for Proposed Chaco Area Withdrawal (Dec. 8, 2022) (attached).

⁵ Archaeology Southwest et al., Comments on Honoring Chaco Initiative Phase I: Situation Assessment (Oct. 12, 2022) (attached).

⁶ The Wilderness Society et al., Comments on the Farmington Mancos-Gallup Draft RMP Amendment and EIS (Sept. 25, 2020) (attached).

⁷ See, e.g., Archaeology Southwest et al., Protest Against Four Parcels Including in BLM's Notice for the March 8, 2018 Farmington Field Office Competitive Oil & Gas Lease Sale (Jan. 4, 2018) (attached); National Parks Conservation Ass'n et al., Scoping Comments, Farmington Field Office Proposed Oil & Gas Leases – New Mexico BLM's December Oil & Gas Lease Sale (July 20, 2018) (attached).

⁸ See Archaeology Southwest et al., Scoping Comments on the Proposed Revocation of Public Land Order 7923; NEPA Number DOI-BLM-NM-F010-2026-0002-EA (Apr. 7, 2026) (attached).

⁹ See Revocation Draft EA, *supra* note 1, at Appendix E (report summarizing public input received – "page intentionally left blank").

¹⁰ Five components of the Chaco Culture WHS are located on federal lands managed by BLM: Pierre's Site, which is located within the withdrawal area, plus Casamero, Halfway House, Kin Nizhoni, and Twin Angels. NPS, Chaco World Heritage Designation, <https://www.nps.gov/chcu/learn/historyculture/worldheritage.htm> (last visited July 27, 2026).

Following its original designation in 1987, the United Nations Education, Scientific and Cultural Organization (UNESCO) expanded the Chaco Culture WHS, which had previously been limited to the canyon, to include sites in the surrounding landscape. This was done to reflect the geographic breadth of the cultural phenomenon that arose within the canyon and shaped lifeways throughout the Four Corners region for centuries. As explained by NPS,

[t]he original nomination underwent an important modification that led to the inclusion of five associated Chaco Greathouse communities managed by the BLM and Aztec Ruins NM, 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. This complex landscape of emblematic monumental architecture is interconnected by a network of constructed road alignments, line-of-sight signaling stations, portions of which are protected within the five BLM Chaco communities.¹¹

Pueblos, Tribes, and Native Nations throughout the Southwest maintain long-standing cultural ties to Chaco Canyon, and the surrounding landscape, which contains myriad sites and resources with deep cultural significance. The Indigenous groups affiliated with Chaco include most, if not all, of the nineteen Pueblos in New Mexico, which collaborate on matters of mutual interest through the All Pueblo Council of Governors (APCG). For more than a decade, APCG has grown increasingly concerned about the threat that oil and gas development poses to the withdrawal area’s cultural resources.

Given what has transpired in Northwestern New Mexico over the past several decades, APCG’s concerns are well-founded. Over the years, despite its transcendent cultural significance, the broad cultural landscape that includes and surrounds Chaco Canyon has become increasingly industrialized. Long stretches of the Great North Road, a monumental feature that once physically linked Chaco Canyon to Salmon and Aztec Ruins forty miles to the north, have been “destroyed” by oil and gas activities.¹² Other sites, including Pierre’s, which is part of the WHS designation, are now more like “industrial parks” than sacred places of cultural reverence.¹³ Only a remnant of this broad cultural landscape – principally the lands now encompassed by the withdrawal – is free of the intensive oil and gas development that is the defining feature of public lands managed by the BLM in the FFO.

For at least twenty years, BLM has been generally aware of these harms and ongoing threats – to the park itself, to thousands of cultural resources that contribute to its international significance, and to Native communities. BLM has also acknowledged that its current management plan – the 2003 Farmington RMP – does not adequately address the effects of ongoing oil and gas leasing on cultural values, particularly in the withdrawal area, or address concerns brought forth by numerous Pueblos and Tribes, federal and state agencies, and archaeological experts since 2003.¹⁴

¹¹ Letter from Lawrence T. Turk, Superintendent, NPS, to Lindsay Eoff, Project Manager, BLM 3 (May 29, 2013) (attached) [hereinafter Letter from Turk].

¹² Ruth Van Dyke et al., Chaco Landscapes: Data, Theory, and Management 16 (Feb. 25, 2016) (attached) [hereinafter Chaco Landscapes Report].

¹³ *Id.* at 15.

¹⁴ See, e.g., Termination of Preparation of the Environmental Impact Statement for the Farmington Mancos-Gallup Resource Management Plan Amendment, New Mexico, 89 Fed. Reg. 57,165 (July 12, 2024) (“Since the initial publication of the Notices of Intent in 2014 and 2016, and the publication of the draft RMP Amendment and EIS in 2020, there have been many changes relevant to the plan amendment and associated EIS, such as a change in the development trends in the San Juan Basin; the withdrawal of 336,404 acres from mineral entry around the Chaco

Yet, despite this outdated management framework, BLM has resisted calls from Tribal leaders, other federal agencies, and archaeological experts to proactively inventory sensitive locales within the landscape surrounding Chaco Canyon and perform ethnographic work with Tribal communities. Consequently, what is known about the cultural significance of the area is an underrepresentation of the full extent of cultural resources present, and there remains a “paucity” of information about the location and nature of Traditional Cultural Properties (TCPs) and sacred sites in this landscape, particularly those associated with the Pueblos.¹⁵ Nor does BLM have “a thorough analysis of the actual rate of change” for cultural resources in the landscape surrounding Chaco Canyon, even though oil and gas development has unquestionably caused significant direct and indirect effects on the Great North Road, Pierre’s Site, and other cultural features within the broader landscape around Chaco Canyon.¹⁶

In proposing to revoke PLO No. 7923, the Revocation Draft EA fails to address these information shortfalls. BLM relies on data from the New Mexico Cultural Resource Information System (NMCRIS) to state that there are “approximately 7,552 known historic properties from all cultural and temporal affiliations are present within the 10-mile withdrawal area and 4,710 within the 5-mile withdrawal area.”¹⁷ BLM acknowledges, however, that “[t]hese numbers *only represent a fraction* of the sites that exist as large portions of the region have not been formally inventoried.”¹⁸ Similarly, BLM documents that there are “at least 145 Traditional Cultural Properties (TCPs) in the 10-mile withdrawal area and 46 in the 5-mile area,” but concedes that “[t]hese *figures are minimum estimates*, as past ethnographic studies were not comprehensive and BLM lacks access to all available data.”¹⁹ Despite noting the significant deficiencies in the data it relied upon, BLM has determined that removing the cultural resource protections of PLO No. 7923 will have “No Adverse Effect to Historic Properties” because other “laws and regulations would remain in place.”²⁰

The Revocation Draft EA’s reckless approach to cultural resource protection is inconsistent with past instances in which BLM recognized that the pre-withdrawal management framework was inadequate to protect cultural resources from development. At the urging of Pueblos and Tribes – including, on more than one occasion, the Navajo Nation – BLM repeatedly rejected proposed 17 oil and gas leases

Culture National Historical Park; the preparation of BIA-funded ethnographic studies for the region; the establishment of the Honoring Chaco Initiative; and an increase in outdoor recreation in the region. Given these changes and the extent of revisions necessary to address these changes in the current EIS process, the agencies determined it is impractical to continue the plan amendment effort as currently structured.”) [hereinafter Termination Notice for Mancos-Gallup RMPA].

¹⁵ Letter from E. Paul Torres, Chairman, APCG, to State Director, BLM, at 13 (Feb. 20, 2019) (attached).

¹⁶ BLM, Farmington Mancos-Gallup Draft Resource Management Plan Amendment and Environmental Impact Statement, Vol. I, at 3-119 (Feb. 2020) [hereinafter Mancos-Gallup DEIS]; *see also id.* at EC-42 (“The information on historic properties and CIMPPs in the decision area . . . [is] geographically biased toward past project-oriented undertakings (i.e., where cultural resource surveys have taken place) and may not accurately predict where and how many resources may exist in unsurveyed areas.”).

¹⁷ Revocation Draft EA, *supra* note 1, at 32.

¹⁸ *Id.* (emphasis added).

¹⁹ *Id.* (emphasis added).

²⁰ *Id.* at 33.

within the withdrawal area, in 2008, 2009, 2010, 2013, 2014, 2018, and 2019.²¹ Following the 2018 decision, which took place during the first Trump Administration, then-Secretary of the Interior Ryan Zinke recognized that “there are places where it is appropriate to develop and where it’s not. This area certainly deserves more study.”²² One year later, Secretary of the Interior David Bernhardt agreed to a formal, one-year moratorium on leasing in the withdrawal area and directed BLM to develop management options that “reflect[] the tribal leaders’ views and the proposed legislative boundaries.”²³ Congress also took action around this time, prohibiting BLM from expending any funds on accepting nominations or offering oil and gas leases for lands within the withdrawal area.²⁴

PLO No. 7923 must be viewed against this historic context and on-the-ground reality and as a direct outgrowth of the extensive information that Pueblos and Tribes, other agencies, archaeological experts, and the broader public have provided to BLM, particularly over the past two decades.²⁵ The record supporting the withdrawal, which spans multiple administrations, shows very clearly that BLM took its obligations under the Federal Land Policy and Management Act (FLPMA)²⁶ and other legal authorities to heart and, consistent with those authorities, sought to achieve “a balance between the commitment

²¹ See Letter to National Trust for Historic Preservation, from Linda S.C. Rundell, State Director, BLM 1 (July 16, 2010) (referencing deferral of parcels nominated to BLM’s Oct. 2008 lease sale, including one parcel “overlapping the Great North Road”) (attached) [hereinafter Letter from Rundell]; Letter from Steve Henke, District Manager, BLM, to Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office 1 (Oct. 2, 2009) (“This is in response to your letter . . . concerning the proposed competitive lease sale of public land north of Chaco Culture National Historical Park. . . . [T]he tracts of concern have been withdrawn from the scheduled lease sale. . . .”) (attached) [hereinafter Letter from Henke]; Letter from Rundell at 1 (referencing deferral of same, or substantially the same, set of parcels deferred from BLM’s Oct. 2008 lease sale); BLM, July 2013 Competitive Oil and Gas Lease Sale, DOI-BLM-NM-F010-2013-0204-EA 3 (2013) (“The parcels near the Park have been deferred to allow for Tribal consultation.”); BLM, January 2014 Competitive Oil and Gas Lease Sale, DOI-BLM-NM-F010-2013-0451-EA 13-16 (2013/14) [hereinafter Jan. 2014 Lease Sale EA] (identifying numerous parcels for deferral located in the withdrawal area); Press Release, BLM, BLM defers oil and gas lease sale in New Mexico (Mar. 2, 2018), <https://www.blm.gov/press-release/blm-defers-oil-and-gas-lease-sale-parcels-new-mexico> (“[T]he Bureau of Land Management today announced that it would defer its March 8 New Mexico oil and gas lease sale near the Chaco Culture National Historical Park.”) (last visited July 27, 2026); Press Release, NPCA, BLM Defers Oil and Gas Lease Sales in New Mexico, Temporarily Protecting Chaco Culture National Historical Park (Feb. 8, 2019), (“Today, the Bureau of Land Management’s (BLM) New Mexico State Office announced it will defer 1,500 acres of land for its March 28 oil and gas lease sale. Development on land parcels would have directly impacted Chaco Culture National Historical Park and its surrounding landscape.”) (attached).

²² Press Release, BLM, BLM defers oil and gas lease sale in New Mexico (Mar. 2, 2018), <https://www.blm.gov/press-release/blm-defers-oil-and-gas-lease-sale-parcels-new-mexico> (last visited July 27, 2026).

²³ Scott Streater, *Bernhardt commits to leasing moratorium near Chaco Canyon*, E&E News, Mar. 29, 2019 (attached).

²⁴ Further Consolidated Appropriations Act, 2020, Pub. L. 116-94, § 442 (2019).

²⁵ See H.R. 4374, “Energy Opportunities for All Act:” *Hearing Before the Subcomm. on Energy and Mineral Res. of the H. Comm. On Nat. Res.*, 118th Cong. 10 (2023) (statement of Nada Wolff Culver, Principal Deputy Director, BLM) (“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.”) (attached) [hereinafter “Energy Opportunities for All Act” Hearing].

²⁶ Federal Lands Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §§ 1701–1787.

to protecting special places and the responsible development of energy resources.”²⁷ The withdrawal closes a tiny fraction (1 percent) of the FFO – approximately 90 percent of which is already leased²⁸ – to future oil and gas leasing. The withdrawal applies solely to federal – not Tribal, state, or private – lands and minerals and honors valid existing rights within the withdrawal area. This approach is entirely harmonious with BLM’s multiple use management responsibilities. As the Tenth Circuit has explained, “[i]t is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses. . . . Development is a *possible* use, which BLM must weigh against other possible uses—including conservation to protect environmental values, which are best assessed through the NEPA [National Environmental Protection Act] process.”²⁹ If anything, given just how much of the federal mineral estate in Northwestern New Mexico has been committed to oil and gas development, BLM should have considered a larger withdrawal area, an alternative proposed by commenters that was not analyzed by BLM in the Revocation Draft EA.

Instead, in defiance of that robust record developed through years of meetings, consultations, and public processes; and through an expedited process that improperly limits participation by Pueblos, Tribes, state and local government, and the general public, DOI proposes to revoke the withdrawal entirely. Doing so would reopen the withdrawal area to mining and leasing under the applicable RMP, as further discussed in these comments. BLM has already deemed these RMPs to be inadequate to protect cultural and other resources in the withdrawal area or to comply with BLM’s multiple use and sustained use mandates under FLPMA. Further, DOI has offered no credible justification for why it is suddenly reversing course or why the withdrawal is no longer needed to protect the public values or advance public purposes originally identified for the withdrawal, as required by FLPMA.

There is simply no basis in law or the factual record that justifies revoking the Chaco withdrawal just three years after it was made. The proposed revocation is deeply flawed – substantively and procedurally – and must be rejected.

III. FACTUAL BACKGROUND

The factual basis for the withdrawal extends back to at least the ninth century when the ancestors of modern-day Pueblos began erecting the great houses that stand to this day in Chaco Canyon and the Greater Chaco Landscape.³⁰ In the years that followed, these ancestral Puebloans organized communities and built shrines and other cultural manifestations throughout the Four Corners area, many of which are linked by a vast network of “roads.” Many of these roads originate, or terminate, in the canyon, including the Great North Road, which is thought to have had deep spiritual and symbolic meaning to Chaco people centuries ago – meaning that likely persists today among Pueblos and Tribes affiliated with the area.³¹ Segments of the Great North Road, along with thousands of other cultural resources interrelated with the Chaco cultural phenomenon, are located within and are protected by the withdrawal.

²⁷ BLM, Proposed Chaco Area Withdrawal, Environmental Assessment, DOI-BLM-NM-F010-2022-0011 2-3 (May 2023), available at <https://eplanning.blm.gov/Project-Home/?id=098dfbca-a7f2-f011-8407-001dd806295a> (last visited July 27, 2026) [hereinafter Withdrawal Final EA].

²⁸ BLM, Protecting the Legacy and Culture of the Chaco Chayon Landscape (attached).

²⁹ *N.M. ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 710 (10th Cir. 2009).

³⁰ NPS, Chaco Culture: A Brief History of Chaco Culture National Historical Park, <https://www.nps.gov/chcu/learn/upload/Chaco-Brief-History.pdf> (last visited July 27, 2026); Pinotti, T., Adler, M.A., Mermejo, R. et al., Picuris Pueblo oral history and genomics reveal continuity in US Southwest, *Nature* 642, 125–132 (Apr. 30, 2025), <https://doi.org/10.1038/s41586-025-08791-9> (last visited July 27, 2026).

³¹ Solstice Project, *The Great North Road: a Cosmographic Expression of the Chaco Culture of New Mexico*, (attached).

Much has changed since the ninth century, including the impactful discovery and exploitation of the San Juan Basin's oil and gas resources. This has transformed much of Northwestern New Mexico into an industrial zone, crisscrossed by 15,000 miles of oil and gas roads which access 37,000 oil and gas wells.³² As development has increased, advancing closer to Chaco Canyon, so too have concerns for the well-being of the canyon, cultural resources, and local communities in the surrounding landscape. Those concerns, which Pueblos, Tribes, and other stakeholders began to articulate around 2008 (if not earlier), led to a years-long dialogue about the merits of continuing oil and gas leasing on federal lands in the withdrawal area – a dialogue that led directly to the issuance of PLO No. 7923.

The following summarizes key aspects of the factual record that informed the original withdrawal decision, which DOI must take into account in the context of the proposed revocation.

A. Past and Ongoing Oil and Gas Activity Authorized by BLM Has Harmed Cultural Values Within the Withdrawal Area, and Experts Believe that Additional Development Would Cause Further Harm.

Over the years, BLM and numerous stakeholders, ranging from NPS to Pueblos and Tribes to archaeological experts, have documented the harm that oil and gas development on federal lands has caused, and is continuing to cause, to cultural, recreational, and scenic values in the withdrawal area. These stakeholders, many of whom are experts in, and have extensive first-hand knowledge of, the withdrawal area and its myriad cultural, scenic, and other values, have also asserted that further leasing of federal lands in the withdrawal area – either generally or on specific parcels – will cause additional harm.

What follows is a summary of stakeholder perspectives, offered in various contexts over the past two decades, including during Tribal consultation and public processes over proposed oil and gas activities.

1. BLM

BLM has repeatedly found that authorizing oil and gas activities in culturally sensitive areas of the FFO, including and in particular within the withdrawal area, increases the likelihood of harm to those areas. In 2003, BLM stated that

[o]ver the past 50 or more years, oil and gas development of the San Juan Basin has resulted in thousands of well pads, thousands of miles of roads and pipelines, and other associated features. Within the past several years, wells have been drilled within or adjacent to the existing [special designations]. Projected in-field development will reduce the pristine areas and the distance from the cultural values to disturbance. In addition, opening new areas to vehicle traffic may increase the frequency of illegal excavation and collection of cultural values. Current and proposed development also affects the experience of those visiting the Chacoan Outliers.³³

BLM has acknowledged that avoiding the direct impact of oil and gas development on cultural resources “has not always been possible . . . due to other constraints.”³⁴

³² Mancos-Gallup DEIS, *supra* note 16, at AE-92.

³³ BLM, Farmington Resource Management Plan with Record of Decision C-10 (Dec. 2003) [hereinafter 2003 Farmington RMP]; *see also* BLM, Farmington Proposed Resource Management Plan and Final Environmental Impact Statement, Vol. I, at 4.41 (Mar. 2002) (“[P]rior studies indicate that archaeological sites within 400 to 800 meters (1,312 to 2,625 feet) of new roads would be subject to increased vandalism.”) [hereinafter Proposed 2003 Farmington RMP].

³⁴ Proposed 2003 Farmington RMP, *supra* note 33, at 2-22.

BLM has also made specific findings regarding the potential effects of oil and gas leasing and subsequent development on cultural values in the withdrawal area.³⁵ In 2003, BLM documented potential harms from leasing in the vicinity of Chacra Mesa – a landform straddling the eastern boundary of Chaco Culture NHP:

Chacra Mesa is relatively secluded and has seen little development or vandalism. The sites are in excellent condition, with some standing walls up to 6 feet in height. The site is in a generally stable condition with high archaeological potential. Extensive oil and gas development in the central San Juan Basin, however, could endanger the pristine nature of Chacra Mesa. Additionally, opening new areas to vehicle traffic may increase the frequency of illegal excavation and collection of valuable cultural resources.³⁶

For this reason, between 2003 and 2009, the FFO “repeatedly” withheld parcels on Chacra Mesa “from the quarterly sales and tried to emphasize to the [BLM] state office that they needed to approach the park due to the understandably sensitive nature of the location.”³⁷

BLM made similar findings regarding the Great North Road.³⁸ In 2009, in response to lease nominations within the withdrawal area, BLM identified “significant access issues” that “could intrude across the Chaco North Road. Our staff have clear evidence for the North Road on Tsun Je Zhin Mesa as well as within the east half of the parcel in Ash-shi-sle-pah Wash.”³⁹ Accordingly, a BLM archaeologist “repeatedly recommended that Section 12, or at least that portion containing the North Road, not proceed to leasing and will continue to do so in the future.”⁴⁰ In 2021, the Federal Indian Minerals Office (FIMO) raised similar concerns in the context of a proposed lease sale for Tribal allotted lands: “Given that the North Road is a [National Register] eligible property (Criterion A, C, and D) and that setting is an important element of its significance, *it is unlikely then that unmitigated development of Parcel 791 219 would be feasible.*”⁴¹

More broadly, BLM has found that allowing leasing in the withdrawal area would cause widespread visual, auditory, and other impacts on Chaco Culture NHP and other cultural resources in the withdrawal area. In 2013, in response to additional lease nominations in the withdrawal area, BLM conducted a viewshed analysis, which confirmed that federal lands throughout and well-beyond the withdrawal area are visible from numerous key observation points within the park, including Pueblo

³⁵ See, e.g., BLM, Farmington Field Office, Visual Resource Management, Proposed Resource Management Plan Amendment, Environmental Assessment DOI-BLM_NM-F010-2013-0047-EA (Dec. 2013) (acknowledging that “moderate to high levels of change to the visual setting of Chaco Culture NHP in both the foreground/middleground and background [of KOPs] would be possible” if oil and gas development projects are permitted”) [hereinafter Proposed Farmington Visual Resource RMPA].

³⁶ 2003 Farmington RMP, *supra* note 33, at C-6.

³⁷ Letter from Henke, *supra* note 21, at 2.

³⁸ See, e.g., Letter from Joel E. Farrell, Assistant Field Manager, BLM, to National Trust for Historic Preservation 1 (Mar. 12, 2010) (stating that “[s]ome portions of the North Road are at great risk”) (attached).

³⁹ Letter from David J. Mankiewicz, Assistant Facility Manager, BLM, to Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office 2 (Dec. 23, 2009) (attached).

⁴⁰ Letter from Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office, to Steve Henke, District Manager, BLM 2 (Mar. 8, 2010) (quoting Jim Copeland, BLM) (attached).

⁴¹ Federal Indian Minerals Office, Notice of Availability Oil and Gas Lease Sales – December 2021, Environmental Assessment 98 (Sept. 2021) (emphasis added) (attached); see also “Energy Opportunities for All Act” Hearing, *supra* note 25, at 9 (statement of Nada Wolf Culver) (“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.”).

Alto.⁴² 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.”⁴³ These harms would not be confined to the general public, as BLM acknowledged that the “broad effects from oil and gas development that result in an altered landscape where [Tribal] individuals are no longer able to complete early morning prayers, night observances, or other ceremonies due to the impaired visual and auditory setting.”⁴⁴ BLM echoed many of these findings during the withdrawal process, recognizing that

ongoing industrial development [under the no-action alternative] . . . would potentially affect natural and cultural resources on BLM administered public lands within the larger regional landscape, which is characterized by places of cultural significance, such as sites ancestral to both Navajo and Puebloan communities in northern New Mexico. . . . These activities could also detract from the area’s setting and opportunities for unique recreational opportunities, such as night sky viewing.⁴⁵

Accordingly, BLM found that the withdrawal would “afford greater protection to” several thousand cultural sites in the withdrawal area, including eleven congressionally designated Chacoan “outliers,” than management under the 2003 Farmington RMP.⁴⁶

2. NPS

NPS has described oil and gas development in the landscape surrounding Chaco Culture NHP as “the greatest external threat to park resources.”⁴⁷ According to NPS, there are several significant cultural locations within Chaco Culture NHP 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.⁴⁸ 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.”⁴⁹

⁴² BLM, Penasco Blanco Viewshed Analysis Results; BLM, Pueblo Alto Viewshed Analysis Results; BLM, Pueblo Pintado Viewshed Analysis Results; BLM, Tsin Kletsin Viewshed Analysis Results (attached).

⁴³ Jan. 2014 Lease Sale EA, *supra* note 21, at 62.

⁴⁴ Mancos-Gallup DEIS, *supra* note 16, at Vol. 2, H-2.

⁴⁵ BLM, Proposed Chaco Area Withdrawal Public Comment Response Report 2 (May 2023) [hereinafter Chaco Comment Response Report], available at <https://eplanning.blm.gov/Project-Home/?id=098dfbca-a7f2-f011-8407-001dd806295a> (last visited July 27, 2026).

⁴⁶ Withdrawal Final EA, *supra* note 27, at 1-9. *See also* “Energy Opportunities for All Act” Hearing, *supra* note 25, at 9 (“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.”); *id.* at 9 (“The BLM found that a 5-mile withdrawal would protect approximately 1,900 documented sites, significantly less than the 10-mile withdrawal.”).

⁴⁷ NPS, Section II Periodic Report, Chaco Culture WHS (attached).

⁴⁸ Letter from Turk, *supra* note 11, at 2.

⁴⁹ NPS, Chaco Culture National Historical Park General Management Plan Amendment/Environmental Assessment 15 (Mar. 2012), available at <https://parkplanning.nps.gov/showFile.cfm?sfid=140631&projectID=21575> (last visited July 29, 2026).

NPS has repeatedly alerted BLM to these potential effects during planning and project-level processes, including in 2013 comments on BLM's draft visual resources plan for the FFO:

[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.*⁵⁰

In these comments, NPS specifically highlighted the low level 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."⁵¹

Separately, NPS has documented the existence of a "cultural landscape" 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,"⁵² and stated that "impacts to viewsheds have the potential to diminish integrity of the park cultural landscape."⁵³

3. Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation (ACHP) has concluded that oil and gas development in and around the withdrawal area may cause "adverse effects" on its cultural resources and values. In 2013, in comments on Farmington's draft visual resources plan, ACHP advised BLM that "[i]t is particularly important . . . to protect the [Chaco] viewshed from adverse visual effects."⁵⁴ ACHP also advised "that it is incumbent upon the BLM to not only take the full range of Chacoan sites into account . . . , but to also protect them from all future visual effects *to the maximum extent possible.*"⁵⁵

Further, in 2019, following then-Secretary of the Interior Bernhardt's decision to temporarily suspend leasing within the withdrawal area, ACHP again raised concerns for DOI's management of the landscape surrounding Chaco Culture NHP: "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."⁵⁶ ACHP

⁵⁰ Letter from Turk, *supra* note 11, at 4 (emphases added).

⁵¹ *Id.* at 3.

⁵² Jan. 2014 Lease Sale EA, *supra* note 21, at 24; *see also* Letter from Turk, *supra* note 11, at 6 ("Surrounding lands outside the park boundary also contribute to the integrity of setting and feeling of the park cultural landscape.").

⁵³ Letter from Turk, *supra* note 11, at 7.

⁵⁴ Letter from Reid J. Nelson, ACHP, to Lindsay Eoff, Project Manager, BLM 1 (May 31, 2013) (attached).

⁵⁵ *Id.* at 2 (emphasis added).

⁵⁶ Letter from Milford Wayne Donaldson, Chairman, ACHP, to David Bernhardt, Secretary, DOI 1 (June 10, 2019) (attached).

specifically endorsed the creation of a “buffer zone” around the park where oil and gas leasing on federal lands would be prohibited.⁵⁷

4. Pueblos and Tribes

Over the years, Pueblos and Tribes with longstanding cultural connections to Chaco Canyon and the Greater Chaco Landscape have documented the potential for oil and gas development to adversely affect cultural resources and values in the withdrawal area. In 2012, for example, the Hopi Tribe informed BLM that it has

repeatedly stated that oil and gas development on FDO [Farmington District Office] lands surrounding Chaco threaten the Park and the Greater Chaco Landscape. We have reiterated that the co-mingling of energy development and resource protection around Chaco will invariably lead to adverse effects to cultural resources significant to the Hopi Tribe.⁵⁸

APCG has raised similar concerns, dating to at least 2014, when it passed the first of several resolutions objecting to oil and gas activity in the landscape surrounding Chaco Canyon:

the issuance of oil and gas leases, drilling permits and approvals for oil and gas roads, pipelines and other types of oil and gas infrastructure in the landscape surrounding Chaco Canyon, which includes traditional cultural properties and sacred sites, . . . threatens irreparable degradation and impairment to that landscape and to the traditional cultural values and sacred sites present within that landscape.⁵⁹

In 2015, APCG passed another resolution that identified specific TCPs and sacred sites within the withdrawal area, “including, but not limited to, the Great North Road, the West road, and Pierre’s Site.”⁶⁰ APCG reiterated these concerns in resolutions passed in 2016 and 2017, stating that

preserving the traditional cultural properties and sacred sites that exist in Chaco Canyon and 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 culture and traditions of APCG members. . . .⁶¹

Most recently, on November 14, 2025, APCG passed another resolution stating that it “strongly opposes the Bureau of Land Management’s proposed revocation of PLO 7923 in whole or in part, and demands that the Department of the Interior immediately suspend all actions related to the revocation pending full, meaningful, and government-to-government consultation with affected Pueblos and Tribes. . . .”⁶² Similar resolutions have been passed by the National Congress of American Indians, which is “the oldest and largest national organization of American

⁵⁷ Letter from Milford Wayne Donaldson, Chairman, ACHP, to Rep. Young & Rep. Haaland, House Natural Resources Committee 2 (Apr. 30, 2019) (attached).

⁵⁸ Letter from Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office, to Gary Torres, Field Manager, BLM 1 (Nov. 26, 2012) (attached).

⁵⁹ Resolution No. APCG 2014-04, APCG (2014) (attached).

⁶⁰ Resolution No. APCG 2015-17, APCG (2015) (attached).

⁶¹ Resolution No. APCG 2017-12, APCG (2017) (attached); *see also* Resolution No. APCG 2016-17, APCG (2016) (attached).

⁶² Resolution No. APCG 2025-07, APCG (2025) (attached).

Indian and Alaska Native tribal governments,” including most recently in November 2025.⁶³

5. Archaeological experts

In 2017, Professor Ruth Van Dyke conducted a study of Pierre’s Site which 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.”⁶⁴

Additionally, in 2020, Archaeology Southwest undertook a reconnaissance project focusing on the northwest, north, and northeast portions of the withdrawal area.⁶⁵ The approximately 700,000-acre area encompassed by the zone contains at least 4,200 known archaeological, cultural, and historic sites (excluding those sites protected by Chaco Culture NHP). These sites illustrate use of the area by diverse cultural groups (Paleoindian, Archaic, Puebloan, Navajo, and others) from about 10,000 BCE to the present. Because less than 20 percent of the area enclosed by the 10-mile zone has been surveyed, the actual site count is undoubtedly much higher. According to Archaeology Southwest, at least six site clusters or communities will be negatively impacted by the revocation of the mineral withdrawal zone: Pierre’s Community, North of Pierre’s cluster, Split Lip Flat and Ah-Shi-Sle-Pah road cluster, Kin Indian-Escavada-Greasy Hill Community, Bis san’ni Community, and Chaco Northeast site cluster.

Additional ethnographic research that Archaeology Southwest completed with the Pueblos of Acoma and Zuni between 2018 and 2022 identified many poorly documented cultural and sacred sites that have deep ancestral significance and importance to Pueblo descendant communities. Many of these sites lie within the ten-mile cultural protection zone and will be subject to harmful and wide-reaching impacts and degradation if the mineral withdrawal zone is revoked.

Finally, other studies have determined that “energy development in the 20th century has destroyed virtually any traces of the North Road between Kutz Canyon and Aztec.”⁶⁶ This segment of the Great North Road is located outside of the withdrawal area, in an area with a more expansive oil and gas footprint. Per a letter submitted to BLM by twenty-six professors of archaeology and archaeologists with extensive knowledge of Chaco Canyon, “[o]ther communities in the 10-mile zone have thus far seen less impact, and, for this reason, require the heightened protection that will come from a Federal mineral withdrawal.”⁶⁷

⁶³ Resolution #SEA-25-121, NCAI (2025) (attached); *see also* Resolution #CT-25-012, NCAI (2025) (attached); Resolution #MKE-17-008, NCAI (2017) (attached).

⁶⁴ 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. 2017) (attached) [hereinafter Van Dyke Study].

⁶⁵ Archaeology Southwest, An Archaeological Reconnaissance of Chaco’s 10-Mile Zone of Protection (Sept. 2020 (attached)).

⁶⁶ Chaco Landscapes: Data, Theory, and Management, *supra* note 12, at 53.

⁶⁷ Letter from Archaeologists to Debra Haaland, Secretary of the Interior 2 (May 6, 2022) (attached).

B. The 2003 Farmington RMP Lacks Specific Protections for Chaco Culture NHP, and the Withdrawal Area Was Based on Little or No Consultation with Pueblos.

BLM developed the 2003 Farmington RMP to eliminate “restrictions” that “unduly restricted access to energy resources (oil, gas, and coal)”⁶⁸ and to carry out then-agency policy focused on “keep[ing] public lands open to mineral exploration and development, unless closure or restriction is mandated by Congress or justified in the national interest.”⁶⁹ Accordingly, the RMP opens nearly all of the withdrawal area to oil and gas leasing, including lands directly bordering Chaco Culture NHP and lacks lease stipulations that specifically address the potential impacts of oil and gas development on Chaco Culture NHP and cultural values in the surrounding landscape.⁷⁰

Additionally, the 2003 RMP states that “BLM staff met with Navajo Nation agency staff, several Navajo Chapters and Eastern Navajo Land Board to seek input to the draft plan,” but does not document whether similar meetings took place with Pueblos.⁷¹ It also states that BLM “has a long history of consultation with the Navajo Nation on projects and issues that might affect its people or interests” and “will work cooperatively with the Navajo Nation to ensure that any areas of interest are identified in advance of project decisions.”⁷² The 2003 RMP lacks similar commitments to the Pueblos; in fact, the RMP acknowledges that “connections with the Zuni, Hopi, and Rio Grande [P]ueblos are earlier and less well understood.”⁷³ BLM also did not begin to notify the Pueblos about proposed oil and gas leasing in the vicinity of Chaco Culture NHP until 2009, *six years after* adoption of the Farmington RMP.⁷⁴

C. Following the Issuance of PLO No. 7923, New Information Has Become Available, and the Regulatory Landscape Has Changed.

Over the past three years, new information has become available concerning cultural and oil and gas resources within the withdrawal area. Congress has also significantly altered the statutory framework governing the management of federal lands and resources in the withdrawal area, limiting the BLM’s discretion to address cultural resources protections issues during leasing decisions.

1. Tribally led cultural resources studies

In 2019, Congress provided funding for a tribally led cultural resources investigation for “the Chaco Canyon region”:

The agreement includes \$1,000,000 for the Assistant Secretary of Indian Affairs to contract with relevant federally recognized Tribes or Tribal organizations to allow

⁶⁸ 2003 Farmington RMP, *supra* note 33, at 10.

⁶⁹ Proposed 2003 Farmington RMP, *supra* note 33, at 2-248.

⁷⁰ 2003 Farmington RMP, *supra* note 33, at B-1 to B-11. BLM has identified the need for such stipulations during lease sale processes. *See, e.g.*, Jan. 2014 Lease Sale EA, *supra* note 21, at 49-50 (“In order to protect the view from Chaco Culture National Historical Park, a designated World Heritage site, all or some of the following stipulations may be used on new and existing leases within the foreground and middle-ground viewshed from established key observation points.”).

⁷¹ 2003 Farmington RMP, *supra* note 33, at 1-16.

⁷² *Id.* at 9.

⁷³ *Id.* at C-65.

⁷⁴ Letter from Steve Henke, District Manager, BLM, to National Trust for Historic Preservation, at 2 (Nov. 4, 2009) (attached).

Tribal cultural experts to perform a cultural resources investigation to identify culturally and historically significant areas and sites in areas of high energy development potential within the Chaco Canyon region of the Southwest. As part of this investigation, the agreement expects special emphasis to be given to areas of high development potential as defined in Figure 10 of the Bureau of Land Management's February 2018 Final Report, "Reasonable Development Scenario of Oil and Gas Activities" for the Mancos-Gallup RMPA Planning Area.⁷⁵

The intent of these studies was to fill a significant void in the decision-making process for actions in the Chaco region. As explained by the Chaco Heritage Tribal Association (CHTA) – an association of the Pueblos of Acoma, Jemez, Laguna, and Zuni and the Hopi Tribe:

For decades, archaeologists and anthropologists have studied Chaco Canyon without sufficient incorporation of the voices of the region's ancestral descendants—the Pueblo and Hopi people. Without these tribal experts, archaeologists and anthropologists are often unable to identify important cultural resources. Further, much of the cultural landscape surrounding Chaco Canyon remains unstudied, even by archaeologists and anthropologists. Yet, federal agencies often rely on published information for their review of impacts on cultural resources prior to federal undertakings and major federal actions in the Greater Chaco Region, such as oil and gas leasing and development. In doing so, these federal agencies do not have access to necessary information. This has caused significant concerns about the impact on Pueblo and Hopi cultural resources, including sacred sites, and cultural practices. As a result, the Pueblos and the Hopi Tribe have continuously been forced to protest oil and gas lease sales and development throughout the Greater Chaco Region.⁷⁶

Two studies were prepared utilizing congressionally appropriated funds, one led by the CHTA and one led by the Navajo Nation. According to the CHTA:

This study is designed to provide tribally-generated cultural resource data currently missing in the cultural resource documentation and guide DOI regarding major areas of concern in the Greater Chaco Region. It is focused on generating missing information about Pueblo-related cultural resources in the Greater Chaco Region necessary to enable DOI to comply with both the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) in decision-making regarding oil and gas development in the Greater Chaco Region. However, each parcel-specific development decision DOI undertakes in the future will require tribal consultation and additional studies. The Navajo Nation was also awarded and entered into a separate grant to perform a study focusing on Navajo cultural resources. Through the study, CHTA plans to identify the cultural landscapes of each member Pueblo [or Tribe] to gain a landscape-level awareness of the types and distribution of archaeological and non-archaeological cultural resources, including historic properties and traditional cultural properties, to which they maintain ties to assist

⁷⁵ House Comm. on Appropriations, 116th Cong., Explanatory Statement Regarding H.R. 1865 (Comm. Print 116-44), <https://www.govinfo.gov/content/pkg/CPRT-116HPRT38679/html/CPRT-116HPRT38679.htm> (last visited July 27, 2026).

⁷⁶ Press Release, Chaco Heritage Tribal Association, Announcing the Establishment of the Chaco Heritage Tribal Association for the Performance of a Tribally-Led Cultural Resource Study in the Greater Chaco Region (Nov. 12, 2020) (attached).

the DOI in future National Environmental Policy Act or NHPA required assessment or review processes on the effects of major federal actions impacting Tribal interests, with emphasis on oil and gas leasing and mineral development.⁷⁷

In any analysis or decision regarding PLO No. 7923, DOI must incorporate the best available ethnographic information. DOI must fulfill its obligations in any agreements, including data sharing agreements or memoranda of understanding, with the Pueblos that govern the completion and use of the CHTA ethnographic and cultural landscape study. Unless and until those obligations are met, it would be inappropriate for DOI to treat that study as “complete” or to finalize any analysis or decision related to the withdrawal.

2. Update to the Reasonably Foreseeable Development Scenario for the FFO

On July 17, 2025, BLM released an “Update to the Reasonably Foreseeable Development Scenario (RFDS) for Oil and Gas Activities in the Farmington Field Office, Northwestern New Mexico.”⁷⁸ The 2025 RFDS updates an RFDS released in 2018 and is meant “to assist BLM’s future land use planning efforts for the FFO by providing projections of potential future oil and gas development activity for the next 30 years (starting in 2025).”⁷⁹

The 2025 RFDS predicts a significant decline in development compared to the 2018 RFDS. In 2018, BLM “projected 3,200 new wells from 2018 through 2037 (2,300 horizontal, 900 vertical + directional) mostly assumed in the Mancos/Gallup play.”⁸⁰ This, however, proved to be an “overprediction.”⁸¹ BLM now “projects 1,000 new oil and gas wells within the planning area in the 30-year period of 2025 to 2055, all of which are predicted to be horizontally drilled.”⁸²

In the vicinity of the withdrawal area, the 2025 RFDS concludes that “remaining development is considered infill rather than extension of undeveloped acreage.”⁸³ Drilling is “expected to continue to the northeast of the [Chaco] buffer zone,” as the withdrawal area does not offer “favorable targets for future development.”⁸⁴ This prediction aligns with the “high, moderate, and low oil development potential regions” delineated by BLM in 2018. “Subsequent development has continued to be confined to these boundaries . . . Within the high potential region, the best wells appear to be located within the central axis of the region; the Lybrook to Nageezi area. Well performance and recovery decreases for wells along the southern and western periphery of the high potential region.”⁸⁵

⁷⁷ Withdrawal Final EA, *supra* note 27, at A-16.

⁷⁸ BLM & N.M. Tech, Update to the Reasonably Foreseeable Development Scenario (RFD) for Oil and Gas Activities in the Farmington Field Office, Northwestern New Mexico, Final Report (July 17, 2025), *available at* <https://www.blm.gov/sites/default/files/docs/2025-07/rfd-oil-and-gas-blm-nm-ffo-071725.pdf> (last visited July 27, 2026) [hereinafter 2025 RFDS].

⁷⁹ *Id.* at iii.

⁸⁰ *Id.* at 4.

⁸¹ *Id.*

⁸² BLM, Farmington Field Office Competitive Oil and Gas Lease Sale Environmental Assessment Quarter 1 2026, DOI-BLM-NM-F010-2025-0033-EA, at 11, *available at* <https://eplanning.blm.gov/Project-Home/?id=cb2646eb-a7f2-f011-8406-001dd80ef717> (last visited July 27, 2026).

⁸³ 2025 RFDS, *supra* note 78, at iii.

⁸⁴ *Id.* at 14.

⁸⁵ *Id.* at A-12.

In the Revocation Draft EA, BLM acknowledges that its most recent analysis, the 2025 RFDS, “categorized the entire Chaco region as unlikely to see further development.”⁸⁶ Despite this, BLM goes on to project that revoking PLO No. 7923 would result in “the development of 4 horizontal Mancos-formation wells and 10 vertical Fruitland-formation wells on new leases over the next 20 years” within the withdrawal area.⁸⁷ BLM provides no methodology to explain how it derived this projection, which appears to contract the best available information.

3. Passage of the One Big Beautiful Bill Act

In the One Big Beautiful Bill Act (OBBBA),⁸⁸ which the President signed into law on July 4, 2025, Congress significantly weakened the BLM’s discretion to protect cultural resources from the impacts of oil and gas leasing on public lands. First, under OBBBA, parcels “shall be made available for leasing . . . not later than 18 months” after BLM receives a lease nomination if those parcels are open to leasing under an applicable RMP.⁸⁹ Second, when issuing leases, OBBBA prevents BLM from “requir[ing] any stipulations or mitigation requirements not included in the approved resource management plan.”⁹⁰

4. Passage of Congressional Review Act resolutions nullifying BLM resource management plans

Over the past few months, Congress has passed, and the President has signed, five resolutions of disapproval under the Congressional Review Act (CRA) nullifying BLM land use plans.⁹¹ These are the first CRA resolutions disapproving federal land use plans ever passed by Congress.

Although the full effect of the CRA resolutions remains to be seen, agency officials and legal experts have suggested that a finding that RMPs are “rules” under the CRA creates uncertainty about whether “post-1996 RMPs have ever gone into effect” if Interior did not previously submit them to Congress.⁹² BLM treating, or a court finding, the 2003 Farmington RMP or the 1998 Amendment as no longer operative would be a significant change to the management landscape.

⁸⁶ Revocation Draft EA, *supra* note 1, at 12.

⁸⁷ *Id.*

⁸⁸ One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 1 (2025).

⁸⁹ *Id.* § 101.

⁹⁰ *Id.*

⁹¹ *See, e.g.*, Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Land Management relating to “North Dakota Field Office Record of Decision and Approved Resource Management Plan,” Pub. L. No. 119-49, 139 Stat. 698 (2025).

⁹² Letter from Robert T. Anderson, Solicitor, Interior Department, to Rep. Jared Huffman 6 (Jan. 15, 2025) (attached); *see also* Letter from Katharine Sinclair MacGregor, Deputy Secretary of the Interior, to Senator Thune 1 (Oct. 6, 2025) (attached) (stating Congress has “made a conclusive determination . . . th[at] RMP decisions . . . are considered ‘rules’ under the CRA”); Letter from Law Professors, to Senator Thune et al. 5 (Sept. 2, 2025) (attached) (“If Congress were to disapprove even one RMP, every other unsubmitted RMP or management plan developed for federal lands and waters could be called into question, to great destabilizing effect.”).

IV. THE WITHDRAWAL AND ITS BOUNDARIES ARE FULLY SUPPORTED BY THE RECORD

As detailed in this section, the withdrawal and its geographical boundaries are based on extensively documented cultural, geological, and administrative factors. The boundaries were also co-developed by the Navajo Nation and APCG in 2018.

A. Well-Documented Cultural, Geological, and Administrative Factors Support the Withdrawal and Its Boundaries.

BLM based the withdrawal and its boundaries on cultural, geological, and administrative factors that have robust, long-standing support in the record. The boundaries are rational and reflect careful consideration and appropriate weighing of affected values and uses, consistent with BLM's legal duties under FLPMA and other legal authorities.

1. Cultural factors

The withdrawal area, which comprises the core geography of a cultural phenomenon that centuries ago influenced development patterns and lifeways throughout the Four Corners area, contains thousands of significant cultural resources, including the following.

(a) All four units of Chaco Culture NHP

The withdrawal area includes all four units of Chaco Culture NHP: the main canyon and three detached units, Kin Bineola, Kin Ya'a, and Pueblo Pintado.⁹³ Thus, the withdrawal, which encompasses the entirety of the park and "most of the viewshed from [its key observation points],"⁹⁴ is limiting the "significant adverse effects [of oil and gas development] on park viewsheds and related values" previously identified by NPS.⁹⁵

(b) Segments of the Great North Road and other Chacoan roads

The withdrawal area includes well-preserved segments of the Great North Road, a monumental landscape feature that connected Chaco Canyon to outlying communities forty miles away along the San Juan River. Unfortunately, outside of the withdrawal area, energy development has "destroyed" long stretches of the Great North Road.⁹⁶ Thus, as explained by NPS and others, the road segments in the withdrawal area are representative of an increasingly scarce, fragile, and highly significant resource type:

the ancient road alignments were first discovered in this area north of the park because the terrain is relatively intact with limited modern intrusions. This landscape is not pristine or untrammeled, 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

⁹³ Withdrawal Final EA, *supra* note 27, at 1-1 n.1.

⁹⁴ Proposed Farmington Visual Resource RMPA, *supra* note 35, at 36-38.

⁹⁵ Letter from Turk, *supra* note 11, at 4.

⁹⁶ Chaco Landscapes Report, *supra* note 12, at 50; *see also* Richard A. Friedman, Anna Sofaer & Robert S. Weiner, Remote Sensing of Chaco Roads Revisited 2 (2017) ("In the case of the Great North Road, modern roads to facilitate energy development have disturbed its course, and proposed increases in this activity threatens further disturbance to this and other ancient roads.") (attached).

additional modern feature, ground disturbance, or terrain modification obscures or outright obliterates these features.⁹⁷

BLM has acknowledged this risk in the past, determining that further oil and gas leasing in the withdrawal area “could potentially involve significant access issues . . . [and] could intrude across the Chaco North Road.”⁹⁸ The withdrawal is reducing the risk of such issues.

(c) Nine Chaco Culture Archaeological Protection Sites

In 1995, Congress established the Chaco Culture Archaeological Protection Sites System, which consists of thirty-nine sites associated with the Chaco culture. Twenty-one of these sites are found on federal lands managed by BLM, nine of which are located within the withdrawal area.⁹⁹ The withdrawal will limit the effects of oil and gas development on all of these sites – in particular, visual and auditory effects – ensuring they will not be transformed into “industrial zones,” like so many other sites outside of the withdrawal area.

(d) Over 7,500 known cultural sites

According to BLM’s Final EA for the withdrawal, there are over 7,500 known cultural sites in the withdrawal area, including over 4,700 outside of Chaco Culture NHP.¹⁰⁰ These sites

speak to episodic use of the area by diverse cultural groups (Paleoindian, Archaic, Puebloan, Navajo, and others) from roughly 10,000 BCE to the present. Because less than 20 percent of the area enclosed by the 10-mile zone of protection put forth in the legislation has been surveyed, the actual site count is undoubtedly much higher. In addition, very little recent ethnographic work has been undertaken with any Tribal groups, aside from the Pueblo of Acoma’s 2018 project with Archaeology Southwest. Given the dozens of traditional cultural properties (TCPs) revealed during Acoma’s pilot project, there are probably hundreds, if not thousands, of TCPs and other Tribal cultural sites that have not yet been identified across Greater Chaco.¹⁰¹

The withdrawal affords increased protection to all these sites, including by avoiding “many [of the] indirect and cumulative effects [that] 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.”¹⁰²

Pueblos and Tribes have also emphasized the overriding cultural importance and the need to strengthen management of the withdrawal area. In 2010, during Tribal consultation concerning proposed leasing in the withdrawal area, the Hopi Tribe informed BLM that “a ten mile protection

⁹⁷ Letter from Turk, *supra* note 11, at 3.

⁹⁸ Letter from Mankiewicz, *supra* note 39, at 2.

⁹⁹ Withdrawal Final EA, *supra* note 27, at 1-2.

¹⁰⁰ *Id.* at 1-1, 4-16.

¹⁰¹ Archaeology Southwest, Comments on Mancos-Gallup RMPA and DEIS Planning Process, Attachment 2 at p. 1 (Sept. 25, 2020) (attached).

¹⁰² *Id.* at Attachment 2, p. 2; *see also* Withdrawal Final EA, *supra* note 27, at 4-16 (“A reduction of oil and gas development within the withdrawal area could reduce and would prevent industrialization of the land and preserve the dark night skies and rich views of the landscape within the Chaco region.”).

area is an appropriate zone on which to continue consultations.”¹⁰³ APCG has publicly described Chaco Canyon as the “center point [of] Puebloan ancestry and religious significance that leads to the significant density of cultural resources in and around the CCNHP today”¹⁰⁴ and stated that “[o]ur historic and ongoing interaction with Chaco Canyon has resulted in a dense concentration of cultural resources—including vast ancestral Puebloan structures, shrines, sacred sites, natural formations with culturally relevant modifications and understandings—and an interconnected landscape important to the maintenance of our governance systems, languages, cultures, and traditions.”¹⁰⁵ Accordingly, APCG has repeatedly endorsed creating a cultural protection zone of at least ten miles around Chaco Culture NHP and urged BLM to “make permanent the current, temporary 10-mile cultural protection or buffer zone that is in place surrounding Chaco Culture National Historic[al] Park.”¹⁰⁶

Finally, archaeological experts have written extensively about the importance and integrity of cultural resources in the withdrawal area, particularly when contrasted with the state of cultural resources outside of the withdrawal area. According to a letter authored by twenty-seven professors of archaeology and archaeological researchers,

oil-and-gas activity has transformed large portions of the Pierre’s Community . . . into an industrial zone and greatly impacted Chaco’s Great North Road (which runs 35 miles northward from the site of Pueblo Alto, in Chaco Canyon) outside of the 10-mile zone. *Other communities in the 10-mile zone have thus far seen less impact, and, for this reason, require the heightened protection that will come from a Federal mineral withdrawal.*¹⁰⁷

Archaeology Southwest has made similar findings:

From the air, it is clear that at about 10 miles from the Chaco Park boundary line, the Greater Chaco Landscape begins a serious transition. South of the 10-mile line, the landscape is relatively pristine. Certainly, there is limited development within this zone—limited oil-gas facilities and some power lines and pipelines that cross the area.

The 10-mile protection zone is, however, largely unimpacted by oil-gas development. North of the 10-mile line, the landscape begins to change, and shows the effects of industrial development of the oil-gas resources that lie beneath the surface.¹⁰⁸

In sum, the withdrawal’s boundaries encompass the core of a cultural landscape centered on Chaco Canyon. This landscape contains several thousand cultural resources, some of which have been designated for protection by Congress. Pueblos and Tribes have identified this area as being critically “important to the maintenance of [their] governance systems,

¹⁰³ Letter from Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office, to Becky Hunt & Jay Spielman, BLM 1 (Oct. 21, 2010) (attached).

¹⁰⁴ Letter from APCG, to Sarah Scott, BLM 5 (May 4, 2022) (attached).

¹⁰⁵ *Id.* at 15.

¹⁰⁶ APCG Resolution No. 2016-17, *supra* note 61, at 2.

¹⁰⁷ Letter from Archaeologists, *supra* note 67, at 2 (emphasis added).

¹⁰⁸ Archaeology Southwest, *Why Protect a 10-Mile Zone Around Chaco Culture National Historical Park?* (Dec. 17, 2019) (attached).

languages, cultures, and traditions.”¹⁰⁹ Finally, archaeological experts have documented how oil and gas development – and associated impacts on cultural resources – largely end at the withdrawal area’s boundaries.

2. Geological factors

Geological factors also support the withdrawal and its boundaries. As BLM explained during the withdrawal process,

[f]uture potential for oil and natural gas wells on Federal mineral estate within the withdrawal area is limited. . . . Production data from existing wells in the area show that moving south from the Nageezi and Counselor NM area towards CCNHP leads to an increase in water production from wells and a decrease in oil and natural gas production, as the reservoir is becoming water-wet, supporting the low development potential conclusion. Wells near the withdrawal boundary yield about 80% water in the production stream, hindering economic justification for infill drilling.¹¹⁰

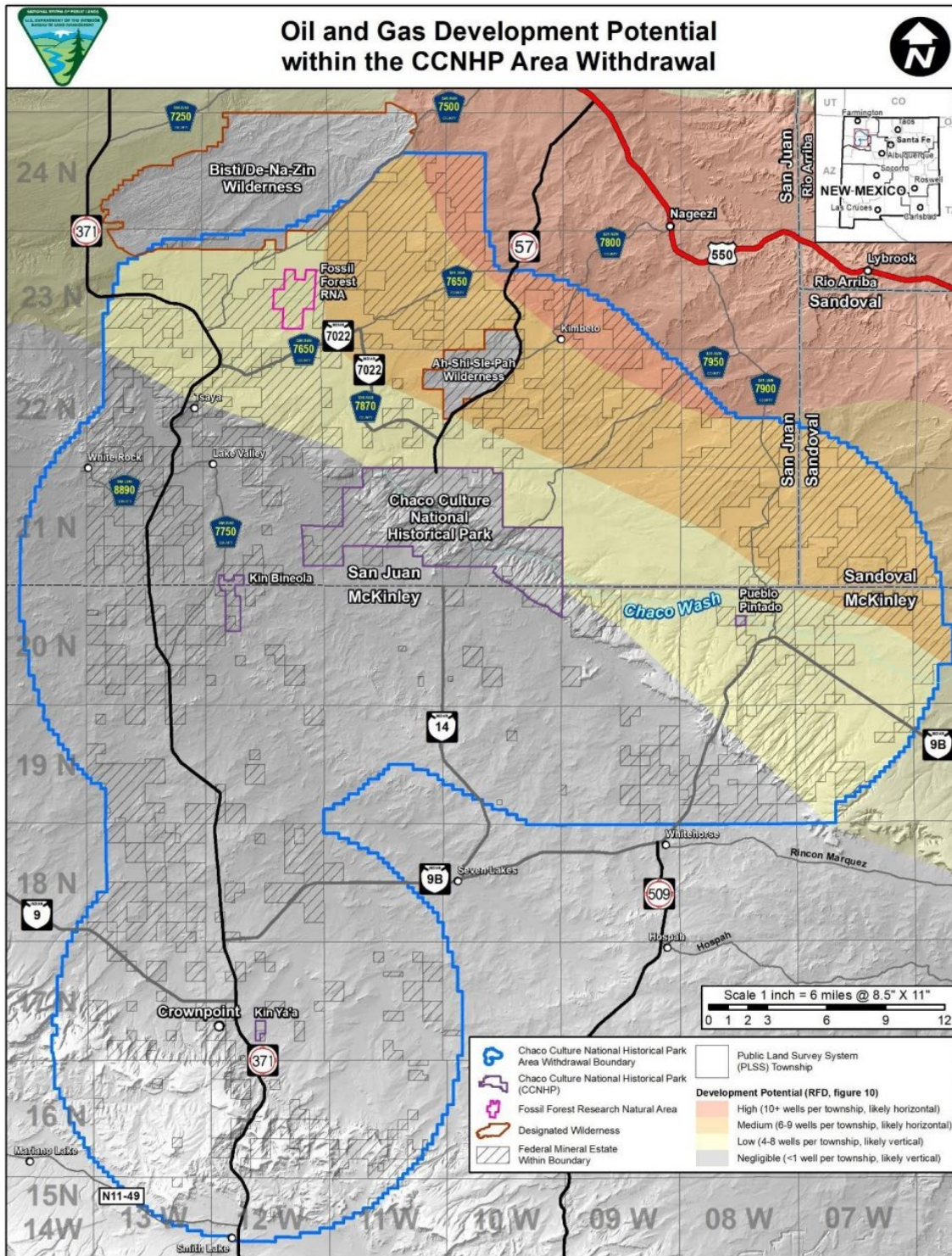
Accordingly, BLM based the withdrawal’s boundaries in part on the line separating the high potential area – generally situated on either side of Highway 550 – from the area with lower potential, which encompasses “most of the withdrawal area. . . .”¹¹¹ That BLM did so is apparent by looking at the following development potential map used during the withdrawal process.¹¹²

¹⁰⁹ Letter from APCG, *supra* note 104, at 15.

¹¹⁰ BLM, Mineral Potential Report Proposed Chaco Area Withdrawal at 42-43 (Nov. 2022), *available at* <https://eplanning.blm.gov/Project-Home/?id=098dfbca-a7f2-f011-8407-001dd806295a> (last visited July 27, 2026).

¹¹¹ *Id.* at 44.

¹¹² *Id.* at 73, Figure 11.



The findings of the 2025 RFDS bolster the geological rationale for the withdrawal's boundaries. Not only does the 2025 RFDS uphold the development potential categorizations used by BLM to develop the withdrawal boundaries, it reiterates that drilling is "expected to continue to the northeast of the [Chaco] buffer zone," as the withdrawal area does not offer "favorable targets for

future development.”¹¹³ As characterized by BLM in the Revocation Draft EA, “the entire Chaco region [is] unlikely to see further development. . . .”¹¹⁴ Thus, there is a well-established geological basis for the withdrawal and its boundaries.¹¹⁵

3. Administrative factors

Various administrative factors support the withdrawal and its boundaries, including the lack of existing oil and gas leases within the withdrawal area. According to BLM, barely 20 percent of the withdrawal area is leased, compared to 80-90 percent of the broader FFO.¹¹⁶ BLM specifically took the location of existing leases into account during the withdrawal process: “[a]reas located outside of the 10-mile buffer proposed for withdrawal consist predominantly of lands that have already been leased for mineral development; therefore, they were not included for consideration in the EA because a withdrawal would not have provided the intended protections.”¹¹⁷

Further, the withdrawal area’s boundaries align closely with other adopted and proposed protections, including the moratorium on new oil and gas leasing on state trust lands adopted by the New Mexico State Land Commissioner (SLC) on April 27, 2019¹¹⁸ and extended for an additional twenty years on December 14, 2023.¹¹⁹ The federal and state protections are identical save for “one area where BLM manages lands in the north where the State Land Office does not.”¹²⁰ Further, BLM “derived” the withdrawal area boundaries from the Chaco Cultural Heritage Area Protection Act (Chaco Protection Act), which was first introduced in 2018 – with support from the Navajo Nation.¹²¹

By taking pains to exclude existing leases, and by aligning the withdrawal’s boundaries with other designations (adopted and proposed), BLM ensured that it could administer the withdrawal efficiently and to further its various management responsibilities under FLPMA and other statutes.

¹¹³ 2025 RFDS, *supra* note 78, at 14.

¹¹⁴ Revocation Draft EA, *supra* note 1, at 12.

¹¹⁵ Notably, Enduring Resources – the principal oil and gas operator in the vicinity of the withdrawal area – and a Navajo allottee that has testified in support of opening the withdrawal area to drilling both believe 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.” “Energy Opportunities for All Act” Hearing, *supra* note 25, at 19 (statement of Anita Ashland, Senior Land Consultant, Enduring Resources); *see also id.* at 50 (statement of Delora Hesuse, Navajo Indian Allottee, Nageezi Chapter) (“[T]here is no oil and gas within 6 miles of Chaco Culture National Historical Park.”).

¹¹⁶ BLM, Chaco Area Withdrawal FAQs 2 (attached); *see also* “Energy Opportunities for All Act” Hearing, *supra* note 25, at 18 (statement of Anita Ashland) (“The map also shows that the San Juan Basin, as a result of drilling since the 1950’s . . . , has largely been developed except in the southwestern portion where the allottee lands are located and where the Chaco Buffer Withdrawal is located.”).

¹¹⁷ Chaco Comment Response Report, *supra* note 45, at A-1.

¹¹⁸ State of N.M. Commissioner of Public Lands, Exec. Order No. 2019-002, Moratorium on New Oil and Gas and Mineral Leasing in Greater Chaco Area (Apr. 27, 2019) (attached).

¹¹⁹ State of N.M. Commissioner of Public Lands, Exec. Order No. 2023-002, Extending the Moratorium on New Oil and Gas and Mineral Leasing in Greater Chaco Area (Dec. 14, 2023) (attached).

¹²⁰ State of NM. Commissioner of Public Lands, Frequently Asked Question: Executive Order No. 2023-002 (attached).

¹²¹ Chaco Area Withdrawal FAQs, *supra* note 16, at 1.

B. The Navajo Nation and APCG Mutually Developed and Endorsed the Withdrawal Boundaries.

In 2017, the Navajo Nation and APCG began meeting to discuss “how tribes in the Southwest can protect sacred sites and traditional cultural properties within the Greater Chaco Region.”¹²² These meetings culminated in mutually agreed upon boundaries for the withdrawal area and a shared commitment to honoring the land and minerals rights of the Navajo Nation and its members. APCG explained this collaboration as follows.

The Navajo Nation’s and the Pueblos’ staff worked with Senator Udall’s office to draft federal legislation to permanently protect the withdrawal area—and this effort became the Chaco Cultural Heritage Area Protection Act. In April of 2018, the Navajo Nation and Pueblos again met government-to-government to formally review and approve the language of the legislation. The outcome was a critical compromise to support the withdrawal of federal land from future mineral development but to preserve the rights of the Navajo Nation and Navajo allottees to develop on their own land. The Navajo Nation and the Pueblos together supported: (1) the introduction of the Chaco Cultural Heritage Area Protection Act of 2018, S. 2907; (2) its reintroduction as the Chaco Cultural Heritage Area Protection Act of 2019, S. 1079 and H.R. 2181, with additional protections for the Navajo Nation’s and Navajo allottees’ development rights; and (3) the legislation’s movement through Congress toward enactment, including by giving congressional testimony. . . .¹²³

The Navajo Nation publicly supported the Chaco Protection Act when it was first introduced, with then-Navajo President Russell Begaye saying that “[w]e are connected to these lands spiritually. The voices of our ancestors live in this area and any disturbance to this area is culturally and morally insensitive. This is why I support this initiative from Senators Udall and Heinrich to protect these lands using this bill.”¹²⁴ APCG and the Navajo Nation continued to meet through 2019, including to coordinate over proposed oil and gas leasing in the withdrawal area.¹²⁵

As noted above, BLM based the withdrawal’s boundaries in part on the boundaries identified in the Chaco Protection Act. These legislative boundaries were developed by the Navajo Nation, working in concert with APCG.

V. THE PROPOSED REVOCATION VIOLATES THE ADMINISTRATIVE PROCEDURE ACT.

DOI’s proposed revocation of the withdrawal violates the Administrative Procedure Act (APA) because the proposal fails to adhere to the APA’s standards for changing position. Under the APA, DOI cannot revoke the withdrawal without providing “a reasoned explanation.”¹²⁶ DOI must display “awareness that it is changing position,” show that “the new policy is permissible under the

¹²² Press Release, APCG, All Pueblo Governors and Navajo Nation Applaud Bill to Protect Greater Chaco Landscape (May 21, 2018) (attached).

¹²³ Letter from APCG, *supra* note 104, at 9 n.27; *see also* H. Rept. 116-224, 116th Cong. (2019).

¹²⁴ Press Release, Sen. Martin Heinrich, Udall, Heinrich Introduce Legislation to Protect Chaco Canyon Area (May 22, 2018) (attached).

¹²⁵ Press Release, APCG, Historic Joint Convening between the All Pueblo Council of Governors and Navajo Nation 2019 (Mar. 22, 2019) (attached).

¹²⁶ *See, e.g., Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (“[A]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance.”).

statute,” provide “good reasons” for the new policy and, if the “new policy rests upon factual findings that contradict those which underlay its prior policy,” include “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.”¹²⁷

In proposing to reverse course on PLO No. 7923, the Revocation Draft EA has not explained why DOI no longer seeks to address the strong concerns that motivated the secretary to issue the withdrawal in the first place. The proposal would roll back protections for this unique cultural landscape and WHS without justifying why the protections – established just three years ago – are no longer needed. The Revocation Draft EA merely references a desire to comply with various executive and secretarial orders, without explaining how a revocation would comply with applicable statutory requirements, including under FLPMA, or providing good reasons for departing from the decision to issue PLO No. 7923, which is underpinned by the voluminous record described above.¹²⁸ DOI’s proposal is an unreasonable, unexplained, and arbitrary reversal of its prior position that led to the establishment of the withdrawal and must be rejected.

VI. THE PROPOSED REVOCATION VIOLATES THE FEDERAL LAND POLICY AND MANAGEMENT ACT.

The proposed revocation violates numerous substantive and procedural requirements of FLPMA and must be rejected.

A. The Secretary’s Revocation of a Large-Tract (Greater than 5,000 Acres) Withdrawal Made Pursuant to Section 204 of FLMPA Is Unprecedented.

To the best of our knowledge, DOI has never revoked a large-tract withdrawal made pursuant to FLPMA. A decision to establish a large-tract withdrawal is not trivial and can be made only after complying with rigorous procedures set forth in section 204 of FLPMA. Those procedures require BLM to, among other things, prepare “an inventory and evaluation of the current natural resource uses and values of the site,” prepare an analysis of the compatibility of resource uses and provisions for continuing or terminating those uses, and provide public comment periods and meetings.¹²⁹ Ultimately, the goal is to ensure that, consistent with its multiple-use mandate, BLM “engage[s] in a careful and reasoned balancing of the potential economic benefits of additional [development] against the possible risks to environmental and cultural resources.”¹³⁰ Yet, at no point, does the Revocation Draft EA reference these requirements or explain what FLPMA-based standards are guiding BLM’s decision-making here.

Revoking a large-tract withdrawal is a momentous step that should not be taken lightly. In fact, Congress drafted FLPMA’s withdrawal provisions because it wanted DOI to avoid “hasty actions . . . based on preconceived determinations instead of being based on careful land use planning.”¹³¹ For this reason, DOI must use a careful, deliberative process when considering withdrawal revocations or modifications that reduce protections. Through this process, DOI must document any changes

¹²⁷ *FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 515 (2009).

¹²⁸ Revocation Draft EA, *supra* note 1, at 2.

¹²⁹ 43 U.S.C. § 1714(c)(2); 43 C.F.R. § 2310.3-1(b)(2)(v).

¹³⁰ *Nat’l Mining Ass’n v. Zinke*, 877 F.3d 845, 873 (9th Cir. 2017).

¹³¹ See Robert L. Glickman & Hillary M. Hoffman, *The Rocky Road to Energy Dominance: The Executive Branch’s Limited Authority to Modify and Revoke Withdrawals of Federal Lands from Mineral Production*, 33 *Geo. J. Env’tl. L.* 173, 207 (2021) (describing the findings and recommendations of the Public Land Law Review Commission) (attached).

since it originally made the withdrawal, determine whether federal lands within the withdrawal area are still needed to protect the public values or fulfill the original purposes of the withdrawal, and provide meaningful opportunities for the public to engage in the decision-making process. DOI has made none of the substantive determinations needed to support the proposed revocation and is following none of the required procedures here.

B. The Scope of the Secretary's Authority to Modify or Revoke Existing Withdrawals Is Limited.

FLPMA authorizes the Secretary to make, modify, extend, or revoke withdrawals “but only in accordance with the provisions and limitations of [section 204].”¹³² The Secretary’s discretion to revoke or modify withdrawals is therefore limited and subject to substantive and procedural conditions. There is no specific agency guidance on the process and considerations relevant to the revocation of FLPMA withdrawals,¹³³ but the statute identifies numerous constraints on the Secretary’s authority. Among other things, the Secretary must show that the lands are no longer needed to safeguard the values and purposes originally identified in the withdrawal decision (here, to protect cultural resources from oil and gas development and mining or to protect water resources from mineral extraction).¹³⁴ DOI has made such determinations in the context of revocations of other, pre-FLPMA withdrawals, but has not done so here.¹³⁵

The few courts that have reviewed decisions to reverse course on withdrawals and thereby reduce protections on federal public lands recognize the limited nature of revocation authority¹³⁶ and closely scrutinize the Secretary’s justification for the reversal, requiring a reasoned explanation as to why the lands are no longer needed for the original purpose of the withdrawal.¹³⁷ Withdrawal decisions under 43 U.S.C. § 1714(a), including modification and revocation, are limited by, and subject to, the “public values” and “public purpose” statements in 43 U.S.C. §§ 1701 and 1702(j).¹³⁸

¹³² 43 U.S.C. § 1714(a); *see also Nat’l Mining Ass’n*, 877 F.3d at 856 (explaining that FLPMA eliminated “the implied executive branch withdrawal authority . . . and substitute[d] express, limited authority.”).

¹³³ BLM’s withdrawal regulations, which were adopted in 1981, lack “procedures relating to the processing of revocation of withdrawals. . . .” 43 C.F.R. § 2300.0-1(c). However, in the section on *proposed* withdrawals – “cancellation of withdrawal applications,” the regulations require a determination that lands “are no longer needed in connection with a requested or proposed action” for those lands to be removed from withdrawal consideration. *Id.* § 2310.1-4. This requirement aligns very closely with *National Mining Ass’n v. Zinke*, 877 F.3d at 867, which recognized that withdrawal decisions must advance public “values” or “purposes.” *See also* 43 C.F.R. 2310.3-1(b) (providing process for withdrawal, extension or modification).

¹³⁴ *See* 43 U.S.C. § 1702(j) (defining “withdrawal” as “withholding an area of Federal land . . . for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program”); *Nat’l Mining Ass’n*, 877 F.3d at 867 (explaining that the “public values” and “public purpose” of a withdrawal are demonstrated by showing that a withdrawal furthers the FLPMA objective that “the public lands [would] be managed in a manner that [would] protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, [would] preserve and protect certain public lands in their natural condition; that [would] provide food and habitat for fish and wildlife and domestic animals; and that [would] provide for outdoor recreation and human occupancy and use.” (citing 43 U.S.C. § 1701(a)(8))).

¹³⁵ *See, e.g.*, Public Land Order No. 7676; Revocation of the Withdrawal Established by Executive Order Date July 19, 1912; Montana, 72 Fed. Reg., 35,257 (June 27, 2007) (“The lands are no longer needed for the purpose for which they were withdrawn.”).

¹³⁶ *See, e.g., Nat’l Wildlife Fed’n v. Burford*, 835 F.2d 305 (D.C. Cir. 1987).

¹³⁷ *See, e.g., Western Watersheds Project v. Bernhardt*, 519 F. Supp. 3d 763 (D. Idaho 2021).

¹³⁸ *See Nat’l Mining Ass’n*, 877 F.3d at 867.

To summarize: the Secretary's authority to revoke withdrawals is circumscribed by substantive and procedural limits. Substantively, to effect a valid revocation, the Secretary must determine that the withdrawal is no longer needed to safeguard public values or fulfill public purposes, as documented in the original withdrawal decision. Procedurally, the Secretary must also facilitate meaningful public involvement and satisfy other procedural requirements identified in 43 U.S.C. § 1714(c)(2), NEPA, NHPA, and other applicable legal authorities (e.g., FLPMA Section 309(e)).

C. To Revoke the Mineral Withdrawal, the Secretary Must Demonstrate that the Withdrawn Lands Are No Longer Needed to Safeguard the Originally Identified Public Values and Purposes.

1. The Secretary cannot show that the withdrawn lands are no longer needed and cannot justify a decision to remove the protection of a mineral withdrawal.

The Revocation Draft EA fails to show that the withdrawn lands are no longer needed to safeguard the public values or achieve the public purposes originally identified by DOI. Those public values and purposes are identified in the withdrawal application submitted to the Secretary by BLM:

The purpose of the requested withdrawal is to protect these public lands and the greater connected landscape with the rich Puebloan, Tribal Nations, and cultural legacy in northwestern New Mexico. This place holds a deep meaning for the Indigenous peoples whose ancestors lived, worked, traded, and thrived in this high desert community. If established as requested, the requested withdrawal would protect the landscape from industrial activity by restricting location and entry under the United States mining laws, and from leasing under the mineral leasing laws, subject to valid existing rights, for a period of 20 years.¹³⁹

The application explains that the proposed withdrawal “encompasses . . . all parcels of [Chaco Culture] NHP,” as well as public lands within a ten-mile cultural protection zone “that have important cultural resources, sacred sites, and ancient connections to surrounding Tribal communities. The [Chaco Culture] NHP and related areas were designated as a United Nations Educational, Scientific and Culture Organization World Heritage Site in 1987, one of only two dozen sites in the United States.”¹⁴⁰ The application states that these values require enhanced protection because of ongoing “interest in oil and gas development in the area. . . .”¹⁴¹

In the Revocation Draft EA, DOI has not justified why these values no longer warrant the enhanced protection provided by the withdrawal. Chaco Culture NHP is still a national park and WHS – the only such site under BLM's jurisdiction. There are still thousands of fragile cultural resources in the withdrawal area; they have not migrated elsewhere, as the case might be for wildlife. No cataclysmic event has razed the centuries-old great house walls in Chaco Canyon or wiped what's left of the Great North Road off the map. These incredibly-fragile resources, which are part of a cultural landscape that has been heavily fragmented and harmed by decades of oil and gas development in northwestern New Mexico, are exactly where they were when DOI issued PLO No. 7923 in 2023 – and where they have been for centuries.

¹³⁹ BLM, Petition/Application for Withdrawal, Serial Number NMNM-144042 3 (attached) [hereinafter Chaco Withdrawal Application].

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

Similarly, DOI cannot explain why the withdrawal no longer fulfills the central purpose of the withdrawal: to protect cultural values within and surrounding Chaco Culture NHP from location and entry under the mining laws and mineral leasing and development on federal lands. BLM has not updated its underlying management plan for the area, having terminated the Mancos/Gallup RMPA process in 2024.¹⁴² If the withdrawal is revoked, then oil and gas management will revert to either the 2003 or 1988 Farmington RMP (whichever is in effect),¹⁴³ both of which are incredibly outdated and insufficient to address potential effects on cultural values. Oil and gas companies are continuing to nominate parcels for lease on lands in the immediate vicinity of the withdrawal area, including parcels for BLM New Mexico's January 2026 lease sale¹⁴⁴ and parcels for BLM New Mexico's May 2026 lease sale,¹⁴⁵ and more parcels are proposed for BLM New Mexico's August 2026 lease sale.¹⁴⁶

In addition to allowing oil and gas leasing, the proposed revocation of PLO No. 7923 would facilitate uranium exploration and mining within the 10-mile cultural protection zone. According to BLM, the withdrawal area currently has 129 unpatented mining claims covering approximately 2,665 acres.¹⁴⁷ Under PLO No. 7923, there can be no new location and entry under the Mining Law of 1872, and existing "mining claims in the current withdrawal area would be subject to validity testing per 43 CFR 3809.100(a)" prior to any exploration or development activities.¹⁴⁸ The potential for uranium mining to impact cultural resources within the withdrawal area has not diminished since the withdrawal was created in 2023.

Thus, nothing has changed over the past three years that undermines or casts doubt on the legitimacy of the primary purpose for the withdrawal.

¹⁴² See Termination Notice for Mancos-Gallup RMPA, *supra* note 14 (explaining that the termination of the planning process was necessitated by multiple changed circumstances since the BLM's publication of a draft RMP Amendment and EIS in 2020).

¹⁴³ See Part VII.B.2 *infra*, explaining uncertainty regarding the validity of RMPs adopted after Congress passed the CRA.

¹⁴⁴ See BLM, Farmington Field Office Competitive Oil and Gas Lease Sale EA, DOI-BLM-NM-F010-2025-0033-EA 134 (Oct. 17, 2025) ("The nearest nominated lease parcel to the boundary of Chaco Cultural National Historical Park (CCNHP) is parcel 582 (22.4 miles west-southwest of CCNHP)."), *available at* <https://eplanning.blm.gov/Project-Home/?id=cb2646eb-a7f2-f011-8406-001dd80ef717> (last visited July 29, 2026).

¹⁴⁵ BLM, Farmington Field Office Competitive Oil and Gas Lease Sale EA, DOI-BLM-NM-F010-2026-0001-EA 119 (Jan. 21, 2026) ("The nearest nominated lease parcel to the boundary of Chaco Cultural National Historical Park (CCNHP) is parcel 671 (12.89 miles east-northeast of CCNHP)."), *available at* <https://eplanning.blm.gov/Project-Home/?id=593adaf8-a7f2-f011-8407-001dd80db62a> (last visited July 29, 2026).

¹⁴⁶ BLM, Farmington and Rio Puerco Field Offices Competitive Oil and Gas Lease Sale Environmental Assessment DOI-BLM-NM-F010-2026-0020-EA 171 (Aug. 2026) ("Parcel 764 is the closest nominated lease parcel to the boundary of Chaco Culture National Historical Park (CCNHP), located approximately 24.8 miles to the northeast."), *available at* <https://eplanning.blm.gov/Project-Home/?id=AFDCF762-A9F7-F011-8407-001DD8084607> (last visited July 29, 2026).

¹⁴⁷ Revocation Draft EA, *supra* note 1, at 13.

¹⁴⁸ *Id.* at 10.

2. If anything, new information and changed circumstances demonstrate the need for protection is even greater today than when the withdrawal was made.

New information and changed circumstances demonstrate even greater support for the original purpose of the withdrawal, which is to protect Chaco Culture NHP and cultural values in the surrounding landscape from oil and gas development and mineral exploration/extraction.

First, DOI has a copy of the tribally led cultural investigation conducted by the Navajo Nation,¹⁴⁹ and is in the process of working to comply with data sharing agreement related to the study conducted by CHTA.¹⁵⁰ Those investigations were authorized for the purpose of increasing “landscape-level awareness of the types and distribution of archaeological and non-archaeological cultural resources” in the broader landscape surrounding Chaco Canyon. While the results of the investigations have not been shared publicly, it is highly likely that both provide new insights into the nature, importance, and condition of cultural values in the withdrawal area and may offer perspectives specifically on how oil and gas development activities may harm those values. Accounting for the findings of these investigations is particularly important for the Pueblos, given that BLM did not engage the Pueblos in meaningful consultation during preparation of the 2003 Farmington RMP and admitted to lacking an informed understanding of the Pueblos’ connections to Chaco Canyon and the surrounding landscape when it developed the RMP.

Second, recent Congressional actions greatly restrict BLM’s authority to address the impacts of future oil and gas leasing on the withdrawal area’s cultural values. Specifically, as explained above, OBBBA eliminates, or severely limits, BLM’s discretion to address the potential effects of oil and gas leasing on cultural values in the withdrawal area, including in response to concerns from Pueblos and Tribes. That BLM may no longer exercise that discretion, at least to the extent it could prior to June 2023, provides further support for maintaining the withdrawal.

Third, the Trump administration has taken several actions to facilitate mineral development on public lands, including signing executive orders to prioritize mineral production as primary land uses on all Federal lands known to hold mineral deposits and reserves¹⁵¹ and to reinvigorate coal mining on public lands.¹⁵² The administration also added uranium and metallurgical coal to the list of minerals deemed critical¹⁵³ to the nation’s national and economic security, potentially fast-tracking the permitting of these types of mining projects.¹⁵⁴ Under BLM’s proposed action, the withdrawal area would reopen to coal leasing and location and entry under the mining laws, facilitating new mining claims and uranium exploration and mining projects. As discussed further in Part VII.D.4 below, New Mexico has experienced a dramatic uptick in new mining claims in the past couple of years. The added risks that these actions pose to the area covered by the withdrawal provide additional support for maintaining the protections of the withdrawal.

¹⁴⁹ *Id.* at 32.

¹⁵⁰ *Id.* at 65.

¹⁵¹ Exec. Order No. 14,241, 90 Fed. Reg. 1,234 (Jan. 22, 2025).

¹⁵² Exec. Order No. 14,261, 90 Fed. Reg. 45,678 (July 10, 2025).

¹⁵³ Final 2025 List of Critical Minerals, 90 Fed. Reg. 50,494, 50,495 (Nov. 7, 2025).

¹⁵⁴ See, e.g., Permitting Council, FAST-41 Program, <https://www.permitting.gov/projects/current-fast-41-portfolio> (listing three uranium projects in New Mexico that are currently covered by FAST-41) [hereinafter FAST-41 Program].

3. Courts have confirmed that DOI has “broad” authority to make withdrawals for the purpose of protecting cultural values of importance to Tribes.

Courts have consistently upheld large-tract withdrawals made for the purpose of protecting cultural values of importance to Tribes.¹⁵⁵ In 2012, for example, then-Secretary of the Interior Ken Salazar withdrew over one million acres of public land near the Grand Canyon – an area nearly three times the size of the Chaco withdrawal – from new uranium mining claims for a twenty-year period.¹⁵⁶ Secretary Salazar did so to “preserve cultural and tribal resources throughout the withdrawn area.”¹⁵⁷ Several parties filed lawsuits challenging the decision, with the Havasupai Tribe and others intervening in support of the withdrawal.

Notably, in an amicus brief defending the withdrawal, the Navajo Nation argued that it was well within the Secretary’s “broad authority and discretion” to manage public lands “in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values. . . .”¹⁵⁸ The brief also argued that

Federal law and policy, and [the Court], recognize that preserving and maintaining Native American culture, religion, history, identity, and other values is of public value to the nation. . . . The Withdrawal at issue in this dispute carried out this policy by highlighting Native American values in the American Indian Resources section of the FEIS and by protecting Native American values and sacred landscapes. . . .¹⁵⁹

The Ninth Circuit agreed with these arguments and upheld the Grand Canyon withdrawal, ruling that “[n]othing in FLPMA or our case law indicates that the Secretary may not withdraw large tracts of land in the interest of preserving cultural and tribal resources.”¹⁶⁰ To the contrary, enacting the withdrawal to protect cultural resources was consistent with and implemented the “congressional policy statement included in FLPMA . . . that Interior will manage public lands in part for the protection of ‘historical’ and ‘archaeological’ values.”¹⁶¹ The *National Mining Association v. Zinke* Court also rejected the argument that “the withdrawal was overbroad because it was not ‘based on particular sites or sacred areas,’” concluding that it was appropriate for a withdrawal to encompass “a larger area containing multiple such sites.”¹⁶²

The Secretary of Interior’s exercise of the statutory withdrawal authority to preserve cultural resources around the Grand Canyon is analogous to the issuance of PLO No. 7923. Here, as in *National Mining Association v. Zinke*, BLM identified a credible threat to a large-scale landscape where sovereign Pueblos and Tribes have long-standing cultural connections. DOI engaged these sovereign governments in consultation over the proposed withdrawal, as it did for the Grand Canyon withdrawal, and, based in part on that consultation, withdrew federal lands where it determined that development activities would threaten cultural values.

¹⁵⁵ *Nat’l Mining Ass’n*, 877 F.3d at 869; see also *Mount Royal Joint Venture v. Kempthorne*, 477 F.3d 745, 752 (D.C. Cir. 2007) (upholding large-tract mineral withdrawal established, in part, to protect “areas of traditional religious importance to Native Americans”).

¹⁵⁶ *Nat’l Mining Ass’n*, 877 F.3d at 854.

¹⁵⁷ *Id.* at 866.

¹⁵⁸ Brief for The Navajo Nation as Amicus Curiae at 10, *Nat’l Mining Ass’n v. Zinke*, 877 F.3d 845 (9th Cir. 2017) (attached).

¹⁵⁹ *Id.* at 11.

¹⁶⁰ *Nat’l Mining Ass’n*, 877 F.3d at 869.

¹⁶¹ *Id.* at 869 (quoting 43 U.S.C. § 1701(a)(8)).

¹⁶² *Id.* at 869.

4. DOI cannot justify a revocation decision based on development-related impacts on non-federal land, including Navajo allotted lands, which fall outside the purpose of the withdrawal.

Any justification for revoking PLO No. 7923 must be related to the purpose for which the withdrawal was established. As explained above, the purpose of the withdrawal was to provide enhanced protection to cultural resources on public lands in the withdrawal area. The withdrawal was not intended to prevent (or facilitate) oil and gas development on non-federal lands, including Navajo allotted lands. Thus, under FLPMA, DOI may not justify the withdrawal revocation or modification based on such considerations.

Congress plainly limited DOI's withdrawal authorities to maintaining "public values" and "public purposes."¹⁶³ Nowhere in FLPMA is there any indication that Congress intended DOI to base withdrawal decisions, including revocation or modification decisions, on benefits that may accrue to non-public values or purposes. Allotted lands are not public lands.¹⁶⁴ Nor does the broader public realize direct benefits from whatever development may take place on allotted lands.¹⁶⁵ For example, proceeds from oil and gas leasing and development on allotted lands are split between private companies and allottees, not with the broader public.¹⁶⁶ Thus, even if DOI had identified the facilitation of oil and gas development on allotted lands as a purpose of the withdrawal – which it clearly did not do – that likely would have been impermissible under FLPMA.

Further, to the extent that NEPA or other federal laws required BLM to evaluate effects on development on allotted lands when establishing the withdrawal, it is apparent that BLM recognized and fulfilled those duties. First and foremost, the withdrawal expressly "does not apply to non-Federal interests within the boundaries of the area described herein."¹⁶⁷ Beyond that, BLM went to great lengths to evaluate possible effects of the withdrawal on allotted lands. BLM developed and analyzed in detail a five-mile withdrawal alternative at the request of certain allottee owners.¹⁶⁸ BLM also conducted additional analysis "regarding the potential impacts for impacts on future allotted leases with respect to potential well development," concluding that "[t]he proposed withdrawal will likely not adversely affect the vast majority (915 allotments, over 77 percent of unleased allotments) with respect to future lease viability augmented by the proposed withdrawal."¹⁶⁹ In addition to analyzing the potential development-related impacts of the withdrawal on allotments, BLM addressed the various benefits that would accrue to communities in and around the withdrawal area, including improved quality of life, health and safety, and air and water quality.¹⁷⁰

¹⁶³ 43 U.S.C. § 1702(j).

¹⁶⁴ See Withdrawal Final EA, *supra* note 27, at 1-6 (defining "Individual Indian Allotments"); 4-22 (explaining property interests held by Navajo Allottee Mineral Owners).

¹⁶⁵ See generally BIA, Oil and Gas Leasing Potential in the San Juan Basin (2020), <https://www.bia.gov/sites/default/files/dup/assets/as-ia/ieed/demd/pdf/202008-navajo-allottees-NAPE-brochure.pdf> (last visited July 27, 2026).

¹⁶⁶ See Withdrawal Final EA, *supra* note 27, at 4-22 (explaining the broad range of royalty and rental rates received by allottees).

¹⁶⁷ 88 Fed. Reg. at 37,266.

¹⁶⁸ See Withdrawal Final EA, *supra* note 27, at A-1.

¹⁶⁹ *Id.* at 4-30, A-2.

¹⁷⁰ *Id.* at 1-9 to 1-12; 4-16; 4-26; 4-35.

In sum, DOI is not permitted to rewrite history. It cannot now graft a purpose onto the withdrawal that was not contemplated in 2023. Even if that was permissible, DOI lacks the authority to revoke or modify a mineral withdrawal to specifically benefit non-public values and purposes.

5. DOI cannot justify a revocation decision based on other laws, regulations, policies, and designations that purportedly provide adequate protection for cultural resources in the withdrawal area.

DOI cannot justify revocation based on BLM’s generalized assertion that other laws, regulations, policies, and designations provide protections and management direction for cultural resources and values within the withdrawal area.¹⁷¹ Other regulatory frameworks cannot and do not take the place of the protections afforded by the withdrawal, and whether an area or resource is protected by other laws is not a relevant criterion for making, modifying, or revoking, a withdrawal under FLPMA.

In addition, the rationale that other laws, regulations, policies, and designations provide for the management and protection of cultural resources altogether lacks credibility given the administration’s simultaneous work to weaken if not dismantle many of these same laws, regulations, policies, and designations. For example, DOI claims that the NHPA would provide “protections and management direction” for cultural resources within the withdrawal area. Yet an effort by the administration is currently underway to substantially rewrite the regulations¹⁷² implementing NHPA Section 106,¹⁷³ which mandates that federal agencies consider the effects of projects they undertake on historic properties. Reporting on an early draft of the proposed revisions reveals that the administration’s proposal would eviscerate the Section 106 process by essentially eliminating public and Tribal participation in federal Section 106 reviews, reducing the scope of federal projects requiring review, and narrowing the scope of historic properties that are covered, among other things.¹⁷⁴ Additionally, as explained in Part VIII below, BLM’s administration of the Section 106 process has frequently failed to protect culturally significant landscapes, such as the one surrounding Chaco Culture NHP.

DOI also claims that Areas of Critical Environmental Concern (ACECs) would protect cultural resources in the withdrawal area. Yet on May 12, 2026, DOI rescinded the Conservation and Landscape Health Rule (Public Lands Rule) that had expressly recognized that conservation is a land use on equal footing with resource extraction and provided clear direction to prioritize the

¹⁷¹ Revocation Draft EA, *supra* note 1, at 2 (“A variety of designations, laws, regulations, and policies offer protections and management direction for the landscape connected to this cultural legacy. These include CCNHP, United Nations Educational Scientific and Cultural Organization (UNESCO) World Heritage Sites, Chaco Culture Archaeological Protection Sites, Areas of Critical Environmental Concern (ACEC), National Historic Preservation Act (NHPA) of 1966, FLPMA, Archaeological Resources Protection Act (ARPA) of 1979, Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, Executive Order 13007: Indian Sacred Sites, and Executive Order 13175: Consultation and Coordination with Indian Tribal Governments. Each of these authorities remains in effect and would guide the BLM in managing cultural resources regardless of which alternative the Secretary selects.”).

¹⁷² Office of Information and Regulatory Affairs, OMB, Amendments to the Implementing Regulations for Section 106 of the National Historic Preservation Act, RIN 2010-AA10, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=3010-AA10> (last visited July 27, 2027).

¹⁷³ 54 U.S.C. § 306108.

¹⁷⁴ National Trust for Historic Preservation, Section 106 is Under Threat, <https://savingplaces.org/stories/section-106-under-threat> (last visited July 27, 2026).

identification, evaluation, and designation of ACECs.¹⁷⁵ In the wake of rescinding the Public Lands Rule, DOI is expected to issue a proposed rule addressing ACECs¹⁷⁶ that would, among other things, facilitate the removal of ACECs, restrict the authority to impose temporary protections on ACECs, eliminate any presumption favoring ACEC designations, and restrict consideration of ACEC nominations to the formal planning process. Further, BLM has acknowledged that existing ACECs established in the 2003 Farmington RMP are inadequate to protect cultural resources, including the Great North Road, from the impacts of oil and gas development.¹⁷⁷

These examples are among the myriad ways the Trump administration is working to weaken laws and policies that protect cultural resources and public lands. BLM's rationale that other regulatory mechanisms provide sufficient protection for those within the withdrawal area is specious and self-serving and must be rejected.

D. The Secretary Must Provide Meaningful Public Involvement and Satisfy Other Procedural Requirements Identified in 43 U.S.C. § 1714(c)(2) and Other Applicable Authorities.

DOI has not complied with key procedural requirements that govern withdrawal revocations of this magnitude, particularly the requirement to meaningfully involve the public. The “plethora of constraints on the Secretary's large-tract withdrawal authority” found in section 204 of FLPMA is meant to “advance Congress's broad oversight of the Secretary's withdrawal decisions.”¹⁷⁸ One of these constraints requires BLM to engage the public in the withdrawal decision-making process, consistent with BLM's broader obligation under FLPMA to provide “meaningful public involvement” in “land use decisions for public lands. . . .”¹⁷⁹

Here, the public has repeatedly shown that it has a particular interest in the management and protection of the withdrawal area. Over the years, the public has participated robustly in decisions involving proposed oil and gas leasing in the withdrawal area.¹⁸⁰ Further, during the Mancos-Gallup RMPA process, the public filed thousands of comment letters supporting the adoption of strong protections for cultural resources, natural resources, and communities in and outside of the withdrawal area.¹⁸¹ Finally, the public submitted over 160,000 comments in favor of finalizing the proposed withdrawal.¹⁸²

¹⁷⁵ Dep't of Interior, BLM, Rescission of Conservation and Landscape Health Rule, Final Rule, 91 Fed. Reg. 25787 (May 12, 2026).

¹⁷⁶ Office of Information and Regulatory Affairs, OMB, Planning and Designation of Areas of Critical Environmental Concern, RIN: 1004-AF53, *available at* <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=1004-AF53> (last visited July 29, 2026).

¹⁷⁷ See Part III.A.1, *supra*.

¹⁷⁸ *Nat'l Mining Ass'n*, 877 F.3d at 863.

¹⁷⁹ 43 U.S.C. § 1712(c)(9).

¹⁸⁰ See, e.g., *supra* note 7.

¹⁸¹ See, e.g., Press Release, WildEarth Guardians, Greater Chaco Coalition Responds to BLM's Broken Promises (Mar. 2, 2020) (noting that BLM received “more than 15,000 comments” during the scoping period for the Mancos-Gallup RMPA) <https://wildearthguardians.org/press-releases/greater-chaco-coalition-responds-to-blms-broken-promises/> (last visited July 27, 2026).

¹⁸² The Wilderness Society, 3 reasons to protect Greater Chaco Canyon from oil and gas drilling (Nov. 5, 2025), <https://www.wilderness.org/articles/blog/3-reasons-protect-greater-chaco-canyon-oil-and-gas-drilling> (last visited July 27, 2026).

Up until now, BLM has shown that it understood and took seriously the public's concerns for the management of the withdrawal area, as well as its legal obligation to meaningfully involve the public. In 2020, for example, BLM extended the 90-day comment period for the Draft EIS on the Mancos-Gallup RMPA by 120 days in response to requests from APCG, Navajo Nation, and many others.¹⁸³ BLM also extended the 90-day comment period on the proposed withdrawal by 30 days "to allow for additional input on the proposal."¹⁸⁴ BLM later offered a 30-day comment period on the draft EA for the withdrawal, bringing the total number of days for the public to comment on the withdrawal to 150. In addition to these public comment opportunities, BLM hosted seven public meetings, including five meetings before the NEPA process began¹⁸⁵ and two additional meetings following BLM's release of the draft environmental assessment.

Yet, contrary to the requirements of FLPMA, BLM has afforded the public a scant 21 days to comment on the proposed revocation and has conducted no public meetings in which to better understand the motivation behind this abrupt change of direction.

E. DOI Has Not Documented Whether It Has Tried to Achieve Maximum Consistency With State Plans.

Under FLPMA, DOI has an affirmative duty to "keep apprised" of, and strive for "consistency" with, state land use plans.¹⁸⁶ DOI has completely disregarded this responsibility during this decision-making process.

In New Mexico, the SLC has broad constitutional power to "direct," "control," and "care for" state trust lands.¹⁸⁷ Robust rulemaking and planning authorities flow from this power, which include establishing a framework for oil and gas leasing on state public lands.¹⁸⁸ The SLC may, at her discretion, "withhold any tract or tracts from leasing" to advance "the best interests of the state."¹⁸⁹

On April 27, 2019, pursuant to her broad constitutional and statutory authorities, the SLC issued Land Office Executive Order 2019-002, which placed a moratorium on new "oil, gas, and mineral leasing" on 72,776 acres of state lands within the outer boundary of the federal withdrawal area.¹⁹⁰ The order described Chaco Culture NHP as "a state, national, and international treasure" and articulated the desire to support "land uses that are more consistent with the protection and

¹⁸³ Press Release, BLM, In Case You Missed It: Comment period for Farmington Mancos-Gallup Draft Resource Management Plan Amendment Extended 120 Days, <https://www.blm.gov/sites/blm.gov/files/BLM%20and%20BIA%20extend%20comment%20period%20for%20Farmington%20Mancos.pdf> (last visited July 27, 2026).

¹⁸⁴ Press Release, BLM, BLM extends comment period, announces additional meetings for proposed mineral withdrawal surrounding Chaco Culture National Historical Park (Mar. 25, 2022), <https://www.blm.gov/press-release/blm-extends-comment-period-announces-additional-meetings-proposed-mineral-withdrawal> (last visited July 27, 2026); *see also* Withdrawal Final EA, *supra* note 27, at App. B, 1-1 (documenting that the initial public input period, prior to initiating the NEPA process, lasted a total of 120 days).

¹⁸⁵ *See* Withdrawal Final EA, *supra* note 27, at App. B, 1-3.

¹⁸⁶ 43 U.S.C. § 1712(c)(9); *see also* 43 C.R.R. 1610.3-2 (requiring BLM to ensure management plans are consistent with officially approved state, local, and tribal plans).

¹⁸⁷ N.M. Const. art. XIII, § 2.

¹⁸⁸ *See, e.g.*, NMSA 1978, § 19-10-3 (directing the SLC to classify state public lands for purposes of oil and gas leasing).

¹⁸⁹ NMSA 1978, § 19-8-33.

¹⁹⁰ Exec. Order No. 2019-002, *supra* note 118.

preservation of the landscape. . . .”¹⁹¹ Four years later, the SLC extended the moratorium for an additional twenty years to “*provide for greater consistency* in federal-state land management practices around Chaco while also enabling the State Land Office to explore other land uses that are more compatible with the protection and preservation of the landscape. . . .”¹⁹²

The SLC’s order is consistent with New Mexico law and land use planning. New Mexico has long recognized the need to protect broad, integrated cultural landscapes, not only individual archaeological sites. In 1969, New Mexico adopted the Cultural Properties Act,¹⁹³ a state counterpart to the NHPA. In 2014, the New Mexico Supreme Court upheld the designation of approximately 381,000 acres of public land on Mount Taylor as a registered cultural property.¹⁹⁴ Like the Greater Chaco Landscape, the Mount Taylor area is a large landscape with checkerboard land ownership.¹⁹⁵ Despite the large size and checkerboard ownership, the Supreme Court held that the designation was appropriate based on Mount Taylor’s “ongoing relationship with traditional cultural practices” and “the physical attributes of the mountain.”¹⁹⁶

The Revocation Draft EA acknowledges the existence of the SLC’s moratorium order.¹⁹⁷ The Revocation Draft EA also recognizes that “Pueblo tribes view the Chacoan landscape as an integrated cultural system . . . not a collection of isolated sites” and that “[m]aintaining this landscape is considered important by the Pueblo tribes for its cultural and historical integrity.”¹⁹⁸ Despite this, DOI has changed course on its previous commitment in PLO No. 7923 to treat the broader cultural landscape as one that should be protected and managed as a whole, and is ignoring the action of the SLC to create consistent management across public land ownership boundaries.¹⁹⁹

The Revocation Draft EA fails to reference BLM’s legal duty to achieve consistency with the SLC’s order and New Mexico law and land use planning to the “maximum extent” possible, or to explain how revocation of PLO No. 7923 is consistent with that duty.

F. The Secretary Must Ensure That the Revocation and Re-Opening of Federal Lands in the Withdrawal Area to Oil And Gas Leasing Will Not Cause Unnecessary And Undue Degradation of Cultural and Other Resources.

In considering the potential revocation of the withdrawal, DOI must substantiate how the proposed action would comply with the agency’s overarching mandate to prevent unnecessary or undue degradation. “Under FLPMA, the Secretary of Interior is required to ‘take any action necessary to prevent unnecessary or undue degradation of the [public] lands.’”²⁰⁰ BLM must fulfill this non-discretionary duty while managing public lands for “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.”²⁰¹ The obligation to prevent

¹⁹¹ *Id.*

¹⁹² Exec. Order No. 2023-002, *supra* note 119 (emphasis added).

¹⁹³ *New Mexico Cultural Properties Act*, NMSA 1978, §§ 18-6-1 to -17 (1969, as amended through 2013).

¹⁹⁴ *Rayellen Res. Inc. v. N.M. Cultural Props. Review Comm.*, 2014-NMSC-006, ¶ 1, 319 P.3d 639.

¹⁹⁵ *Id.* ¶ 33.

¹⁹⁶ *Id.* ¶ 34.

¹⁹⁷ Revocation Draft EA, *supra* note 1, at 7.

¹⁹⁸ *Id.* at 28.

¹⁹⁹ *Id.*

²⁰⁰ *Ctr. for Biological Diversity v. U.S. Dep’t of Interior*, 623 F.3d 633, 644 (9th Cir. 2010) (quoting 43 U.S.C. § 1732(b)).

²⁰¹ 43 U.S.C. §§ 1701(a)(7) & (8), 1712(c)(1), 1732(a).

unnecessary or undue degradation is consistent with FLPMA's statutory mandate to manage multiple uses without "permanent impairment" of the land and quality of the environment.²⁰² The BLM has defined unnecessary or undue degradation as

harm to resources or values that is not necessary to accomplish a use's stated goals or is excessive or disproportionate to the proposed action or an existing disturbance. Unnecessary or undue degradation includes two distinct elements: "Unnecessary degradation" means harm to land resources or values that is not needed to accomplish a use's stated goals. For example, approving a proposed access road causing damage to critical habitat for a plant listed as endangered under the Endangered Species Act that could be located without any such impacts and still provide the needed access may result in unnecessary degradation. "Undue degradation" means harm to land resources or values that is excessive or disproportionate to the proposed action or an existing disturbance. For example, approving a proposed access road causing damage to the only remaining critical habitat for a plant listed as endangered under the Endangered Species Act, even if there is not another location for the road, may result in undue degradation. The statutory obligation to prevent "unnecessary or undue degradation" applies when either unnecessary degradation or undue degradation, and not necessarily both, is implicated.²⁰³

Although DOI recently rescinded this regulatory definition, the mandatory statutory requirement to prevent unnecessary or undue degradation remains in place. As detailed above, BLM lacks comprehensive information, data, and surveys about the vast majority of the cultural resources within the withdrawal area. Oil and gas development in the FO has already harmed cultural resources within and near the withdrawal area. Neither the 2003 RMP nor the previous 1988 RMP provide specific protections for the Greater Chaco Landscape. The OBBBA limits BLM's discretion to defer nominated parcels and prevents BLM from including lease stipulations or mitigation measures not already included in an approved RMP. Under the previous statutory scheme, BLM could and routinely did use deferrals and lease stipulations to address resource conflicts.

Regarding uranium exploration and mining, BLM proposes to adopt a "Design Feature" to prevent unnecessary or undue degradation for notice-level operations (five acres of surface disturbance or less).²⁰⁴ Specifically, BLM asserts that the FFO will inventory and record cultural resources within the 15-day review period set forth 43 C.F.R. 3809.311(a).²⁰⁵ The 15-day review provides inadequate safeguards to prevent the unnecessary or undue degradation of resources within a vast cultural landscape with an estimated 80% survey gap. At best, the Design Feature will result in the documentation of degradation as it occurs. Moreover, the Design Feature includes no mechanism for notice or consultation with interested Pueblos or Tribes. BLM concedes that notice-level operations will not be subject to NEPA or NHPA analysis, leaving no meaningful safeguards for cultural resources.²⁰⁶

²⁰² 43 U.S.C. § 1702(c).

²⁰³ 43 C.F.R. § 6101.4(aa) (prior to DOI's Final Rule rescinding the Public Lands Rule, *see* 91 Fed. Reg. 25787 (May 12, 2026)).

²⁰⁴ Revocation Draft EA, *supra* note 1, at 9.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 12.

Under the circumstances, PLO No. 7923 provides a necessary mechanism for the BLM to prevent unnecessary or undue degradation of the withdrawn lands and cultural resources therein.²⁰⁷ If DOI moves forward with the proposal to revoke or modify PLO No. 7923, the agency must explain how it will meet the statutory obligation to prevent unnecessary or undue degradation.

G. BLM Must Manage Public Lands for Multiple Use and Sustained Yield

As documented in the Revocation Draft EA and discussed in these comments, the 2025 RFDS concluded that the withdrawal area has no or low potential for future oil and gas development.²⁰⁸ Under FLPMA, BLM should not lease lands with no or low potential for oil and gas development because doing so would violate FLPMA's multiple use and sustained yield mandates. In FLPMA, Congress mandated that BLM manage public lands on the basis of multiple use and sustained yield²⁰⁹ and

in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.²¹⁰

"Multiple use" means that BLM must make the "most judicious use" of public lands and their resources to "best meet the present and future needs of the American people"²¹¹ and take "into account the long-term needs of future generations" to ensure the "harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment." *Id.* "[S]ustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use."²¹²

PLO No. 7923 is an appropriate and necessary means of effectuating BLM's multiple use and sustained yield. The withdrawal comports with the BLM's mandate under FLPMA by preserving public lands in the Greater Chaco Landscape in their natural condition to protect the quality of the "scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values" of the area. FLPMA "does not require BLM to prioritize development over other uses. . . . Development is a possible use, which BLM *must* weigh against other possible uses including conservation to protect environmental values. . . ."²¹³ Under circumstances where public lands have no or low potential for oil and gas development, such as the withdrawal area,

²⁰⁷ See *N.M. ex rel. Richardson*, 565 F.3d at 710 ("It is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses. . . . Development is a possible use, which BLM *must* weigh against other possible uses including conservation to protect environmental values. . . ." (emphasis added)).

²⁰⁸ 2025 RFDS, *supra* note 78, at 14 (explaining that future gas development in the Fruitland Coal formation "is not likely" and that the portion of the Mancos/Gallup formation within withdrawal area lacks "favorable targets for future development"); Revocation Draft EA, *supra* note 1, at 12 ("The 2025 RFDS (Engler 2025) categorized the entire Chaco region as unlikely to see further development.").

²⁰⁹ 43 U.S.C. § 1732(a).

²¹⁰ *Id.* § 1701(a)(8).

²¹¹ *Id.* § 1702(c).

²¹² *Id.* § 1702(h).

²¹³ *N.M. ex rel. Richardson*, 565 F.3d at 710 (emphasis added).

prioritizing development over conservation uses violates FLPMA. Additionally, the Mineral Leasing Act conditions BLM's authority to lease public lands for oil and gas development on a threshold finding that the lands are known or believed to contain oil or gas deposits.²¹⁴

VII. THE PROPOSED REVOCATION VIOLATES THE NATIONAL ENVIRONMENTAL POLICY ACT.

The National Environmental Policy Act (NEPA) is the national charter for environmental protection in our country.²¹⁵ Congress enacted NEPA to fulfill the following purposes:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.²¹⁶

NEPA aims to “foster and promote the general welfare” of “present and future generations of Americans” and to “create and maintain conditions under which man and nature can exist in productive harmony. . . .”²¹⁷ “Congress recognized . . . that these desired goals could be incorporated into the everyday functioning of the Federal Government only with great difficulty,” so “NEPA therefore contains ‘action-forcing procedures which will help to insure that the policies [of the Act] are implemented.’”²¹⁸

Accordingly, NEPA places mandatory procedural duties on DOI to accomplish the objectives of the statute. In performing these duties, federal agencies must “use all practicable means” to ensure that environmental concerns are integrated into its management decisions to “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations” and to “preserve important historic, cultural, and natural aspects of our national heritage. . . .”²¹⁹

As explained below, the proposed revocation violates bedrock requirements of NEPA. These are fatal flaws that BLM must address before taking any further action on the proposed revocation.

A. BLM Must Prepare an Environmental Impact Statement.

NEPA requires an environmental impact statement for any major federal action significantly affecting the quality of the human environment.²²⁰ The proposal to reopen the withdrawal area to oil, gas, and coal leasing and location and entry under the Mining Act of 1872 is a “major federal action” that requires preparation of an EIS and the completion of a new RMP that reflects current law and circumstances. An environmental assessment is entirely insufficient here, given the nature

²¹⁴ 30 U.S.C. § 226(a).

²¹⁵ 42 U.S.C. § 4321; *see also N.M. ex rel. Richardson*, 565 F.3d at 703 (describing NEPA as the “centerpiece of environmental regulation in the United States. . .”).

²¹⁶ 42 U.S.C. § 4321.

²¹⁷ 42 U.S.C. § 4331(a).

²¹⁸ *Andrus v. Sierra Club*, 442 U.S. 347, 349–50 (1979); *see also* S. Rep. No. 91-296, at 19 (1969).

²¹⁹ *Id.* § 4331(b).

²²⁰ 42 U.S.C. § 4332(2)(C).

and severity of reasonably foreseeable effects to the withdrawal area's values, which are magnified by changed circumstances.²²¹

1. BLM has acknowledged that an EIS is needed to evaluate the reasonably foreseeable effects of leasing and drilling within the withdrawal area.

We strongly disagree with BLM's assertion that the proposed revocation of the withdrawal is justified by the need to facilitate oil and gas development that would occur but for the existence of the withdrawal. BLM's 2025 RFDS clearly states that the withdrawal area lacks "favorable targets for future development." However, as explained above, the OBBBA requires BLM to hold lease sales for parcels based on expressions of interest, and BLM has recently proposed sales in locations with no known oil and gas deposits.²²² BLM must prepare an EIS because revoking the withdrawal and reauthorizing leasing on public lands under the 2003 Farmington RMP or the 1988 Farmington RMP would cause reasonably foreseeable and irreversible effects on cultural values throughout the withdrawal area.

Leasing confers a right to conduct drilling and related operations on lease parcels. As BLM and others have documented in the past, those operations could directly affect significant cultural resources, including through the construction of oil and gas access roads that cross linear features like the Great North Road, and by introducing intrusive visual and auditory elements into "the relatively intact" landscape surrounding Chaco Culture NHP. Pueblos and Tribes have "also expressed their concerns about 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."²²³

Notably, BLM has already determined that an EIS is necessary prior to allowing oil and gas leasing on federal lands in the withdrawal area. In 2018, for example, after deferring several proposed leases in the withdrawal area, BLM stated that "[t]hese parcels have been recommended for deferral, and removed from the March 2019 Lease Sale, *until such time as the Farmington Resource Management Plan Amendment is complete*, to inform leasing decisions in this area."²²⁴ The need for updated management and environmental analyses also drove preparation of the Draft Farmington Mancos/Gallup RMP Amendment:

The primary purpose of this planning action is to adapt to changing oil and gas development patterns, while providing for multiple use and protecting valid existing rights. This will be accomplished by amending the 2003 RMP to analyze the potential

²²¹ Conversely, BLM properly evaluated the withdrawal through an EA. Courts have recognized that EISs are generally not required for projects that will have beneficial impacts on the environment. *See* Shaun A. Goho, *NEPA and the "Beneficial Impact" EIS*, 36 Wm. & Mary Env'tl L. & Pol'y Rev. 367, 371-74 (2012) (discussing relevant case law). Here, BLM extensively documented the benefits of withdrawing federal lands to Chaco Culture NHP and cultural resources in the surrounding landscape. This type of analysis did not require preparation of an EIS.

²²² *See, e.g.*, Press Release, BLM seeks initial input for December 2026 sale of oil and gas leases in Arizona (May 12, 2026), <https://www.blm.gov/press-release/blm-seeks-initial-input-december-2026-sale-oil-and-gas-leases-arizona> (last visited July 27, 2026).

²²³ Mancos-Gallup DEIS, *supra* note 16, at App. H-1.

²²⁴ BLM, Farmington Field Office Oil and Gas Lease Sale, March 2019 EA, DOI-BLM-NM-F010-2019-0001 7 (Feb. 11, 2019) (emphasis added), available at <https://eplanning.blm.gov/Documents/?id=1a381ca7-a7f2-f011-8407-001dd806295a&spid=7da0255f-a8f2-f011-8407-001dd80c29f3> (last visited July 27, 2026) [hereinafter March 2019 Lease Sale EA].

impacts on the FFO from oil and gas innovations, including horizontal drilling technology and multistage hydraulic fracturing. These innovations may result in more wells and different surface disturbances and impacts in the FFO than were analyzed in the 2003 RMP.²²⁵

While BLM terminated the Mancos-Gallup planning process in 2024, it reiterated the need for an EIS-level management analysis, including to account for the withdrawal:

Since the initial publication of the Notices of Intent in 2014 and 2016, and the publication of the draft RMP Amendment and EIS in 2020, there have been many changes relevant to the plan amendment and associated EIS, such as a change in the development trends in the San Juan Basin; the withdrawal of 336,404 acres from mineral entry around the Chaco Culture National Historical Park; the preparation of BIA-funded ethnographic studies for the region; the establishment of the Honoring Chaco Initiative; and an increase in outdoor recreation in the region. Given these changes and the extent of revisions necessary to address these changes in the current EIS process, the agencies determined it is impractical to continue the plan amendment effort as currently structured.²²⁶

The Revocation Draft EA further demonstrates that an EIS is required for the proposed revocation. The action would immediately reopen 338,690 acres to oil, gas, and coal leasing, as well as location and entry under the Mining Act of 1872. The action would remove the need for validity determinations for uranium exploration and mining on existing claims. The affected lands surround Chaco Culture NHP, a UNESCO World Heritage Site, and an International Dark Sky Park. BLM invited twenty-four Tribes and Pueblos to consult²²⁷ and acknowledges that the “Greater Chaco Landscape is of profound cultural and spiritual importance to numerous Tribes and Pueblos in the region. Additional development could result in impacts to known and unknown cultural sites, disrupt the natural sights and sounds of the area, impact the cultural and historical integrity of the Chacoan landscape and interfere with traditional ceremonial practices.”²²⁸ BLM concedes that it lacks inventory and survey data for the majority of cultural resources within the withdrawal area, yet determines that revoking protections will have “No Adverse Effects” on historic properties.²²⁹

Thus, BLM has already acknowledged that an EIS is required prior to reauthorizing leasing in the withdrawal area, and the Revocation Draft EA demonstrates that the reasonably foreseeable effects of the proposed revocation require preparation of an EIS.

2. Changed circumstances also support the need for an EIS and a new RMP.

BLM has not finalized an EIS to evaluate the potential effects of oil and gas leasing in the withdrawal area since 2003, when an EIS was developed in conjunction with the 2003 Farmington RMP. Circumstances have changed dramatically since then, which exacerbates the scope and severity of potential effects on the withdrawal area’s cultural values. The oil and gas industry has dramatically changed over the last 20 years. The technologies used have evolved, as has the scale, the impacts, and the considerations. Our scientific knowledge about the impacts of modern technologies is

²²⁵ Mancos-Gallup DEIS, *supra* note 16, at E-2.

²²⁶ Termination Notice for Mancos-Gallup RMPA, *supra* note 14.

²²⁷ Revocation Draft EA, *supra* note 1, at 65.

²²⁸ *Id.* at 62.

²²⁹ *Id.* at 67.

vastly evolved, including the quantity and constituents of air pollution; the potential for water endangerment, including sources of drinking water; the negative health outcomes of living near oil and gas development, particularly for babies and children;²³⁰ the volume of waste, toxicity, radioactive components, and lack of adequate options for waste management; impacts to wildlife and their habitat and migration routes; and more. The 2003 RMP is completely inadequate to serve as the basis for any decision-making related to activities with such significant and varied harmful impacts because it no longer reflects current conditions. The BLM must revise the applicable RMP to ensure protection from the current impacts of oil and gas development.

First, regarding health impacts, since 2003 dozens of published, peer-reviewed scientific studies have found statistically significant adverse health outcomes for babies born to mothers living close to oil and gas operations during pregnancy. These risks include preterm births, low birth weight, small size for gestational age, decreased “infant health index” scores, birth defects (including heart defects and neural tube defects of the brain, spine, or spinal cord), and increased risk of infant mortality. Health risks increase with proximity of the operations as well as their density and production intensity. However, studies have found that the risk of these development health effects is elevated in babies that live as far as 10 miles from oil and gas activities.

Scientists have also found health problems in older children from exposure to oil and gas drilling sites and activities, including elevated risks of childhood cancers such as acute lymphocytic leukemia (up to eight miles from drilling sites), acute lymphoblastic leukemia, and childhood lymphoma. In addition to cancer, children show an increase in asthma severity, including higher rates of pediatric hospitalizations to manage asthma attacks. Adult health threats include elevated risk of heart attacks and cardiovascular and respiratory disease.

Second, as noted above, BLM did not begin consulting with the Pueblos about the potential effects of oil and gas leasing on cultural values and resources in the withdrawal area until 2009 – i.e., *six years after* BLM finalized the Farmington RMP, which BLM has admitted was not based on a well-informed understanding of the Pueblos’ long-standing cultural connections to the withdrawal area. BLM now has a much better understanding of those connections, based on years of government-to-government consultation with the Pueblos over proposed oil and gas activities in the withdrawal area. BLM is likely to obtain a much broader understanding of these effects when it reviews information from the CHTA’s cultural resources study.

Third, OBBBA fundamentally altered the statutory framework for oil and gas leasing on federal lands in ways that severely restrict – if not eliminate altogether – BLM’s ability to address the potential effects of oil and gas leasing on the withdrawal area’s cultural values. If the withdrawal is revoked, BLM may no longer have the authority under OBBBA to defer parcels nominated in the withdrawal area, including to provide time for good faith consultation with Pueblos and Tribes and as a means to address adverse effects identified by Pueblos, Tribes, and other stakeholders. Nor will BLM have authority under OBBBA to prescribe new stipulations at the leasing stage to protect Chaco Culture NHP and other cultural values, which, in the past, BLM has identified as being

²³⁰ California Oil and Gas Public Health Rulemaking Scientific Advisory Panel, Public Health Dimensions of Upstream Oil and Gas Development in California: Scientific Analysis and Synthesis to Inform Science-Policy Decision Making (June 21, 2024), *available at* <https://www.conservation.ca.gov/calgem/Documents/Public%20Health%20Panel%20Final%20Report%2020240621.pdf> (last visited July 27, 2026).

necessary to mitigate adverse effects on those values.²³¹ OBBBA effectively freezes the management framework as it was in 2003 – a framework that BLM has already admitted is flawed and insufficient and that, in 2003, BLM recognized would be inadequate by itself to evaluate the site-specific effects of leasing and development proposals, including on Chaco Culture NHP.²³²

Finally, there is uncertainty around whether DOI would consider the 2003 Farmington RMP or the 1988 Farmington RMP as controlling in light of the Congress’s use of the CRA against RMPs. Because the 2003 Farmington RMP was finalized after the enactment of the CRA in 1996 and was never submitted to Congress,²³³ it is not clear whether Interior would treat it as valid given the CRA’s language that rules must be “submit[ted] to each House of the Congress and to the Comptroller General” before they can take effect.²³⁴ Similarly, the 1998 amendment to the 1988 Farmington RMP, which designated “44 new cultural ACECs, including Chacoan outliers, Chacoan roads, Navajo Refugee sites, Navajo habitation sites, petroglyph and pictograph sites, historic sites, and Native American traditional use sites and sacred area” was also not submitted to Congress.²³⁵ If the withdrawal is revoked and DOI treats the 1988 Farmington RMP (unmodified by the 1998 amendment designating ACECs for cultural resource protection) as operative, oil and gas leasing would be governed by a thirty-seven-year-old RMP that lacks basic protections for significant cultural values in the withdrawal area, including Chaco Culture NHP. This would be a significant change of circumstances that must be evaluated through an EIS.

B. BLM’s Purpose and Need Statement is Unreasonably Narrow and Biases the Outcome in Favor of Revocation.

To promote fully informed decision making and sound environmental analysis, NEPA requires that the environmental document briefly state the purpose and need to which the agency is responding. Developing the purpose and need statement is a vital and foundational step in the NEPA process, particularly since it informs the range of reasonable alternatives that an agency analyzes and considers to achieve the stated purpose and need.²³⁶

The Revocation Draft EA defines the purpose and need of the proposal to revoke PLO No. 7934 as follows:

²³¹ See, e.g., March 2019 Lease Sale EA *supra* note 228, at 44 (“Any impacts rising to the level of adverse effects would likely be mitigated through the Section 106 process. All lease parcels include the WO-NHPA and NM-11-LN stipulations, allowing for effects to be mitigated.”).

²³² See, e.g., Proposed 2003 Farmington RMP, *supra* note 33, at P-168 (“The alternatives evaluated in the RMP/EIS address a framework for managing resources throughout the FFO. The level of site-specific analysis is not possible since many actions (such as land adjustments) depend on subsequent evaluation and arrangements between cooperating partners in a transaction. Implementation of management prescriptions and stipulations on leases are addressed on a case-by-case basis. Since there is some flexibility with siting and provisions of any particular lease, detailed analysis of site-specific actions is not possible within a Field Office-wide analysis. The RMP/EIS provides an overall evaluation of impacts across the Field Office, rather than site-specific.”); at P-52 (“all applications for coal leasing and mining would undergo reapplication of the unsuitability criteria and site-specific NEPA analysis. BLM would include the Chaco Culture NHP in the review process when applications would be in the vicinity of the Park.”).

²³³ Letter from Anderson, *supra* note 92, at 1.

²³⁴ 5 U.S.C. § 801(a)(1)(A).

²³⁵ Proposed 2003 Farmington RMP, *supra* note 33, at 2-39.

²³⁶ See *Westlands Water Dist. v. U.S. Dep’t of Interior*, 376 F.3d 853, 868 (9th Cir. 2004).

[T]o restore discretion over mineral leasing to the BLM and facilitate mineral development to meet the policies established by EO 14241 – *Immediate Measures to Increase American Mineral Production*, EO 14154 – *Unleashing American Energy*, and Secretarial Order (S0) 3418 – *Unleashing American Energy*. In addition, opening lands to mineral leasing would facilitate development of mineral interests by Indian allottees on approximately 239,685 acres within the 10-mile buffer of the CCNHP.²³⁷

BLM's purpose and need statement is faulty and unreasonably narrow because it relies on the purported need to advance mineral development pursuant to the Trump administration's executive and secretarial orders while failing to identify the applicable legal standard governing a decision to revoke a mineral withdrawal. As articulated in more detail above, the standard under FLPMA for revoking a withdrawal is that the revocation is no longer needed to serve the purposes for which it was made. But BLM's overly narrow purpose and need statement constrains its analysis to focus on the mineral development potential in the withdrawn area while omitting the important facts and circumstances relevant to whether the lands are still needed to protect cultural resources, including discussion of the rationale for establishing the withdrawal in the first place and the inadequacy of existing law to protect the cultural resources. This is a substantive error that biases the outcome of this NEPA process in favor of revoking the withdrawal.

Further, the purpose and need statement is based on a deeply flawed understanding of applicable law and is entirely inconsistent with the position that BLM has consistently taken in many other recent decision-making processes. Simply put – BLM believes that, following the passage of OBBBA, *it no longer has discretion over mineral leasing*, which is contrary to the position that BLM articulates in the Revocation Draft EA.²³⁸ Thus, the purpose and need statement is fatally flawed and cannot support revocation of the withdrawal.

C. BLM Must Develop and Evaluate a Reasonable Range of Alternatives, Including Expanding the Withdrawal Area.

NEPA requires federal agencies to “study, develop, and describe technically and economically feasible alternatives” to a proposed action.²³⁹ To comply with NEPA, BLM must therefore evaluate a broader range of alternatives to the proposed action, including alternatives that expand the withdrawal to other culturally sensitive lands.²⁴⁰ A reasonable range of alternatives is essential to a legally-adequate NEPA analysis because “[w]ithout substantive, comparative environmental impact information regarding other possible courses of action, the ability of an EIS to inform agency deliberation and facilitate public involvement would be greatly degraded.”²⁴¹ In the past, BLM has evaluated alternatives that would increase protections past the ten-mile zone around Chaco Canyon, including in response to Tribal requests, and must do so again here.

²³⁷ Revocation Draft EA, *supra* note 1, at 2.

²³⁸ See, e.g., BLM, Errata for Bakersfield Field Office comment response (June 2026) (declaring that, under OBBBA, BLM “must offer for lease within 18 months of receipt of an expression of interest any parcel subject to disposition under the MLA that is known or believed to contain oil or gas deposits, so long as the parcel is open to leasing under the applicable approved resource management plan” and that BLM’s “discretion [is] constrained by the OBBBA”) (attached).

²³⁹ 42 U.S.C. § 4332(F).

²⁴⁰ 42 U.S.C. § 4332(2)(C)(iii).

²⁴¹ *N.M. ex rel. Richardson*, 565 F.3d at 708.

In the Draft Mancos/Gallup RMPA, for example, BLM developed and evaluated an alternative that closed federal lands to oil and gas leasing within fifteen miles of Chaco Culture NHP.²⁴² BLM found that adopting this alternative would “result in less potential for physical impacts on historic properties and [culturally important properties]; they would reduce visual, auditory, and vibratory impacts that could diminish aspects of historical integrity, such as setting or feeling.”²⁴³

Various stakeholders have also called for a broader zone of protection around Chaco Culture NHP, including:

- NPS (2015) – “Larry Turk, Chaco park and Aztec Ruins superintendent, told Sen. Tom Udall during the lawmaker's visit to Chaco that he wanted to ultimately see a 20-miles zone of protection from development established;”²⁴⁴
- Ojo Encino Chapter of the Navajo Nation (2022) – “[Ojo Encino] stated that a larger buffer would not violate the BLM's multiple use mission and urged the BLM to analyze a larger buffer area to understand differences and consequences of the different withdrawal zone;”²⁴⁵ and
- Non-Governmental Organizations (2022) – “[NGOs] urged the BLM to consider an alternative that would extend the withdrawal beyond the 10-mile buffer.”²⁴⁶

BLM has not fulfilled this requirement in the Revocation Draft EA. BLM considered three alternatives in the Revocation Draft EA and described two additional alternatives that were considered but not analyzed in detail. None of these alternatives would broaden the withdrawal or otherwise enhance protections for the withdrawal area's cultural values. BLM received comments specifically requesting consideration of such alternatives²⁴⁷ and they are clearly within BLM's statutory mandate.²⁴⁸ The Revocation Draft EA's failure to even recognize, let alone evaluate, these alternatives violates NEPA.

D. BLM Must Identify and Evaluate All Reasonably Foreseeable Effects of Revoking the Withdrawal.

The BLM must evaluate the environmental impacts of the proposed revocation under NEPA.²⁴⁹ NEPA fosters informed decision making by federal agencies and promotes informed public participation in government decisions.²⁵⁰ To meet those goals, NEPA requires that the BLM “consider every significant aspect of the environmental impact of a proposed action” and inform the

²⁴² Mancos-Gallup DEIS, *supra* note 16, at 2-6.

²⁴³ *Id.* at 3-124.

²⁴⁴ James Fenton, Sen. Tom Udall and Interior Deputy Secretary Connor hit the trail at Chaco Park on Monday, Farmington Daily Times (June 29, 2015) (attached).

²⁴⁵ Chaco Comment Response Report, *supra* note 45, at A-11.

²⁴⁶ *Id.* at A-1.

²⁴⁷ Archaeology Southwest et al. Scoping Comments, *supra* note 8, at 15-16.

²⁴⁸ *N.M. ex rel. Richardson*, 565 F.3d at 710 (ruling that BLM must consider alternatives that would close additional lands to oil and gas leasing because “[i]t is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses”).

²⁴⁹ *See, e.g.*, 42 U.S.C. §§ 4331-4347.

²⁵⁰ *See Balt. Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 97 (1983).

public of those impacts.²⁵¹ The BLM must take a “hard look” at the environmental effects before making decisions, ensuring “that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.”²⁵² Environmental “[e]ffects are reasonably foreseeable if they are sufficiently likely to occur that a person of ordinary prudence would take [them] into account in reaching a decision.”²⁵³

1. BLM must evaluate the reasonably foreseeable effects on cultural resources and values of revoking the withdrawal and authorizing leasing under the 2003 Farmington RMP, the 1988 Farmington RMP, and OBBBA.

BLM must fully evaluate and account for the reasonably foreseeable direct and indirect effects of revoking the withdrawal on the withdrawal area’s cultural resources and values. Possible effects include, but are not limited to:

- **Physical disturbance or destruction of cultural resources, including linear features like the Great North Road:** In the past, BLM has concluded that leasing in the withdrawal area could lead to “significant access issues” that “could intrude across the Chaco North Road.”²⁵⁴ BLM must fully evaluate the potential for such issues, as well as the broader risk of cultural resources being physically disturbed or destroyed by oil and gas development authorized by federal leases in the withdrawal area.
- **Introduction of harmful visual or auditory elements:** Oil and gas activity is already causing harmful visual and auditory effects on cultural resources in the withdrawal area.²⁵⁵ Expanding this activity could cause more severe effects, including on several large, interpreted sites within Chaco Culture NHP.²⁵⁶ BLM must document the potential for these effects.
- **Vandalism related to increased access:** Increasing access to cultural sites increases the risk of vandalism, particularly in remote areas that are not monitored regularly or at all. BLM has acknowledged this risk for specific geographies within the withdrawal area, including Chacra Mesa, and it must be documented and analyzed in the context of this decision-making process.²⁵⁷

²⁵¹ *Id.* (internal citation omitted); accord *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Coun., Inc.*, 435 U.S. 519, 553 (1978).

²⁵² *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349–50 (1989).

²⁵³ *Sierra Club v. Fed. Energy Regulatory Comm’n*, 867 F.3d 1357, 1371 (D.C. Cir. 2017) (internal quotation omitted).

²⁵⁴ Letter from Mankiewicz, *supra* note 39, at 1; see also Federal Indian Minerals Office, Oil and Gas Competitive Lease Sale EA, DOI-BIA-EA-18-21172 73 (Sept. 2021) (“... the North Road ACEC is vulnerable to degradation from development on Allotment 219, which is within the boundaries of the ACEC. Oil and gas development on this parcel would involve surface disturbance that could damage cultural resources. The risk of significant impact is heightened by the nature of the resources within the North Road ACEC which protects a linear feature that derives meaning and value from its continuous nature. Development has the potential to disrupt that continuity.”), available at https://www.bia.gov/sites/default/files/dup/assets/bia/navreg/FIMO%20Leasing%20EA_Draft.pdf (last visited July 29, 2026) [hereinafter 2021 FIMO Lease Sale EA].

²⁵⁵ Van Dyke Study, *supra* note 64, at 1.

²⁵⁶ See Part III.A.1, *supra*.

²⁵⁷ *Id.*

- **Disruption of traditional cultural practices:** APCG, the Hopi Tribe, and others have notified BLM that tribal members use specific locations within the withdrawal area for traditional cultural purposes. Revoking the withdrawal may limit or prevent these individuals from accessing these locations or disrupt cultural ceremonies and practices. BLM must fully document and analyze these foreseeable effects.

When evaluating effects, BLM must account for the evolving regulatory landscape. Specifically, as explained elsewhere in these comments, BLM must evaluate effects under the:

- **2003 Farmington RMP**, which opens most of the withdrawal area to leasing without specific lease stipulations for cultural values, including within Chaco Culture NHP;
- **1988 Farmington RMP**, which had become so outdated by 2003 that BLM admitted it was “no longer appropriate to protect public resources” and which lacked key protections for cultural resources, including ACECs and other special designations, adopted through a 1998 land use plan amendment;²⁵⁸ and
- **OBBBA**, which eliminates (or constrains) BLM’s ability to avoid, mitigate, or minimize the effects of proposed leasing on cultural resources at the lease sale stage. As explained above, the Revocation Draft EA is premised on an interpretation of OBBBA that is fundamentally at odds with the position that BLM is taking in many other decision-making processes. If BLM does, in fact, lack discretion over leasing on lands that are open to leasing under applicable RMPs, as many of the lands in the withdrawal area are under the 2003 (and 1988) Farmington RMP, then the effects of revoking the withdrawal, given BLM’s apparent inability to adopt mitigation measures to address these effects through future consultations and processes, become even more significant.

DOI must document and account for these effects before making a decision on the revocation proposal.

2. BLM must account for information showing that oil and gas development potential in the withdrawal area is very limited and, in many places, “negligible.”

The record is replete with information showing that the oil and gas development potential of the withdrawal area is largely low or non-existent. Of course, all it takes is one badly-sited lease/development proposal no matter how speculative – adjacent to the Great North Road or bordering the national park, for example – to cause irreversible damage to the withdrawal area’s cultural values. Further, when public lands are leased for oil and gas development, BLM often assumes that development will happen at some point and de-emphasizes its management of cultural and other values that may be present.²⁵⁹

²⁵⁸ Proposed 2003 Farmington RMP, *supra* note 33, at Summary-1.

²⁵⁹ See Center for Western Priorities, “No harm, no foul” doesn’t exist in oil and gas leasing (Feb. 14, 2022) (finding that “wilderness-quality lands are nearly 3 TIMES less likely to be managed to protect those characteristics if they are overlapped by oil and gas leases—even if those leases are purely speculative and are not being drilled”), <https://storymaps.arcgis.com/stories/baa3a7b6346047d3a1d446ef9ea1ca4fd> (last visited July 27, 2026).

Nevertheless, the lack of development potential, which BLM has repeatedly documented in development scenarios for the FFO and which has been confirmed by the results of at least one recent lease sale for Tribal lands in the withdrawal area, goes to the very heart of DOI's justification for revoking the withdrawal. As does the fact that BLM, in the twelve years preceding the withdrawal, did not issue a single oil and gas lease for federal lands in the withdrawal area.²⁶⁰ All of this information is directly relevant to the effects of the proposed revocation and must be fully evaluated.

As summarized above, BLM has prepared at least four different oil and gas development scenarios, or RFDS's, for the FFO over the past ten or so years. Each RFDS illustrates that the withdrawal area's oil and gas development potential is generally low or non-existent. For natural gas, the 2025 RFDS explains that "the recent lack of activity, the low resource recovery . . . , and the rapid declining production of existing wells all suggest a depleted resource of limited extent."²⁶¹ Accordingly, the RFDS predicts that further natural gas "development within the withdrawal area is not likely and thus has not been included in the prediction period."²⁶² For oil, as summarized above, the 2025 RFDS found that the withdrawal area lacks "favorable targets for future development." Furthermore, DOI intentionally excluded the vast majority of high potential lands from the withdrawal, and where it did incorporate high potential lands – a narrow strip along the northeastern boundary of the withdrawal area – the bulk of these are already leased, in production, and not affected in any way by the withdrawal decision.²⁶³

Finally, it is notable – and entirely consistent with BLM's RFDS determinations – that, in the only lease sale for allotted lands conducted by the Federal Indian Minerals Office since 2011, all forty parcels did not result in successful bids.²⁶⁴ Many of these parcels are located within the withdrawal area.²⁶⁵

3. BLM may not rely on speculative assumptions about potential effects on oil and gas development on non-federal lands, and BLM must take into account information consistent with its prior determinations on potential effects to Navajo allotments.

BLM may not rely on speculative assumptions about potential impacts, including assumptions about whether and to what extent oil and gas development may occur on allotment lands. BLM has made a withdrawal of federal lands adjacent or in close proximity to various non-federal lands, including Navajo allotments. These non-federal lands are not affected by the withdrawal, in the sense that the withdrawal does not, as a legal matter, bar future oil and gas development on non-federal lands. Whether oil and gas development proceeds on allotment lands is an entirely different question governed by different laws, processes, and considerations and subject to market factors that are well beyond the control of BLM.

Further, information provided to BLM, which the Revocation Draft EA alludes to, is unreliable, at best.²⁶⁶ For example, it has been suggested that the withdrawal will result in \$194 million in lost

²⁶⁰ Chaco Withdrawal Application, *supra* note 39, at 3.

²⁶¹ 2025 RFDS, *supra* note 78, at 14.

²⁶² *Id.*

²⁶³ Withdrawal Final EA, *supra* note 27, at 4-5 to 4-6.

²⁶⁴ *Id.* at 4-28.

²⁶⁵ 2021 FIMO Lease Sale EA, *supra* note 254, at 9.

²⁶⁶ Revocation Draft EA, *supra* note 1, at 20.

royalties for allottees during the 20-year withdrawal period.²⁶⁷ However, this figure appears to be premised on the demonstrably unrealistic assumption that all lands, regardless of ownership and landowner willingness to allow drilling, will immediately produce and generate royalties. This assumption is deeply and fatally flawed for multiple reasons, including that state lands are unavailable for leasing – and have been since April 27, 2019, and will be until December 31, 2043. Additionally, there is simply no guarantee that other landowners in the withdrawal area, including allottees, will be willing to lease their lands for oil and gas development. In fact, many allottees, including owners of allotments within the withdrawal area, have publicly supported the withdrawal and expressed reservations about future development on their allotments.²⁶⁸ Further, at the most recent allotment lease sale, allottees apparently rejected all of the bids put forward by oil and gas companies. Finally, the development projections underlying these highly suspect predictions of lost royalties are wildly at odds with BLM’s own projections dating back to the 2018 RFDS, 2025 RFDS, and confirmed in the Revocation Draft EA, which states unequivocally that “the entire Chaco region [is] unlikely to see further development. . . .”²⁶⁹ Stated simply, BLM cannot treat the withdrawal as a “scapegoat” for speculative effects on allotment lands.

BLM’s analysis must take into account information supporting prior determinations about the effects of the withdrawal on Navajo allotments, including that “[t]he proposed withdrawal will likely not adversely affect the vast majority (915 allotments, over 77 percent of unleased allotments) with respect to future lease viability augmented by the proposed withdrawal.”²⁷⁰ That information includes:

- **FEO’s 2025 RFDS:** As explained above, the 2025 RFDS confirmed that the development potential of most of the withdrawal area, including Navajo allotted lands, does not offer “favorable targets for future development.”²⁷¹
- **FIMO’s 2022 Oil & Gas Lease Sale:** In 2022, FIMO conducted an oil and gas lease sale for forty parcels of allotted land, many of which are located in the withdrawal area. According to the Final EA for the withdrawal, leases on “[a]ll 40 allotments [were] rejected,” and the five leases that were negotiated after the sale “lie outside” the withdrawal area.²⁷²
- **Multiple oil and gas drilling authorizations in the withdrawal area, including on allotted lands, since 2011:** BLM has not issued an oil and gas lease in the withdrawal area since 2011.²⁷³ However, this has not prevented federal and state agencies from continuing to authorize and plan new leasing and drilling projects on existing federal, state, and allotment land leases in the withdrawal area, including:
 - Approximately thirty-two drilling permits approved by BLM, including as recently as July 22, 2026;²⁷⁴

²⁶⁷ “Energy Opportunities for All Act” Hearing, *supra* note 25, at 61.

²⁶⁸ See, e.g., *id.* at 32-47 (providing written testimony from a Navajo allottee whose family owns allotments in the withdrawal area and supports the withdrawal, along with resolutions from Navajo chapter houses in the vicinity of Chaco Culture NHP that support withdrawing federal lands from future oil and gas leasing).

²⁶⁹ Revocation Draft EA, *supra* note 1, at 12.

²⁷⁰ Withdrawal Final EA, *supra* note 27, at 4-30, A-2.

²⁷¹ 2025 RFDS, *supra* note 78, at 14.

²⁷² Withdrawal Final EA, *supra* note 27, at 4-28.

²⁷³ Chaco Withdrawal Application, *supra* note 39, at 3.

²⁷⁴ APDs Approved by BLM Within the Chaco Withdrawal Area Since 2011 (attached).

- Approximately nine wells approved by the New Mexico Oil Conservation Division to access Navajo minerals in the withdrawal area;²⁷⁵ and
- Oil and gas lease sales for allotment lands, including:
 - A 2022 sale which *predated* the withdrawal proposal where “[a]ll 40 allotments *rejected* the sale bids;”²⁷⁶ and
 - A sale in “pre-planning” where, in spite of allegations of the withdrawal having widespread chilling effects, “FIMO received requests from allottees to lease their allotments for oil and gas activity [and has] identified 45 tracts that could be included in the lease sale.”²⁷⁷

This information is relevant to assessing the effects of the withdrawal on Navajo allotted lands and must be evaluated by DOI, in conjunction with the Revocation Draft EA’s consideration of the purported economic benefits of the proposed action. Moreover, the Revocation Draft EA fails to adequately consider other impacts to communities within and adjacent to the withdrawal area, including allottees. Specifically, BLM should analyze climate, air, water quality and quantity, human health, occupational safety, social and cultural impacts, and environmental justice considerations relevant to the proposed revocation of PLO No. 7923.

4. The Revocation Draft EA fails to take a hard look at reasonably foreseeable impacts of reopening the withdrawal area to location and entry under the mining laws.

In the Revocation Draft EA, BLM includes a “Purpose and Need” to “facilitate mineral development to meet the policies established by EO 14241—*Immediate Measures to Increase American Mineral Production*.”²⁷⁸ The proposed action (Alternative B) would open 338,690 acres of public land to location and entry under the Mining Law of 1872,²⁷⁹ which “would authorize members of the public to locate and enter mining claims on the previously withdrawn area, without the need for specific authorization by the BLM.”²⁸⁰ BLM expressly declined to analyze in detail an alternative that would open the withdrawal area to oil and gas leasing only, without opening the area to hardrock mining, “[b]ecause Critical Minerals and energy-related minerals such as uranium would remain unavailable,” which “may not be responsive to” executive orders intended to promote mining.²⁸¹

The Revocation Draft EA states that there are known deposits of uranium in the withdrawal area and notes that uranium is the only locatable mineral with known potential in the withdrawal area.²⁸² The withdrawal area currently contains 129 existing mining claims covering 2,665 acres.²⁸³ These existing claims are within the Grants mineral district, which, according to the BLM, contains approximately “409 million pounds of uranium resources that were never mined.”²⁸⁴ BLM acknowledges that “wherever the withdrawal is revoked, surface disturbance may be authorized following the 43 CFR 3800 regulations without the BLM having to determine the validity of the

²⁷⁵ NM OCD Wells Approved in the Withdrawal Area (attached).

²⁷⁶ Withdrawal Final EA, *supra* note 27, at 4-28.

²⁷⁷ BIA Navajo Region, 25th Navajo Nation Council 2026 Winter Session Report, at 13 (Jan. 26, 2026), (attached).

²⁷⁸ Revocation Draft EA, *supra* note 1, at 2.

²⁷⁹ *Id.* at 7.

²⁸⁰ *Id.* at 67.

²⁸¹ *Id.* at 9.

²⁸² *Id.* at 13-14.

²⁸³ *Id.* at 13.

²⁸⁴ *Id.*

claim(s).”²⁸⁵ The Revocation Draft EA further concedes that casual use and notice-level operations “are not subject to NEPA analysis” and are “not always inventoried for cultural resources.”²⁸⁶

Despite the number of existing claims and the presence of uranium deposits, the Revocation Draft EA minimizes the potential for mining impacts as follows: “No uranium production has occurred in New Mexico since 2002 (McLemore et al. 2016). Records indicate that uranium exploration has occurred in New Mexico as recently as 2017 2017, but the locations of most recent exploration and interest are largely southeast and southwest of the area withdrawn by PLO No. 7923.”²⁸⁷ The Revocation Draft EA concludes that uranium development is “unlikely within the next 20 years,” due to market factors.²⁸⁸ Having reached this conclusion, the Revocation Draft EA declines to consider reasonably foreseeable impacts of uranium mining on water quality and quantity, air quality, wildlife, intact ecosystems, cultural resources, and communities that have experienced a documented history of uranium pollution within the Grants uranium district.

The reasoning in the Revocation Draft EA around uranium mining is internally inconsistent. If the purpose of the proposed withdrawal revocation is to facilitate uranium mining in the withdrawal area, then BLM must take a hard look at the reasonably foreseeable effects, including cumulative impacts of uranium mining in the area, and cannot simply assume uranium mining is unlikely in the next 20 years.²⁸⁹ On the other hand, if no uranium mining is likely in the next 20 years, the proposed action does not meet the stated purpose and need.

The Revocation Draft EA’s characterization of the potential for uranium impacts over the next 20 years is misleading and ignores crucial facts and information. In reality, there are multiple uranium mining projects currently under review by state and federal agencies in New Mexico, including the La Jara Mesa Mine, the Roca Honda Mine, and the Copper Flat Mine.²⁹⁰ Additional uranium exploration applications are pending or anticipated.²⁹¹ Three current uranium projects in New Mexico are covered by the federal FAST-41 program, including the Crownpoint/Church Rock Uranium Project, the Grants Precision ISR Project, and the La Jara Mesa Project.²⁹²

BLM’s own data, as set forth in the Mineral & Land Records System (MLRS), reflects a sharp increase in new mining claims in New Mexico. The MLRS database provides details about active mining claims in the state. The number of currently active claims that were filed between 1905 and 2024 totals 20,131. The number of active claims filed between January 1, 2025, and July 1, 2026, totals 6,594. Thus, of the 26,725 active claims in New Mexico, 25 percent were staked and recorded in the past 18 months. Recent reporting has documented this trend: “[o]ver the last four years, companies have staked more than 12,000 mining claims in New Mexico in search of minerals like

²⁸⁵ *Id.* at 37, 54, 60.

²⁸⁶ *Id.* at 13, 32.

²⁸⁷ *Id.*

²⁸⁸ *Id.* at 14.

²⁸⁹ See *Diné Citizens Against Ruining Our Env’t v. Bernhardt*, 923 F.3d 831, 857 (10th Cir. 2019) (foreseeability of development, once a resource is made available, triggers the obligation to analyze cumulative impacts even where development is not imminent).

²⁹⁰ N.M. Energy, Minerals and Natural Resources Department, Mining and Minerals Division, Mining Applications Regular – New, <https://www.emnrd.nm.gov/mmd/mining-act-reclamation-program/pending-and-approved-mine-applications/mining-applications-regular-new/> (last visited July 27, 2026).

²⁹¹ See, e.g., N.M. Energy, Minerals and Natural Resources Department, Mining and Minerals Division, NovaCore Ane Minimal Impact Exploration Project, <https://www.emnrd.nm.gov/mmd/ca030em-novacore-ane-minimal-impact-exploration-project/> (last visited July 27, 2026).

²⁹² See FAST-41 Program, *supra* note 154.

gold, copper and uranium. That's roughly three times the number of claims staked in the state in the entire 20th century.”²⁹³ The BLM's data can be reasonably interpreted to show “that global interest in extracting New Mexico's subsurface resources has exploded in recent years, particularly in 2026 amid President Donald Trump's push to fast-track mining permits and rising prices for valuable minerals.”²⁹⁴

The Revocation Draft EA violates NEPA by failing to take a hard look at the reasonably foreseeable effects of uranium mining if the withdrawal is revoked, as proposed in BLM's preferred alternative.

5. The Revocation Draft EA fails to take a hard look at reasonably foreseeable impacts of reopening the withdrawal area on wildlife and lands with wilderness characteristics.

The Revocation Draft EA projects that revoking the withdrawal would result in about 2,723 acres of reasonably foreseeable surface disturbance,²⁹⁵ which apparently includes 2,665 acres that would be disturbed by uranium exploration and development on the 129 mining claims discussed in the last section. In addition to being inconsistent and unreconcilable with BLM's conclusion that uranium mining is not likely in the next 20 years,²⁹⁶ this estimate is inconsistent with BLM's conclusions that the proposed action would not impact wildlife or lands with wilderness characteristics.

Regarding sensitive species of wildlife, the Revocation Draft EA identifies four species that are known to occur in the withdrawal area and 12 species that have suitable habitat in the withdrawal area.²⁹⁷ The Revocation Draft EA concedes that surface disturbance from mining and mineral development could have the following impacts on sensitive species:

short-term effects (i.e., temporary displacement from habitat because of noise and construction) or long-term effects on sensitive species and the ecological processes that sustain them related to changes in the following habitat conditions: loss of habitat, ground cover, soil nutrient flows and processes, hydrological flows and processes, solar exposure, thermal cover, fugitive dust loads, nonnative species dispersal, habitat connectivity, noise levels and human activity, light pollution, forage availability, and pollinator and dispersal agents' visitation behaviors; these include both direct and indirect impacts. Sensitive plant species may also face a loss of individuals due to construction.²⁹⁸

The Revocation Draft EA minimizes these concerns by stating that disturbance from oil and gas leasing would be addressed through standard terms and conditions (STCs) and lease notices/stipulations.²⁹⁹ In doing so, the Recission Draft EA ignores the fact that the OBBBA limited BLM's ability to craft site-specific lease stipulations, other than those set forth in a decades-old RMP. Moreover, the Revocation Draft EA fails to address reasonably foreseeable impacts of uranium

²⁹³ Source NM, By the #s: More mining claims filed in New Mexico in last 4 years than previous century (July 24, 2026), available at <https://sourcenm.com/2026/07/24/by-the-s-more-mining-claims-filed-in-new-mexico-in-last-four-years-than-previous-century/> (last visited July 27, 2026).

²⁹⁴ *Id.*

²⁹⁵ Revocation Draft EA, *supra* note 1, at C-8.

²⁹⁶ *Id.* at 14.

²⁹⁷ *Id.* at C-8 to C-9.

²⁹⁸ *Id.* at C-8.

²⁹⁹ *Id.*

mining, which is projected to disturb 2,665 acres of the overall 2,723 acres of reasonably foreseeable surface disturbance. In doing so, the Revocation Draft EA fails to take the requisite “hard look” at impacts to sensitive species.

Regarding listed species, the body of the Revocation Draft EA determines that revoking the withdrawal “would have ‘no effect’ on federally listed plants and animals or their habitat under the Endangered Species Act due to *lack of suitable habitat* in the decision area,” and concludes that “there is no requirement to formally or informally consult and gain concurrence from the US Fish and Wildlife Service under section 7.”³⁰⁰ This statement is inconsistent with Appendix C of the Revocation Draft EA, which states that the monarch butterfly “was determined to be the only ESA-listed species with the potential to occur within the Proposed Action area *based on the presence of suitable habitat* and species distribution information.”³⁰¹ These statements cannot both be true, and the inconsistency reflects the Revocation Draft EA’s overall failure to take a hard look at reasonably foreseeable impacts to wildlife.

The Revocation Draft EA’s mention of lands with wilderness characteristics is limited to a statement that the “decision area does not contain any lands with wilderness characteristics.”³⁰² This determination is inconsistent with the Final EA developed during the creation of the withdrawal. That previous assessment did identify lands with wilderness characteristics and addressed them as follows:

LWC parcel NM-210-075, which includes the Fossil Forest Research Natural Area, is completely within the proposed withdrawal area. LWC Parcel NM-210-082 on the Chacra Mesa ACEC is partially within the proposed withdrawal boundary. The proposed withdrawal could have a beneficial impact on these LWC parcels by restricting fluid and solid mineral leasing activities, which, if allowed, could negatively impact wilderness characteristics.³⁰³

Despite BLM previously concluding that the withdrawal prevents negative impacts on wilderness characteristics, the Revocation Draft EA fails to acknowledge these impacts, let alone take the required “hard look” under NEPA.

The Revocation Draft EA violates NEPA by failing to take a hard look at the reasonably foreseeable impacts on wildlife and wilderness-quality lands.

VIII. THE PROPOSED REVOCATION VIOLATES THE NATIONAL HISTORIC PRESERVATION ACT.

Any proposal to revoke the withdrawal must comply with the National Historic Preservation Act (NHPA)³⁰⁴ and other federal authorities specifically designed to protect culturally sensitive and archaeologically significant areas like the Greater Chaco Landscape.³⁰⁵ Section 106 of the NHPA

³⁰⁰ *Id.* at 64 (emphasis added).

³⁰¹ *Id.* at C-10 (emphasis added).

³⁰² *Id.* at 5.

³⁰³ Withdrawal Final EA, *supra* note 27, at 1-10.

³⁰⁴ National Historic Preservation Act (NHPA), 54 U.S.C. § 300101 et seq.

³⁰⁵ See, e.g., 36 C.F.R. § 800.2(c)(2)); BLM Manual 1780, Tribal Relations; BLM Handbook H-1780-1, Improving and Sustaining BLM-Tribal Relations; Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 9, 2000) (requiring agencies to consult tribes identified as directly and

requires BLM to take into account the effect of its actions on historic properties.³⁰⁶ Specifically, a federal “undertaking” triggers the Section 106 process, which requires the lead agency to identify historic properties affected by the action and to develop measures to avoid, minimize, or mitigate any adverse effects on historic properties.³⁰⁷ NHPA regulations provide that an agency “shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey.”³⁰⁸ DOI has completely disregarded its responsibilities under Section 106 and its implementing regulations for the proposed revocation, including by failing to explain what procedures it is following to comply with Section 106.

A. DOI Has Failed to Explain Whether It is Following the Section 106 Regulations or the New Mexico State Protocol.

The Revocation Draft EA references the existence of the New Mexico State Protocol (Protocol) but does not say one way or the other whether BLM is following the protocol in lieu of the Section 106 regulations. According to the Revocation Draft EA, the Protocol is “a two-party agreement with the New Mexico SHPO that implements an authorized alternative to 36 CFR 800 for most undertakings (BLM New Mexico and SHPO 2014). This agreement offers a streamlined process for reporting and review that expedites consultation with the SHPO.”³⁰⁹

However, the Protocol instructs BLM to apply the Section 106 regulations instead of the Protocol in several circumstances, including when “[u]ndertakings are determined by the BLM and SHPO to be subject to unusual public attention or involve strongly opposing viewpoints” or are “complex.”³¹⁰ BLM is well aware of the heightened public attention and strongly opposing viewpoints on the withdrawal, which resulted from years of consultations and public processes over complex issues involving the management of oil and gas resources in the multi-jurisdictional landscape surrounding Chaco Culture NHP. These factors suggest strongly that the Protocol and its streamlined procedures should not apply to the revocation and that instead BLM must follow the Section 106 regulations. Of course, the Revocation Draft EA does not explain whether and how BLM evaluated these factors and what procedures it is utilizing to comply with Section 106, which colors and undermines the Section 106 determinations in the Revocation Draft EA.

B. DOI Failed to Initiate the Section 106 Process “Early in the Undertaking’s Planning.”

DOI failed to initiate the Section 106 process early in the revocation’s planning, as required by the Section 106 regulations. This requirement exists to avoid predetermined outcomes and “so that a broad range of alternatives may be considered during the planning process for the undertaking.”³¹¹ Yet, it is apparent that BLM’s outcome here is predetermined and that compliance with federal laws, including Section 106 of the NHPA, is ancillary to achieving this outcome.

substantially affected); Executive Order 13287, Preserve America (Mar. 3, 2003) (advancing the protection, enhancement, and contemporary use of historic properties).

³⁰⁶ 16 U.S.C. § 470f.

³⁰⁷ 16 U.S.C. § 470f; 36 C.F.R. §§ 800.4, 800.6.

³⁰⁸ 36 C.F.R. § 800.4(b)(1).

³⁰⁹ Revocation Draft EA, *supra* note 1, at 66.

³¹⁰ State Protocol Between the New Mexico Bureau of Land Management and the New Mexico State Historic Preservation Officer Regarding the Manner in Which BLM Will Meet Its Responsibilities Under the National Historic Preservation Act in New Mexico 13 (attached).

³¹¹ 36 C.F.R. § 800.1(c).

BLM states in the Revocation Draft EA that it did not initiate consultation with Tribes, including the Pueblos and Tribes who are descended from the Chacoan people and who have been engaging in efforts to protect the Chaco landscape from oil and gas development since the late 2000s, until March 31, 2026 – exactly one day before it publicly proposed the revocation.³¹² At that time, BLM had apparently been considering a revocation for nearly a year, given that on or around June 16, 2025 BLM quietly announced on ePlanning that it intended to revoke the withdrawal through a categorical exclusion.³¹³ The Revocation Draft EA’s Socioeconomics Technical Report is also dated November 2025.³¹⁴

Further, it seems highly probable that timelines and considerations arising out of a settlement agreement with the Navajo Nation are impermissibly driving the timeline for this decision-making process. Per that agreement, which is dated March 26, 2026, DOI must “complete the consultation and NEPA compliance associated with the [proposed revocation] . . . and issue a decision on the proposal not later than 90 days following execution of [the] Settlement Agreement. . . .”³¹⁵ Agreements with third parties cannot, however, relieve federal agencies of their independent duties to comply with the procedural steps of NHPA (and NEPA).³¹⁶ As the Tenth Circuit has explained, agencies cannot contractually bind themselves to avoiding procedures, findings, and determinations required by NEPA, including by predetermining that a project will not have significant impacts and, therefore, does not require preparation of an EIS.³¹⁷ Yet, that is precisely what DOI appears to have done here, which seemingly contributed to BLM’s failure to initiate Section 106 consultation with Tribes and others at an early stage in the planning process.

C. DOI Has Failed to Identify and Involve Consulting Parties in the Section 106 Process.

DOI has a mandatory obligation to identify and involve consulting parties, including “individuals and organizations with a demonstrated interest in the undertaking,” in the Section 106 process.³¹⁸ This duty requires DOI to “consider all written requests of individuals and organizations to participate as consulting parties and, in consultation with the SHPO/THPO and any Indian tribe upon whose tribal lands an undertaking occurs or affects historic properties, determine which should be consulting parties.”³¹⁹ Further, DOI must involve consulting parties at each step in the decision-making process, including identification of potentially affected resources, potential effects, and resolution of any adverse effects.³²⁰ The Revocation Draft EA provides no evidence that DOI has sought to identify and involve non-Tribal consulting parties in the decision-making process,

³¹² Revocation Draft EA, *supra* note 1, at 3.

³¹³ BLM, Partial Revocation of Public Land Order (PLO) 7923 (attached).

³¹⁴ Socioeconomics Technical Report for Farmington Field Office Chaco Withdrawal Revocation Environmental Assessment 1 (Nov. 2025).

³¹⁵ Settlement Agreement, *The Navajo Nation v. U.S. Department of the Interior, et al.*, No. 1 :25-cv-00055-JMC-GBW (D.N.M. filed Jan. 17, 2025) (settlement dated Mar. 26, 2026) (attached).

³¹⁶ See *Davis v. Mineta*, 302 F.3d 1104, 1112 (10th Cir. 2002) (abrogated on other grounds) (ruling that agencies cannot contractually bind themselves to avoiding procedures, findings, and determinations required by NEPA, including by predetermining that a project will not have significant impacts and does not require preparation of an EIA).

³¹⁷ *Id.*

³¹⁸ 36 C.F.R. §§ 800.2(c)(5), 800.3(f).

³¹⁹ *Id.* § 800.3(f)(3).

³²⁰ *Id.* § 800.2(a)(4).

including members of the archaeological and historic preservation communities who have clear expertise in the archaeological record of the Chaco area and cultural resources preservation issues.

D. BLM Has Not Adequately Identified or Evaluated Historic Properties in the Withdrawal Area.

Federal agencies are required by Section 106 to identify and evaluate historic properties potentially affected by a proposed undertaking.³²¹ More fundamentally, however, Section 110(a) of the NHPA requires that all historic properties under the jurisdiction or control of a federal agency such as BLM must be “identified, evaluated, and nominated to the National Register.”³²² BLM has failed to comply with these responsibilities. While the Revocation Draft EA documents some of the withdrawal area’s outstanding cultural features, which include a World Heritage Site, congressionally designated Chacoan outliers, and “approximately 7,552 known historic properties from all cultural and temporal affiliations,”³²³ it does not disclose that “less than 20 percent of the area in the proposed 10-mile buffer zone has been archaeologically surveyed. In addition, until very recently, little ethnographic work has been undertaken with any of the associated tribes. Without comprehensive data and consultation, the risk of mineral development impacting a sacred or cultural site is very high.”³²⁴

Further, the Revocation Draft EA declares that the landscape surrounding Chaco Culture NHP “has not been documented as a historic property,” even though

the Pueblo tribes view the Chacoan landscape as an integrated cultural system spanning northwest New Mexico and beyond, not a collection of isolated sites. They see its network of roads and interconnected communities as reflective of a society that thrived through regional connections rather than isolation. Pueblo tribes have expressed concern that revoking the withdrawal could further compromise what remains of the system. Maintaining this landscape is considered important by the Pueblo tribes for its cultural and historical integrity.³²⁵

Further, BLM has previously recognized that NPS has documented the existence of a “cultural landscape” 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. . . .”³²⁶ Thus, BLM’s negative determination on the existing of cultural landscapes in the withdrawal area is contradicted by its own prior findings, as well as information provided by the Pueblos and NPS.

Ultimately, BLM has completely failed to uphold its duty to make a “reasonable and good faith” effort to identify cultural and historic resources in the withdrawal area, as required by the Section 106 regulations.³²⁷ There is no indication that BLM conducted or plans to conduct additional survey work prior to making a decision on the revocation, including in unsurveyed areas that could be

³²¹ 54 U.S.C. § 306108.

³²² 54 U.S.C. § 306102(b)(1).

³²³ Revocation Draft EA, *supra* note 1, at 32.

³²⁴ Withdrawal Final EA, *supra* note 27, at 3-8.

³²⁵ Revocation Draft EA, *supra* note 1, at 28.

³²⁶ Jan. 2014 Lease Sale EA, *supra* note 21, at 24; *see also* Letter from Turk, *supra* note 11, at 6 (“Surrounding lands outside the park boundary also contribute to the integrity of setting and feeling of the park cultural landscape.”).

³²⁷ 36 C.F.R. § 800.4(b)(1).

targeted for leasing and development. Nor does the Revocation Draft EA provide any semblance of a plan or timeline for when and how BLM will evaluate the eligibility of cultural landscapes in and around the withdrawal area, including to account for prior determinations and information provided by the Pueblos and Tribes. This is not a situation where BLM is permitted to defer final identification to a later stage in the decision-making process, given that, under OBBBA, BLM apparently lacks the authority to require additional measures to avoid, minimize, or mitigate adverse effects on cultural or historic resources during future leasing decisions.

E. DOI Has Not Adequately Assessed Potential Adverse Effects on Historic Properties.

The next step in the Section 106 process is assessment of adverse effects to historic properties.³²⁸ Up until publication of the Revocation Draft EA, BLM had believed that allowing further oil and gas development would likely cause adverse effects on cultural and historic resources in the withdrawal area. In the Final EA for the withdrawal, BLM concluded that “[m]ineral development activities also bring visual, atmospheric, and audible impacts. The introduction of such elements that diminish the integrity of the property’s significant historic features could adversely affect the setting, feeling, or association of the site, and compromise the integrity of the site such that it is no longer eligible for listing on the National Register.”³²⁹ As explained above, ACHP, NPS, and Pueblos and Tribes have all concurred in this determination over the years.

Yet, without “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior [determination],”³³⁰ BLM now concludes that revoking the withdrawal, which, because of OBBBA, will force BLM to lease lands in the withdrawal area under the inadequate terms of the 2003 Farmington RMP, “would result in No Adverse Effect to Historic Properties.”³³¹ BLM makes no attempt to explain what changed between 2023 and now. Nor does it attempt to account for the perspectives and determinations of others, including ACHP, NPS, and Pueblos and Tribes. Lacking this, BLM’s No Adverse Effects determination is improper and must be withdrawn.

F. DOI Has Not Fulfilled Its Responsibility to Resolve Adverse Effects on Historic Properties in the Greater Chaco Landscape.

The final step outlined by the Section 106 process is resolving adverse effects.³³² DOI’s “resolution” of adverse effects must be shaped by its stewardship responsibilities under Section 110(a)[BM1] of the NHPA, which requires that all historic properties under the jurisdiction or control of a federal agency must be “managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values in compliance with section [106] and gives *special consideration to the preservation of those values in the case of property designated as having national significance*,” (as is clearly the case here).³³³ DOI has failed to comply with this responsibility.

³²⁸ 36 C.F.R. § 800.5.

³²⁹ Withdrawal Final EA, *supra* note 27, at 4-40; *see also id.* at 3-8 (“[U]ntil very recently, little ethnographic work has been undertaken with any of the associated tribes. Without comprehensive data and consultation, the risk of mineral development impacting a sacred or cultural site is very high.”).

³³⁰ *FCC v. Fox TV Stations, Inc.*, 556 U.S. at 515.

³³¹ Revocation Draft EA, *supra* note 1, at 67.

³³² 36 C.F.R. § 800.6

³³³ 54 U.S.C. § 306102(b)(1)-(2) (emphasis added).

Putting aside the flaws with BLM's "No Adverse Effects" determination, BLM appears to suggest that any effects on cultural and historic resources can be avoided or mitigated through "existing protections," which apparently include administrative designations (e.g., ACECs) and measures that may be adopted through future Section 106 consultations. But BLM (along with many others) have previously found these protections to be entirely inadequate to address the effects of oil and gas development on the highly significant, unique, and sensitive cultural resources within the withdrawal area.

First, what administrative designations are in place were established over twenty years ago and without the benefit of consultation with the Pueblos. These designations protect the footprint of cultural sites, including segments of the Great North Road, but do little to help avoid visual and auditory impacts caused by development on adjacent or nearby lands and on the broader cultural landscape(s) that these sites are a part of. Further, BLM and FIMO have both found that if nearby lands are leased for oil and gas development, then access will be required across "protected" sites like the Great North Road, which will cause direct impacts that cannot be mitigated.

Second, because of OBBBA, BLM's ability to adopt avoidance or mitigation measures during the leasing phase is constrained if not gone entirely. OBBBA prevents BLM from issuing leases with stipulations and mitigation measures that are not required by the overarching RMP. Thus, BLM could not develop or require new lease stipulations to protect Chaco Culture NHP, as it has in the context of past leasing proposals in the withdrawal area, and the 2003 Farmington RMP is entirely devoid of lease stipulations and measures to protect Chaco Culture NHP from the impacts of nearly oil and gas development. Further, as noted above, BLM lacks discretion under OBBBA and must offer leases within eighteen months of nomination. Thus, BLM's assurance in the Revocation Draft EA that it would consider adopting new stipulations during future leasing decisions and "would retain the discretion whether to lease the land and would comply with section 106 prior to any lease issuance and development of any new wells or other surface disturbing activity associated with minerals subject to the mineral leasing laws" rings hollow and lacks any basis in reality.³³⁴

Finally, there is little evidence to suggest that BLM's administration of the Section 106 process over the years has been at all successful in avoiding or mitigating the adverse effects of oil and gas development on cultural landscapes or in areas with dense concentrations of cultural resources. According to ACHP, "[f]or 30 years, BLM's archaeological program was driven by industry's needs—in the face of a proposed wellsite, the preferred action was 'flag and avoid' (survey and record sites, and redesign projects to avoid the historic properties)."³³⁵ The flaws with the "flag-and-avoid" approach to Section 106 compliance are many, including that it does nothing to address visual or auditory effects or the cumulative effects of multiple projects. As explained by the former New Mexico BLM State Archaeologist:

[a]nother issue related to cumulative impacts can result from the practice of flagging and avoiding sites. This practice may protect sites in the short term, but over the long term cumulative impacts from many nearby projects may result in adverse impacts to sites. At some point, flag and avoid no longer protects sites from cumulative impacts. We see this issue clearly in oil and gas fields, especially old fields that continue to be developed.³³⁶

³³⁴ Revocation Draft EA, *supra* note 1, at 28, 67.

³³⁵ ACHP, Innovative Approach is Model for Cultural Resource Management 1 (attached).

³³⁶ Section 106 Issues Transcript 10 (attached).

Further, repeated enough times across a defined geography, such as an oil and gas field, “flag-and-avoid” leads to direct, harmful effects on cultural resources. This has been documented in New Mexico’s Permian Basin, where

[t]he volume of wells being permitted though time has effectively closed off some localities to additional wells, especially in the Loco Hills vicinity, because the only undeveloped spots are those that are the locations of archeological sites. Extensive drilling has changed the countryside into an industrial landscape and there is continuous activity as new roads are built, new wells are drilled, and new pipelines, electrical lines, tank batteries, and other infrastructure is put into place. All of these people and machines in action daily means that inevitably mistakes will be made and sites are inadvertently damaged or destroyed. Sites are also degraded by unauthorized collecting of artifacts by oil field workers and others who are afforded access to sites by the network of lease roads. Compounding the human factor is the nature of the fragile sandy soils of the Mescalero Plain, where much of the drilling takes place. These soils are highly susceptible to erosion and shallowly buried sites that are “preserved” by moving projects away from them are still subject to damage or destruction by erosion.³³⁷

The proposed “Design Feature” in the Revocation Draft EA for notice-level mining operations suffers the same flaws – a rushed, site-specific inventory during the 15-day review period cannot protect cultural resources at a landscape scale and is almost certain to result in cumulative impacts.

The approach for avoiding or limiting effects on cultural resources suggested by the Revocation Draft EA has proven to be unworkable and insufficient in the past – and that was before Congress limited BLM’s discretion to address the impacts of oil and gas leasing on cultural and other resources in OBBBA, and before the recent increase in new mining claims under the Mining Law of 1872 in New Mexico.

IX. CONCLUSION

For the foregoing reasons, we believe that the proposed revocation is neither warranted nor permitted by federal law and that DOI must promptly cancel this decision-making process. At a minimum, DOI must retract the Revocation Draft EA, complete the NHPA Section 106 process, and prepare an EIS.

Sincerely,

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³³⁷ BLM Carlsbad Field Office N.M., Permian Quarterly, Vol. 6, No. 2, June 2018, at 3, *available at* https://southernnm.info/public_html/pdfs/PermianQuarterlyVol6No2.pdf (last visited July 27, 2026).

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