

**To:** Interested Parties  
**From:** Archaeology Southwest; National Parks Conservation Association; National Trust for Historic Preservation; New Mexico Wild; Conservation Lands Foundation; The Wilderness Society; and US/ICOMOS  
**Date:** 12/10/20  
**Re:** Recommendations on Planning for and Managing Oil & Gas Leasing and Development in New Mexico's Greater Chaco Region

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We are writing to provide recommendations on short-term actions the Interior Department (DOI) can take in order to address longstanding concerns from Native American Tribes and Pueblos, federal and state officials, and conservation and preservation groups for oil and gas activity within the landscape surrounding New Mexico's Chaco Culture National Historical Park (Greater Chaco Region). The park and several sites in the surrounding landscapes have been designated a World Heritage Site, due to their "outstanding universal values" – values that are threatened by ongoing and potential oil and gas development.

Over the past decade, we have participated in the public process for numerous oil and gas lease sales that included parcels in close proximity to Chaco Canyon. We are also continuing to participate in the preparation of the Farmington Field Office's Mancos-Gallup Resource Management Plan Amendment (RMPA), as consulting parties under Section 106 of the National Historic Preservation Act (NHPA) and/or through the public comment process of the National Environmental Policy Act (NEPA). Finally, we continue to support the efforts of the All Pueblo Council of Governors (APCG) and individual Pueblos to secure permanent protections for the Greater Chaco Region, which include passage of the Chaco Cultural Heritage Area Protection Act of 2019. Passing this bill would provide the Greater Chaco Region with the lasting protection that it needs, and we hope that the incoming administration will support its passage.

The following actions are well-within the scope of DOI's existing authorities and could be taken within the first few weeks of the new administration:

- 1. Segregate and Withdraw Federal Lands and Minerals Within the Boundaries of the Chaco Cultural Heritage Area Protection Act's Withdrawal Area, As Well As Other Lands Identified for Protection by Native American Tribes and Pueblos**
  - Withdraw federal lands and minerals within the boundaries of the proposed Chaco Cultural Heritage Area Protection Act's Withdrawal Area from all forms of future mineral leasing and mining for a period of twenty years.<sup>1</sup> This area includes approximately 316,000 acres of oil and gas mineral estate owned by the federal government, and also encompasses non-federal lands and minerals managed by the Bureau of Indian Affairs (BIA) on behalf of Native American allottees.<sup>2</sup>

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<sup>1</sup> Chaco Cultural Heritage Area Withdrawal Area Map associated with the Chaco Cultural Heritage Area Protection Act, available at <https://www.tomudall.senate.gov/imo/media/doc/2019-04-04%20Chaco%20Map.pdf>.

<sup>2</sup> Chaco Cultural Heritage Protection Act One-Pager, available at <https://www.tomudall.senate.gov/imo/media/doc/Chaco%20Cultural%20Heritage%20Area%20Protection%20Act%20One-Pager.pdf>

- The proposed withdrawal order should immediately segregate federal lands and minerals from the mineral leasing and mining laws for a period of time that is sufficient to study and finalize the withdrawal.
- The proposed withdrawal order should also clearly state that tribal and allotment lands and minerals are not subject to the withdrawal.
- Consideration should be given to also withdrawing federal lands and minerals in other sensitive areas identified for protection by APCG, individual Pueblos, and tribal communities in the vicinity of Chaco Canyon. These areas may include “buffer zones” around significant Chacoan features, including outliers and roads, within which oil and gas activity could cause adverse visual, auditory, and/or physical impacts.

**2. Suspend the Mancos-Gallup RMPA Process, Including Section 106 Review and Consultation, During the COVID-19 Public Health Emergency**

- Because of the COVID-19 public health emergency, BLM and BIA should publicly announce that they are suspending the RMPA planning process, including Section 106 review and consultation, as requested by APCG, individual Pueblos and Tribes, Governor Lujan Grisham, and numerous conservation and preservation groups.
- The Pueblos and other Tribes have made clear that they are unable to meaningfully consult during the COVID-19 public health emergency. They have a statutory right to such consultation under the NHPA, and their involvement helps DOI comply with its obligations related to the identification and assessment of cultural resources under NEPA and historic properties under the NHPA.
- BLM and BIA are claiming that Secretarial Order (SO) 3355 requires completion of the Mancos-Gallup RMPA process within an arbitrary and insufficiently short timeframe.<sup>3</sup> BLM has also labeled the RMPA a “priority project,” in order to avoid pausing the Section 106 process, as directed by the Advisory Council on Historic Preservation’s COVID-19 guidance on undertakings involving historic properties of religious and cultural significance to Tribes.<sup>4</sup> However, SO 3355 does not, and cannot, excuse compliance with the tribal consultation and other requirements of Section 106.
- The Interior Department should promptly rescind SO 3355, and its procedures should not be followed for the RMPA.

**3. Do Not Finalize the RMPA/EIS Until Completion of Sufficient Baseline Cultural Resources Studies, Including Tribally-Led Cultural Resources Studies, and Tribal Consultation**

- BLM and BIA have not yet gathered the necessary baseline cultural resources information to properly fulfill their duties under the NHPA, NEPA, and other authorities in connection with the Mancos-Gallup RMPA. Nor have they carried out the necessary tribal consultation requirements, including in regard to the identification and assessment of effects on historic properties, as required by Section 106. Thus, the agencies must not finalize the RMPA until this information has been gathered and further tribal consultation has taken place.

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<sup>3</sup> Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects” (Aug. 2017), available at <https://www.doi.gov/sites/doi.gov/files/uploads/3355-streamlining-national-environmental-policy-reviews-and-implementation.pdf>.

<sup>4</sup> ACHP, Section 106 and Coronavirus Impacts, available at <https://www.achp.gov/digital-library-section-106-landing/section-106-and-coronavirus-impacts>.

- The Chaco Heritage Tribal Association (CHTA), an unincorporated association established by the Pueblos of Acoma, Jemez, Laguna, and Zuni, and the Hopi Tribe, and the Navajo Nation should be allowed to move forward with their tribally-led cultural resource studies of the Greater Chaco Region, which Congress authorized in the Further Consolidated Appropriations Act, 2020.<sup>5</sup> These studies, which will likely generate significant new information about the location, importance, and condition of cultural resources in the Greater Chaco Region, are in their early stages.
- Additionally, the CHTA was not awarded sufficient funding to undertake and complete the cultural resources study that the Pueblos and the Hopi Tribe believe is required. Thus, the CHTA will need to do additional work to complete the full study, as originally proposed and envisioned, once it secures additional funding.

**4. Pause Leasing on Federal Lands and Minerals Throughout the Farmington Field Office Pending Completion of the Mancos-Gallup RMPA**

- In conjunction with suspending the RMPA process, BLM should exercise its discretionary authority to pause leasing of federal lands and minerals throughout the Farmington Field Office.
- This decision can be made through normal administrative channels; as BLM receives new expressions of interest (EOIs) for federal lands and minerals within the Farmington Field Office, it can decline to process those EOIs.

**5. Take Affirmative Steps to Address Concerns from Native American Tribes and Pueblos for Proposed Development in the Greater Chaco Region**

- BLM and BIA should take affirmative steps to address outstanding concerns from Native American Tribes and Pueblos regarding the effects of proposed development on cultural landscapes and resources, as well as public health and safety in the Greater Chaco Region.
- Specifically, the agencies should develop a new framework, timeline, and procedures for evaluating drilling permit applications (APDs) and lease sales (should those continue) and involving Tribes and Pueblos when APDs/sales are proposed in sensitive areas. For example, BLM should notify operators in advance that APDs within the Greater Chaco Region will be subject to a more rigorous approval process, including viewshed and soundscape assessments and broader on-the-ground surveys to identify and fully assess potential effects on cultural resources, which may lead to additional conditions of approval in order to fully avoid adverse effects on cultural resources and landscapes.
- APDs within sensitive areas should not be prioritized or expedited, but should instead “move to the back of line” so that necessary consultations and analyses can take place.

**6. Appoint a Lead within the Secretary’s Office to Coordinate Oil & Gas and Land Use Planning Activities Within the Farmington Field Office**

- Appointing a lead within the Secretary’s office who is familiar with northwestern New Mexico and, in particular, its tribal communities to coordinate the oil & gas and land use planning activities of BLM and BIA would be extremely helpful.

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<sup>5</sup> Pub. L. No. 116-94, § 442.