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

Re: Proposed Chaco Area Withdrawal, Environmental Assessment (EA), DOI-BLM-NMFO10-2022-0011

Dear Ms. Scott:

Western Energy Alliance opposes the proposed withdrawal of approximately 336,424 acres around the Chaco Culture National Historical Park (CCNHP) from oil and natural gas leasing for a 20-year term. We urge the Bureau of Land Management (BLM) to instead align any final withdrawal proposal with the expressed preference of the local allottees of the Navajo Nation, who will be most directly impacted by the withdrawal, and the compromise five-mile buffer adopted through the democratic processes of the Navajo Nation. BLM's EA is misleadingly inaccurate because the five-mile alternative was not analyzed in detail as an Alternative. BLM's Mineral Potential Report and EA analysis of mineral resource, revenue and environmental justice impacts are significantly understated and fail to provide the Secretary with the information she needs to resolve a conflict in the use of resources in the proposed withdrawal area while adhering to her Trust responsibilities.

The allottees, who originally opposed any buffer around the CCNHP, reached a compromise position for the five-mile buffer with the Navajo Nation Resources and Development Committee (RDC), who acts on behalf of the Navajo Nation Council. Four resolution votes were taken by the Nageezi Chapter in the summer of 2019, and they ultimately settled on the compromise five-mile buffer. Then the RDC subsequently voted 18-1 to affirm their support of the five-mile buffer in early 2020.<sup>1</sup> Under Navajo law, the RDC has plenary authority over land-related matters and the Navajo Nation government is legally bound by what the RDC decided. As a result, the Navajo Nation formally withdrew its support for a ten-mile buffer. The Secretary must carefully consider the Navajo Nation five-mile buffer proposal in making her withdrawal decision.

We strongly support this compromise decision by the Navajo Nation. We do not understand why BLM chose not to examine the five-mile proposal in detail in the withdrawal EA as an alternative. BLM's failure to analyze in detail the five-mile proposal deprives the Secretary of the information she needs to adequately consider the five-mile proposal as an alternative to the expansive ten-mile buffer that inequitably prevents the allottees from fully exercising their mineral rights. BLM puts its

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<sup>1</sup> ["Resolution of the Naabik' Íyáti' Standing Committee of the 24<sup>th</sup> Navajo Nation Council,"](#) 2020.

thumb on the scale for a ten-mile withdrawal by omitting a detailed discussion of the five-mile proposal.

The proposed withdrawal around the CCNHP will primarily impact allottees in the Nageezi chapter of the Navajo Nation who benefit from oil and natural gas development on the lands they own in the area. Nearly 5,500 Navajo allottees and their families benefit from an average of \$6.2 million in royalties from their mineral rights every year.<sup>2</sup> As Western Energy Alliance represents oil and natural gas producers in the area, we are extremely proud that our members further environmental justice by sustaining the livelihoods of so many Navajo families in an area that otherwise suffers marginalization and poverty.

An overly expansive withdrawal poses a significant risk to the local economy and the livelihoods of the thousands of allottees in the area. Because of the checkerboard pattern of lands around the CCNHP, where allottee lands are often surrounded by BLM lands, it is impossible to avoid the federal mineral estate when attempting to access pockets of allottee minerals via horizontal drilling. As a result, any limitations on accessing federal minerals will necessarily impair allottee and tribal lands as well, as demonstrated in the map attached to our May 2022 comments on the proposed withdrawal, which compares the impacts of potential five- and ten-mile buffers around the CCNHP.

We also recognize that the Puebloan peoples have strong cultural ties to the CCNHP. The Navajo Nation's compromise solution respects those ties and offers stronger protection for CCNHP and nearby cultural resources without harming the livelihoods of Navajo mineral owners directly affected by the decision. The Secretary has the opportunity with a five-mile withdrawal to satisfy the interests of all culturally affiliated tribes without disadvantaging the local communities and perpetrating environmental injustice by depriving Navajo mineral owners of their livelihoods. We urge the Secretary to honor the Navajo Nation's five-mile buffer compromise.

### **The Withdrawal Violates the Interior Department's Trust Responsibility**

The Interior Secretary is proposing to withdraw 336,424 acres of federal minerals in an area of over 958,800 acres of mixed ownership, including significant allottee holdings. In the EA, BLM includes the flawed notion repeatedly advanced by the Interior Secretary that the withdrawal applies only to federal minerals and therefore does not affect Navajo allottees. BLM knows this is not true because of the nature of modern oil and natural gas development.

Horizontal drilling is the most efficient technique to use with the Mancos-Gallup shale formation that predominates in the proposed withdrawal area. BLM has recognized that the development of the Mancos-Gallup formations will require the use of horizontal development. EA Mineral Potential Report at pp. 35-36. One horizontal well can take the place of 8 to 16 vertical wells, leading to much less surface disturbance while increasing yields. Horizontal wells also have the advantage of reduced greenhouse gas emissions, decreased truck traffic, and less drilling equipment and construction emissions. BLM also understands that because of the mixed ownership of the lands in the withdrawal area, horizontal wells very frequently penetrate under and through multiple land

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<sup>2</sup> [Letter from Jonathan Nez, President, Navajo Nation to President Joe Biden](#), November 24, 2021.

and mineral ownership. See BLM Withdrawal Petition at p. 6 (November 2021) (development in the withdrawal area “may involve drilling horizontal wells over a mile in length which may necessitate drilling through several leaseholds in the ‘checkerboard’ land ownership area.”)

Given that allottee lands are interspersed among federal lands in the checkerboard (EA Map 1-1), withdrawing federal lands cannot help but have a detrimental impact on the development of Navajo allottees’ energy resources. BLM reluctantly recognizes this fact when it finds that, “individual allotments may not be developed as efficiently . . . withdrawing the federal mineral estate may affect development of Navajo allotted lands.” EA at p. 4-19. Then, unfortunately, BLM goes on to minimize the effect of the withdrawal on Navajo allottees.

We call your attention to the comments of Enduring Resources, a member company, who operates in and adjacent to the area proposed for withdrawal and incorporate them by reference. Enduring has conducted an analysis of the lost production, royalties, and impact on members of the Navajo Nation based on its considerable experience in developing in the Mancos-Gallup formations. In the EA, BLM predicts that the ten-mile withdrawal will result in forgoing only 47 wells, 4 million barrels of oil and 3.8 billion cubic feet of natural gas (EA Mineral Potential Report at p. 6) with a lost annual royalty revenue of \$4.8 million (EA at p. 4-10), but Enduring’s analysis demonstrates the impacts will be significantly greater. The proposed withdrawal will prevent the development of 233 horizontal wells and over 86,000,000 barrels of oil and 25.85 billion cubic feet of natural gas. At a royalty rate of 16.66%, the royalties lost would be \$51,122,997 per year or \$1,022,459,948 for the 20-year withdrawal. This is a significant loss of oil and gas at a time the United States is seeking additional resources from OPEC and Venezuela. Moreover, the loss of over \$50 million in annual federal royalties to the federal treasury exceeds the \$39 million royalty gain BLM is claiming its proposed waste prevention rule will deliver.

The forgone royalties for Navajo allottees would be \$194,267,390 over the 20-year withdrawal. This represents an intentional suppression of the economic viability of an “environmental justice community.” We at Western Energy Alliance prefer to call it more simply and less bureaucratically: the federal government taking the livelihoods of a Navajo community which is otherwise threatened by poverty and lack of economic development is unconscionable. If the Interior Secretary is at all concerned with environmental justice and meeting her Trust responsibilities, she should be concerned that this proposed withdrawal would have such a detrimental economic impact on Navajo communities around the CCHNP, further marginalizing native communities. BLM has failed to adequately account for the economic and social justice impact of the withdrawal. BLM should amend section 4.4 to include the full economic impact on Navajo allottees and to address the trust responsibilities the Secretary has to the allottees above the EJ “disproportionate” impact criteria in making this withdrawal decision.

But perhaps even more egregious than the flawed analysis is a shirking of Interior’s full responsibilities to a sovereign nation. BLM has a much heavier burden when it comes to Navajo allottees than just a realistic environmental justice analysis. BLM and the Secretary have the obligation to consult with the Navajo Nation on a policy that will so directly affect them. In addition, NEPA gives BLM the obligation to address a reasonable range of alternatives, yet BLM has failed to analyze an alternative put forth by the Navajo Nation through its democratic processes. The Biden

Administration professes a “...respect for Tribal sovereignty and self-governance”, yet completely downplays an alternative adopted by the Navajo Nation.<sup>3</sup> BLM should issue another draft EA that includes a detailed analysis of the five-mile buffer as an alternative, particularly since the proposal “...involves unresolved conflicts concerning alternative uses of available resources.” 42 USC § 4332 (2)(E).

### **Inadequate Purpose and Need**

Further, the Purpose and Need Statement is inadequate. First, BLM incorrectly characterizes its own federal exploration and development as posing “increasing threats...to these sensitive cultural resources”. BLM seems to forget that the park boundaries and the very justification for establishing the CCHNP was to and does protect the cultural resources found therein. Further, any company operating in and around the park must comply with the National Historic Preservation Act, which requires them to conduct cultural surveys in their areas of operation. If cultural resources are found, they are required to relocate operations to avoid those resources. BLM seems to forget that it regularly applies stipulations to leases to ensure protection of cultural resources. The withdrawal goes far beyond what is necessary to protect cultural resources, since typical BLM-managed development has evolved and is heavily regulated to ensure cultural and other natural resource values are protected during development and production. BLM has the opportunity with its land use planning process to implement more protections, but a withdrawal is an extreme option.

Likewise, BLM’s impacts analysis of resource issues 2, 3, and 4 is inadequate because the Mineral Potential Report is fatally flawed. BLM’s finding of low potential in the withdrawal area contradicts the findings in its own 2018 Mancos-Gallup RMPA Reasonably Foreseeable Development Scenario. The 2018 RFDS finds that oil and natural gas potential is very high in over 95% of the withdrawal area. Even the flawed Mineral Potential Report states: “The withdrawal area lies within the San Juan Basin, a prolific oil and natural gas basin that has been developed over the last 100 years.” We again draw your attention to the analysis presented by Enduring Resources in its comments on this EA, as it contains detailed information on the geology, resource potential, operations, and other issues to refute the low potential and associated economic impact analysis contained in the EA. Because BLM has so underestimated the resource potential in the withdrawal area, the economic impact on the Navajo Nation and allottees is likewise grossly underestimated.

We urge the Interior Secretary to desist with the proposed ten mile withdrawal around the CCHNP. Modern oil and natural gas development as conducted in the withdrawal area is already highly protective of the precious Chaco cultural resources while sustaining the lives of thousands of members of the Navajo Nation. We believe the Interior Secretary has a conflict of interest by elevating the demands of the Puebloan nations hundreds of miles away while giving little regard to the Navajo Nation directly affected. The Secretary also has long held views as a congressional representative and now as Secretary to support a ten-mile buffer around the park. Those pre-existing, pre-decisional views call into question her ability to impartially make the withdrawal decision. Should the Interior Secretary persist regardless, we urge BLM to redo this flawed analysis

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<sup>3</sup> “Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships,” White House, January 26, 2021.

with a more complete impact analysis on the Navajo Nation while including as an Alternative the very reasonable compromise solution developed by the Tribe of a five-mile buffer.

Sincerely,



Kathleen M. Sgamma  
President