



September 25, 2020

Submitted via eplanning.blm.gov

Ms. Jillian Aragon, BLM Project Manager
Attn: RMPA Comment Submission
Bureau of Land Management
6251 College Blvd, Suite A
Farmington, NM 87402

Mr. Robert Begay, BIA Project Manager
Attn: RMPA Comment Submission
Bureau of Indian Affairs Navajo Regional Office
P.O. Box 1060
Gallup, NM 87301

Re: Farmington Mancos-Gallup Draft Resource Management Plan Amendment

Dear Ms. Aragon and Mr. Begay:

Western Energy Alliance submits these comments on the draft Resource Management Plan Amendment (RMPA) for the Farmington Field Office prepared by the Bureau of Land Management (BLM) and Bureau of Indian Affairs (BIA). We urge the agencies to align the final RMPA with the expressed preference of the local allottees of the Navajo Nation, who will be most directly impacted by any planning decisions. We also provide specific comments below on how BLM and BIA can improve the environmental analysis in the RMPA.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in New Mexico and across the West. The Alliance represents independents, the majority of which are small businesses with an average of fourteen employees.

Chaco Culture National Historic Park

In the Dear Reader letter accompanying the draft RMPA, BLM and BIA note the Navajo Nation Council's support for a five-mile buffer around the Chaco Culture National Historic Park (CCNHP). Their decision to withdraw support for a larger ten-mile buffer was carefully considered through a transparent, democratic process that ultimately resulted in support for the smaller buffer. We strongly support this decision and urge the agencies to adopt it in the final RMPA.

Any buffer zone around 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 surrounding the park. The allottees, who originally supported no buffer around CCNHP, reached a compromise position with the Navajo Nation Resources and Development Committee (RDC), which initially supported a ten-mile buffer.

Because of the checkerboard pattern of lands in the planning area, 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 impact allottee and tribal lands as well.

An overly expansive buffer zone or one with No Surface Occupancy restrictions poses a significant risk to the local economy and the livelihoods of thousands of allottees in the area by making it very difficult, if not impossible, for them to develop the energy resources they own. Annually, oil and natural gas production delivers approximately [\\$96 million to nearly 21,000 Navajo allottees](#), much of which is generated from the area around CCNHP.

The substantial benefits stemming from this production explains why the Nageezi Chapter has voiced strong support for development in the planning area, including via a Resolution passed on July 1, 2018:

Navajo Allotment Land Owners are concerned that self-serving special interest organizations are violating the rights of Navajo Allotment Land Owners. That such publicized demonstrations and meetings by these special interest and outside groups have overshadowed the Navajo Allotment Land Owners who [are] currently benefitting from oil and gas development on their allotment lands; and

Navajo Allotment Land Owners do not share opinions of environmentalists voicing their objections on natural resources developments. These over publicized objections by the environmentalists have drowned out and overshadowed Navajo Allotment Land Owners Rights; and Navajo Allotment Land Owners are truly the impacted people of the Chaco area. These lands were patented and allotted to the Navajo People in New Mexico and handed down through many generations. These lands were given in exchange for land taken by the U.S. Government in exchange for citizenships. Therefore, as Navajo People being landowners, they have the right to lease, develop, or excavate their lands.

Four resolution votes were taken by the Nageezi Chapter in the summer of 2019, and they ultimately settled on this compromise position. RDC members subsequently voted 18-1 to affirm their support of the five-mile buffer in early 2020. 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 has withdrawn its support for federal legislation imposing a ten-mile buffer, as recognized in the Dear Reader Letter.

Although a five-mile buffer is not specifically evaluated in any of the draft RMPA's alternatives, it represents a middle ground between Alternative D, which would apply no closures or stipulations to the areas around the CCNHP boundary, and Alternative B, which would expand the buffer to either 10 or 15 miles. BLM has thoroughly evaluated the environmental impacts of numerous alternative options for buffer zones and no surface occupancy areas around CCNHP in the draft RMPA, and BLM can rely upon this analysis in choosing a five-mile buffer in the final RMPA.

Oil and natural gas production has taken place in this area for decades, with no damage to the national park, and companies diligently protect cultural resources through compliance with the National Historic Preservation Act as well as best management practices and voluntary actions. A five-mile buffer protects CCNHP while enabling development of the most productive Mancos Shale areas owned by the allottees, so BLM and BIA should adopt it in the final RMPA.

Multiple Use Mandate and Trust Responsibility

BLM has a congressionally mandated multiple-use mission, which must be honored and not compromised by the single-use land management objectives promoted by certain single interest groups. The agency also has a fiduciary obligation to manage allottee minerals as trust assets. BLM's Handbook on "Improving and Sustaining BLM-Tribal Relations (H-1780)" and Manual titled "Tribal Relations, (MS-1780)" recognize "the ongoing BLM operational and fiduciary responsibility concerning Indian tribal trust minerals and other resource development on Indian trust lands." The Handbook also states that "the general goal is to maximize economic gain for tribes/or allottees...BLM employees should be aware that revenues from minerals might be the only income for an individual Indian beneficiary."

BIA similarly has a duty to maximize the economic interests of Indian mineral owners, as discussed in the draft RMPA: "The BIA has a trust responsibility to facilitate the leasing and development of oil and gas resources held in trust by the United States for the benefit of Tribal interests, which includes individual Indian allottees." Further, BIA's "vision" for the planning area "is to manage oil and gas development so as to enhance the quality of life, promote economic opportunity, and carry out the responsibility to protect and improve the trust assets of American Indians, Indian Tribes, and Alaska Natives."

Western Energy Alliance supports BLM's multiple-use mandate and BLM and BIA's trust responsibility. By its nature, multiple-use engenders coexistence, not competition. Where energy production exists, public lands are also available for other uses such as recreation, ranching, farming and hunting. We can develop the energy on public lands that all Americans own while protecting the land, wildlife, air, water, cultural and other resources.

Each year, improvements in technology reduce the footprint of oil and natural gas development, and reclamation techniques continue to improve so that the impact to the land is small and temporary. Over the last decade, oil and gas development has shifted from vertical wells with dense well-pad spacing to directional and horizontal wells with significantly less disturbance and fragmentation per section of land developed.

As noted in the draft RMPA, “future activity will be primarily horizontal drilling for oil in the Mancos-Gallup play,” which will limit disturbance and allow BLM to continue managing for multiple use. One horizontal well now takes the place of 8 to 16 vertical wells, leading to reductions in well pad disturbances, linear disturbances, and disturbances due to human activity.¹ In 2012, the disturbance reduction resulting from this dramatic shift in drilling technology may have approached approximately 70 percent in Wyoming alone.²

Given the limited disturbance created by horizontal drilling and the multiple use mandate and trust responsibility, BLM and BIA must ensure that the final RMPA places only narrowly tailored, reasonable restrictions on federal lands and acknowledge the attendant impacts on tribal and allottee lands.

Greenhouse Gas Analysis

In light of recent decisions in federal court regarding the environmental impacts of oil and natural gas leasing, BLM and BIA undertake a comprehensive analysis of greenhouse gases (GHG) in the draft RMPA. We appreciate this analysis, but it could be strengthened and made more legally defensible in the final RMPA.

Specifically, the draft RMPA does not cite to the most recent data available on GHG emissions. The final RMPA should incorporate the current version of the Environmental Protection Agency’s Inventory of Greenhouse Gas Emissions and Sinks, the Energy Information Administration’s Annual Energy Outlook for 2020, and BLM’s Air Resources Technical Report for Oil and Gas Development.

Furthermore, the Reasonable Foreseeable Development (RFD) was most recently updated in early 2018, and therefore relies on outdated assumptions about future production in the planning area. The various alternatives analyzed in the draft RMPA all overstate future production because they do not take into account the impacts of the recent depression in oil prices caused by the coronavirus pandemic and restricted worldwide demand.

¹ *Oil & Gas Impacts on Wyoming’s Sage-Grouse: Summarizing the Past & Predicting the Foreseeable Future, 8 Human-Wildlife Interactions*, David H. Applegate & Nicholas L. Owens, Fall 2014, 288.

² *Id.* at 289.

Because the draft RMPA overstates the number of wells that will be drilled in the future, it also overstates GHG emissions. The per-well estimates are reasonable, but overall emissions will be much lower than projected because fewer wells will be drilled. BLM and BIA should revise the RFD to more accurately reflect the amount of wells that will be drilled in the future, and revise its GHG analysis to calculate concomitant emissions.

Finally, we do strongly support BLM's decision not to utilize the Social Cost of Carbon Protocol to estimate the costs of oil and natural gas development in the context of global climate change projections. BLM is not required to use that calculation, and instead the draft RMPA appropriately analyzes estimates of GHG emissions and places them into the context of statewide, nationwide, and global emissions. This approach is sufficient to satisfy the requirements of the National Environmental Policy Act,³ and should be maintained in the final RMPA, supplemented by the sources cited above.

Conclusion

Western Energy Alliance strongly supports BLM and BIA finalizing the Farmington RMPA with a five-mile buffer around CCNHP. The agencies have a multiple use mandate and a trust responsibility to allow for continued oil and natural gas development in the planning area, and the five-mile buffer appropriately balances production with environmental protections.

We urge BLM and BIA to finalize the RMPA, with additional support for its environmental analysis, as expeditiously as possible. Please do not hesitate to contact me should you have any questions.

Sincerely,



Tripp Parks
Vice President of Government Affairs

³ *WildEarth Guardians v. Bernhardt*, No. 1:190cv-00505-RB-SCYY, 2020 U.S. Dist. LEXIS 149785 (D.N.M. Aug. 18, 2020).