



ALL PUEBLO COUNCIL OF GOVERNORS

Officers:
E. Paul Torres, Chairman
Governor Val Panteah, Sr., Vice Chair
Governor J. Michael Chavarria, Secretary

December 17, 2018

VIA Email & Electronic Submission

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Re: **Monticello Field Office March 2019 Oil and Gas Lease Parcels – Scoping Comments**

Dear Mr. Giffen & Mr. Roberson:

On behalf of the All Pueblo Council of Governors¹ ("APCG") a consortium of 20 federally recognized Indian tribes in that state of New Mexico and Texas, we appreciate the opportunity to submit scoping comments to the Bureau of Land Management's (BLM) Monticello Field Office's (MtFO) March 2019 competitive oil and gas lease sale (#DOI-BLM-UT-Y020-2019-0004-DNA).

BLM has proposed for lease nineteen parcels in an area dense with cultural resources potentially important to members of the APCG. APCG believes there to be increased pressure on cultural resources from potential oil and gas development in this region of Southeastern Utah. This increase in interest for oil and gas development is alarming due to the APCG's concerns about the adequacy of identifications, analysis, and protections for Pueblo cultural resources and historic properties. Although actual development has been limited in comparison to other oil and gas development regions, the BLM still has its obligations under federal law to ensure the adequate identification, analysis, and protection of eligible historic properties and our cultural properties upon the initiation of *any federal undertaking*. More so, the BLM has the opportunity to conduct informed and efficient land management at this stage, by working with interested Pueblos, and other tribes, to identify critical areas of concern, Pueblo cultural resources, and historic properties prior to oil and gas leasing.

Until then, BLM must defer new leases until it has completed a comprehensive analysis identifying Pueblo cultural resources as part of your Section 106 duties. That analysis is necessary

¹ APCG consists of the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Ysleta del Sur, Zia, and Zuni.



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to strike a more appropriate balance between the conservation of our nation's heritage and oil and gas drilling. A hurried sale, risks causing cumulative harm to one of America's most treasured landscapes and to the Pueblos' irreplaceable cultural resources.

BLM has a duty to identify the historic properties and traditional cultural properties of APCG's members in compliance with Section 106 of the National Historic Preservation Act. Thus far, the BLM has failed to adequately and meaningfully consult with APCG or its members to make this identification as part of this undertaking. Any reliance on a Class I analysis, a literature review, is de facto insufficient as prior analysis (even existing Class III pedestrian surveys) have not used qualified experts who are able to identify associated Pueblos' cultural resources that may be eligible for the National Register of Historic Places. Evaluation of identified archaeological resources may not be complete as they may not have incorporate associated Pueblos' ethnographic information. Incorporation and analysis of associated Pueblos' ethnographic information may cause them to be eligible historic properties under the National Register of Historic Places' four criteria.²

The region of the leases lies due east of the Bears Ears National Monument as formally designated by President Barack Obama. This original monument was established in recognition of the area's importance as a cultural landscape, containing cultural resources, historic properties, and traditional cultural properties important to the five tribal coalition, in addition to other Pueblos. The monument's reduction by President Trump, does not reduce the cultural landscape which the redrawn monument now sits upon. Nor is the cultural landscape in southeastern Utah, marked by Ancestral Puebloan archaeological and cultural features, limited to the Bears Ears National Monument.

The proposed leases lie northwest of the Hovenweep National Monument, an important archaeological and cultural resource to many Pueblos. The proposed leases sit directly between two major cultural landscapes of great importance to various Pueblos. It can reasonably be deduced that lying between the two National Monuments is a rich Puebloan cultural landscape, filled with cultural resources, traditional cultural properties, and archaeological sites. This has been made apparent by the BLM as it acknowledges, "in the vast majority of the Monticello FO parcels, there is a high probability of the presence of cultural resources."³

This area of southeastern Utah, part of the Four Corners region, is important to many

² The four criteria include: Criterion (a)--Associations that have made a significant contribution to the broad patterns of our history; Criterion (b)--Associations with the lives of persons significant in our past; Criterion (c)--Embodiment of the distinctive characteristics of a type, period, or method of construction, or representative of the work of a master, or possession of high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and Criterion (d) – Cultural resources that possess the potential to yield or may be likely to yield information important in history or prehistory, there are three other National Register criteria for evaluating significance:

³ Bureau of Land Management - Monticello Field Office, "Interdisciplinary Team Checklist", at 2 (available at https://eplanning.blm.gov/epl-front-office/projects/nepa/116438/162412/198096/Attachment_C_-_2019.03_ID_Team_Checklist.pdf)



ALL PUEBLO COUNCIL OF GOVERNORS

Officers:
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Pueblos. The Pueblos considers many nearby regions as part of their ancestral homeland. While these regions may lie within different states, many Pueblos understand them to be connected and part of their Pueblo's history as their ancestors journeyed through these areas and far beyond.

Pueblos has worked extensively with federal agencies and non-governmental organizations on projects in these regions. Pueblos such as Zuni Pueblo were instrumental in the designation of the Bears Ears National Monument as designated by President Obama. Other Pueblos also maintain significant connections to cultural resources within the Bears Ears National Monument.⁴ In addition, the Pueblo of Acoma visited the region of the proposed March 2019 lease parcels as part of the BLM MtFO's December 2018 Oil and Gas Lease sale. There, Pueblo of Acoma representatives observed several Ancestral Puebloan archaeological sites and nearby areas with a high likelihood of the presence of other Acoma cultural resources.⁵ Therefore, the BLM should be well aware that the location of March 2019 leases lies on an important cultural landscape to the Pueblo of Acoma with a high likelihood of undocumented or unanalyzed Pueblo of Acoma cultural resources that may be eligible historic properties. Upon further inspection by other Pueblos, other Pueblos may determine the same region to contain important cultural resources and eligible historic properties through their own analysis.

Your duties under Section 106 require you to first identify these historic properties prior to committing yourself to this action. Unless the BLM has identified the associated Pueblos' historic properties including their traditional cultural properties, which may include, but not be limited to, specific sites, individual cultural landscapes, shrines, blessing places, springs, buttes, or any other number of Pueblo cultural resources, then the BLM has not complied with its legal obligations.

Until that is completed, we demand you defer the March 2019 Lease Sale for the reasons stated below:

1. Updated land use planning is necessary to avoid impacts to cultural resources.

APCG urges the BLM to defer lease sales pending an update to the Monticello Field Office's 2008 Resource Management Plan ("RMP") and the development of cultural resource management plans for the region of the March 2019 lease sale. BLM MtFO continuously discovers new information about cultural resources and new archaeological sites yearly in one of the densest archaeological regions of Utah.⁶ Because of the cultural resources management situation, the

⁴ See, e.g., *Brief of the National Congress of American Indians and The Association on American Indian Affairs as Amicus Curiae in Support of Plaintiffs and in Opposition to Federal Defendants' Motion to Dismiss*, at 23, Hopi Tribe, et al. v. Trump, et al, (No. 17-cv-2590 consolidated) (D.C.) (available at https://www.indian-affairs.org/uploads/8/7/3/8/87380358/2018-11-19_aaia-ncai_bears_ears_amicus_brief_with_exhibits.pdf)

⁵ See Protest Letter from Aaron Sims, Chestnut Law Offices, P.A. on behalf of the Pueblo of Acoma, to Ed Roberson, Bureau of Land Management Utah State Office (Nov. 5, 2018) (on file with author and the BLM Utah State Office).

⁶ See BLM Monticello Field Office, "Analysis of Management Situation" (Jan. 2005), at Chapter 4.1 Cultural Resources Overview) (available at https://eplanning.blm.gov/epl-front-office/projects/lup/68097/85765/102955/Chapter_04_-_Cultural.pdf).



ALL PUEBLO COUNCIL OF GOVERNORS

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BLM MtFO developed stringent management actions under its ("RMP").

Pursuant to the MtFO's Cultural Resource Management Actions under the RMP, it is the goal of the MtFO to "[i]dentify, preserve, and protect important cultural resources...[.]"⁷ Under BLM's management actions it shall "[p]rioritize] geographic areas for new field inventory pursuant to Section 110 of the [NHPA] and Section 14 of the Archaeological Resources Protection Act (ARPA) [to] be identified based upon a probability for unrecorded important resources. These inventories will be conducted as funding is available and as opportunities arise."⁸

However, as of 2015, it is unclear as to whether adequate cultural resource management planning has occurred within the MtFO, let alone for the geographic region of the March 2019 Lease parcels. The BLM MtFO admits in its 2015 Land Use Plan Evaluation Report that "completion of a cultural resource management plan would improve [the BLM's] ability to plan for access to cultural sites.... [and] [a]s a result the RMP does not fully protect significant cultural and paleontological resources through special designations."⁹ If such a cultural resource management plan were to be completed, the plans "*will* also include but not be limited to ... identifying areas for cultural inventory where federal undertakings are expected to occur[.]"¹⁰

This region of the MtFO is under increasing pressure from oil and gas development with the completion of the March 2018 and December 2018 Oil and Gas Lease Sales. The proposed March 2019 lease sale only compounds this pressure with no foreseeable halting of future oil and gas leasing in sight. Adding to the threat of harm to cultural resources no indication that the MtFO has identified or is actively pursuing a cultural resources management plan as mandated by the RMP for this region of the MtFO. The APCG has previously stated, and continues to urge the BLM, that there are likely Pueblo cultural resources and eligible historic properties that have not yet been identified.

BLM must factor the increasing degree of industry interest in the region, and its status in following through with its cultural resources management actions. Coupled with the APCG's concerns that this region where the most recent lease sales have occurred contains a dense cultural landscape; it demands reconsideration of the assumptions on which the existing RMP relies and deferral of the Lease Sale until updated land management planning occurs.

2. BLM must comply with its duties under Section 106 of the NHPA.

⁷ BLM Monticello Field Office, "Record of Decision and Approved Resource Management Plan" (Nov. 2008) at 59. (available at: https://eplanning.blm.gov/epl-front-office/projects/lup/68097/85493/102694/Monticello_Final_Plan.pdf).

⁸ *Id.* (CUL-2).

⁹ BLM Utah State Office, "Land Use Plan Evaluation Report" (Jul. 7, 2015), at 6, (available at: https://eplanning.blm.gov/epl-front-office/projects/lup/68097/85604/102802/Monticello_RMP_Evaluation_-_September_2015.pdf).

¹⁰ BLM Monticello Field Office, "Record of Decision and Approved Resource Management Plan" (Nov. 2008) at 61 (CUL-15) (emphasis added).



ALL PUEBLO COUNCIL OF GOVERNORS

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"Section 106" requires federal agencies to evaluate "undertakings" that may affect historic properties in accordance with a mandatory consultation process. 54 U.S.C. § 306108; 36 C.F.R. Part 800. Federal "undertakings" include the issuance of oil and gas leases. *Mont. Wilderness Ass'n v. Fry*, 310 F. Supp. 2d 1127, 1152 (D. Mont. 2004). The statute explicitly requires that BLM must complete this process "prior to" issuing or otherwise irretrievably committing to the issuance of any proposed leases. 54 U.S.C. § 306108; 36 C.F.R. § 800.1(c). BLM must determine whether the leasing of parcels will affect the Bears Ears and Hovenweep National Monuments, and any other Pueblo historic properties including traditional cultural properties. This evaluation must account for any indirect and cumulative effects, including impacts to the context and setting of these resources. Waiting to complete this step of the NHPA until after leases have been sold, and real property interests created, is not compliant with the directives of the NHPA.

A. BLM must complete its review under Section 106 "prior to" approving the undertaking, as required by the statute.

BLM continues to take the unwarranted position that it can wait to initiate the Section 106 process until the latter stages of the oil and gas leasing process, primarily during the "APD" phase (application for permit to drill). Under the NHPA, BLM must initiate the Section 106 process "early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking." 36 C.F.R. § 800.1(c). "This directive makes it pellucid that agencies are not expected to delay NHPA review until all details of the proposal are set in cement." *Safeguarding the Historic Hanscom Area's Irreplaceable Res., Inc. v. Federal Aviation Admin.*, 651 F.3d 202, 215 (1st Cir. 2011). The Section 106 regulations direct BLM to "consider [its] section 106 responsibilities as early as possible in the NEPA process, and plan [its] public participation, analysis, and review in such a way that they can meet the purposes and requirements of both statutes in a timely and efficient manner." 36 C.F.R. § 800.8(a)(1). Therefore, a "Determination of NEPA Adequacy"¹¹ for this undertaking is unwarranted, given the concerns outlined in this comment letter and the BLM's failure to fully complete its Section 106 obligations.

This "early coordination" requirement of Section 106 is designed to ensure that BLM fully engages consulting parties in the decision-making process, "when the purpose of and need for the proposed action as well as the widest possible range of alternatives are under consideration." *Id.* § 800.8(a)(2). BLM must complete the Section 106 process "prior to" committing itself to a course of action that may affect historic properties. 54 U.S.C. § 306108.

Here, as soon as possible, BLM must identify and invite interested parties, as well as interested tribes, to participate in Section 106 consultation. The BLM should not forego its duties to invite the 20 members of APCG, or other tribes, to consult with the BLM to identify potential historic properties and other cultural resources prior to the lease sale.

¹¹ Determination of NEPA Adequacy: DOI-BLM-UT-Y020-2019-004-DNA, March 2019 Competitive Oil and Gas Lease Sale (Nov. 2018).



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B. BLM must make a “reasonable and good faith effort” to identify Traditional Cultural Properties (TCPs) and other historic properties.

BLM must make a “reasonable and good faith effort” to identify TCPs and other historic properties within the area potentially affected by the protested leases. Under Section 106, BLM must make “a reasonable and good faith effort” to identify historic properties located within an undertaking’s area of potential effects (“APE”). 36 C.F.R. § 800.4(b)(1). To satisfy this requirement, BLM must, “at a minimum, [conduct] a review of existing information on historic properties that are located or may be located within the APE. . . .”¹² Existing information is not limited to tomes in the agency office, but includes commonly known facts, or others that have become known to the agency, such as many Pueblos’ enduring and substantial cultural connection to sites throughout the Monticello Field Office area¹³. Additional identification efforts, including “consultation, oral history interviews, sample field investigation, and field survey”, are also required, in particular when tribes have “indicated the existence of traditional cultural properties ...” *Pueblo of Sandia v. U.S. Forest Serv.*, 50 F.3d 856, 860 (10th Cir. 1995).

BLM must account for the identification of TCPs associated with individual Pueblos within the cultural landscapes surrounding the Bears Ears and Hovenweep National Monuments. This is especially the case for cultural resources that may be identified on or near the lease parcels closest to the Hovenweep National Monument. At Hovenweep, the US Department of the Interior has recognized the cultural affiliation of 18 of 20 Pueblos to Hovenweep National Monument on its registration of Hovenweep to the National Register of Historic Places¹⁴. BLM should therefore be on notice of the likely existence of individual Pueblo TCPs surrounding Hovenweep that may possibly be affected by future oil and gas development. Under Section 106, TCPs are a type of historic property that BLM must identify and evaluate.¹⁵ According to National Register Bulletin 38¹⁶,

[a]n early step in any effort to identify historic properties is to consult with groups and individuals who have special knowledge about and interest in the history and culture of the area to be studied. In the case of traditional cultural properties, this means those individuals and groups who may ascribe traditional cultural significance to locations within the study area, and those who may have knowledge of such individuals and groups. Ideally, early planning will have identified these individuals and groups, and established how to consult with them.

¹² Advisory Council on Historic Preservation, “Meeting the ‘Reasonable and Good Faith’ Identification Standard in Section 106 Review”, at 2 (available at: https://www.achp.gov/sites/default/files/guidance/2018-05/reasonable_good_faith_identification.pdf).

¹³ See APCG Resolution 2018-01 (attached) (the Pueblo of Acoma is a member of APCG)

¹⁴ National Register of Historic Places Registration Form, (Aug. 27, 2015) (Prepared by Sharyl Kinnear-Ferris, National Park Service) (available at: https://heritage.utah.gov/wp-content/uploads/HOVE-NR-Nomination-Form_Final-Submission_November-2015_Redacted-11.pdf?x15791).

¹⁵ See *Pueblo of Sandia*, 50 F.3d at 859 (recognizing TCPs as historic properties under Section 106)

¹⁶ U.S. Department of the Interior, National Park Service, “Bulleting 38 - Guidelines for Evaluating and Documenting Traditional Cultural Properties”, at 7 (available at: <https://www.nps.gov/nr/publications/bulletins/pdfs/nrb38.pdf>).



ALL PUEBLO COUNCIL OF GOVERNORS

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As previously discussed in Section 1 of this comment, *supra*, the BLM has insufficient information to be able to fully identify all Pueblos' TCPs.

However, it is not enough to merely ask the APCG's members to identify their TCPs on a map, or expect the Pueblos to be readily able to provide exact pinpoint locations of such cultural resources. Such a request is not enough under the NHPA: "[a] mere request for information is not necessarily sufficient to constitute the 'reasonable effort' section 106 requires." *Pueblo of Sandia*, 50 F.3d at 860. BLM has thus far limited its TCP identification effort here to "mere requests for information," or cursory review of the limited information available to the Monticello Field Office, and not yet completed any field inspections by qualified experts able to identify Pueblo cultural resources. Therefore, BLM has not fully engaged in the Section 106 Process or the independent duty of federal agencies to consult with the Pueblos concerning federal actions that can affect sacred sites and other places of importance.

BLM must heed the lessons of *Pueblo of Sandia*. There, the U.S. Forest Service knew in advance of initiating consultation that the pueblo had identified a specific location as "an area of great religious and traditional importance. . . ." *Pueblo of Sandia*, 50 F.3d at 860 (internal quotations omitted). BLM now finds itself in a similar position as it is aware this area is of importance to different Pueblos and tribes. Prior to this leasing proposal, in the field identification of Pueblo TCPs and eligible historic properties is necessary. BLM must engage with the Pueblos in good faith consultation concerning the identification and evaluation of TCPs in the cultural landscape that underlies the area of the March 2019 lease sale.

C. BLM must account for a cultural landscape encompassing the Bears Ears National Monument, Hovenweep National Monument, and related cultural resources.

BLM must account not only for the Bears Ears National Monument and the Hovenweep National Monument, but also of Ancestral Puebloan archaeological features and other cultural resources that may emanate and connect these locations. BLM should not view the archaeological resources in a vacuum but analyze the cumulative effect to a cultural landscape (or multiple landscapes) connecting the Bears Ears National Monument and Hovenweep National Monument. There is a high likelihood that emanating from and connecting the Bears Ears and Hovenweep National Monuments are shrines, blessing places, pilgrimage trails, other non-archaeological cultural sites, earthworks, dry farming areas, and other road-related features that could be harmed by the leasing and subsequent development of parcels. Some of these cultural resources may be natural resources (with archaeological traces) that may be unrecognizable by archaeologists not trained to identify Pueblo cultural resources or historic properties. Further evaluation by Pueblo cultural experts may identify and evaluate cultural resources to be active cultural resources to the respective Pueblo. Further evaluation may determine a cultural landscape encompassing the Bears Ears National monument and the Hovenweep National Monuments due to their proximity and relation to one another.



ALL PUEBLO COUNCIL OF GOVERNORS

Officers:
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D. BLM must fully assess the potential for adverse effects.

BLM must fully assess the potential for adverse effects on the Bears Ears and Hovenweep National Monuments, and other significant cultural resources in the landscape surrounding and connecting the two. Under Section 106, BLM must “apply the criteria of adverse effect to historic properties within the area of potential effects.” 36 C.F.R. § 800.5(a). Those criteria include “cumulative” effects, as well as effects on “the property’s setting that contribute to its historic significance” and “visual, atmospheric or audible” effects “that diminish the integrity of the property’s significant historic features. . . .” *Id.* § 800.5(a)(1), (a)(2)(iv), (v). BLM has failed to correctly apply these criteria to the proposed lease sale.

i. BLM must fully assess the potential for visual and auditory effects.

BLM must fully evaluate the potential for visual and auditory effects on the Bears Ears National Monument, the Hovenweep National Monument, and other significant cultural resources in the landscape surrounding and connecting the two. These effects are not speculative, as the visual and audio effect of oil and gas development can severely affect Pueblo archaeological and cultural resources.¹⁷ Because many important cultural resources associated with the Bears Ears National Monument and the Hovenweep National Monument were intentionally located to achieve maximum visibility, they are highly susceptible to the visual and auditory impacts of oil and gas development. Consequently, BLM must recognize and fully evaluate the potential for these impacts on these two National Monuments, and associated traditional cultural properties that may exist on or near the propose BLM parcels.

ii. BLM must fully evaluate cumulative effects on Bears Ears National Monument, Hovenweep National Monument, the Alkali Ridge ACEC, and other significant cultural resources in the surrounding landscape.

BLM must also evaluate the cumulative effects of the proposed leases in conjunction with past, present and reasonably foreseeable future activities. Under Section 106, BLM must identify “reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” 36 C.F.R. § 800.5(a)(1). This includes analyzing the effect of existing oil and gas wells, tanks, roads, pipelines, other infrastructure, and undeveloped oil and gas leases upon in the landscape surrounding the Bears Ears National Monument, the Hovenweep National Monument, the Alkali Ridge ACEC, and the immediate region.

3. BLM has failed to comply with its obligations under the 2008 RMP to inventory lands

¹⁷ See e.g., Ruth Van Dyke Ruth Van Dyke, *Impacts of Oil and Gas Drilling on Viewscapes and Soundscapes at the Chaco Outlier of Pierre’s, San Juan County, New Mexico* 15 (Feb. 16, 2017); see also, Ruth an Dyke, Stephen Lekson and Carrie Heitman, *Chaco Landscapes: Data, Theory and management* at 65-66 (“The Chaco soundscape is one of the most fragile aspects of this landscape to be threatened by energy development. Trucks, wells, and fracking could forever destroy our ability to study and understand the relevance of acoustic properties to Chacoan ritual and identity.”).



ALL PUEBLO COUNCIL OF GOVERNORS

Officers:
E. Paul Torres, Chairman
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under Section 110 of the NHPA.

"Section 110" of the NHPA places the responsibility of the BLM for the preservation of historic properties within their ownership or control. 54 U.S.C. § 306101. The agency is further obligated to have a program that includes the "identification, evaluation and nomination" of historic properties to the National Register. 54 U.S.C. § 306102. Here, the BLM has not met its responsibility to proactively survey the area in the years since the RMP was developed. This is concerning given BLM's elevated awareness of the significance of the lands in the leased areas to the tribes which have ancestral ties to the region. The Hopi Tribe expressed major concerns in the March 2018 lease sale, for instance, that tribal cultural resources had not been adequately considered.¹⁸ The Pueblo of Acoma reiterated similar concerns during the December 2018 Lease Sale.¹⁹ APCG in previous comments for the December 2018 Lease Sale has also relayed the same concerns.

The Record of Decision approving the 2008 Monticello Resource Management Plan instructs BLM to "conduct proactive cultural inventories under Section 110 of the National Historic Preservation Act"²⁰. However, in a review of the RMP in 2015 BLM staff noted that:

the RMP does not fully protect significant cultural and paleontological resources through special designations. Likewise, route and travel designations in the RMP fail to address cultural and paleontological needs and protection. *Nomination of the most significant sites to the National Register of Historic Places and additional road inventories in the field office would help remedy these shortfalls.* An updated Class I survey for the Monticello Field Office is in progress.²¹

Despite these suggestions, BLM has failed to comprehensively undertake National Register evaluations. Even worse, it denies the responsibility for doing so. In BLM's response to the National Trust and Friends of Cedar Mesa's protest of the March 2018 lease sale BLM stated in frank terms:

[T]he BLM is not required to consider a request from the public to make districts, landmarks, or other special designations when analyzing impacts from an

¹⁸ In addition to the Hopi Tribe, BLM should initiate consultation with the Pueblo governments, which have previously notified BLM of their interest in the area. As exemplified in APCG Resolution 2018-01, the 20 Pueblo members, maintain a cultural connection and interest to the Bears Ears region, which would be inclusive of related cultural resources extending east to Hovenweep National Monument, Mesa Verde National Monument, etc. It is well understood Hovenweep and the Mesa Verde National Monuments have cultural affiliations to many Pueblos. In addition, a number of different Pueblos have been significantly involved with Department of the Interior agencies such as the BLM MtFO and Manti La Sal National Forest on recent land management plans due to concerns about cultural resources in those regions. The BLM should therefore be on notice that these leases may lie upon a cultural landscape that has not previously been analyzed.

¹⁹ See *supra* fn. 3 (Acoma Protest of December 2018 Lease Sale).

²⁰ BLM Monticello Field Office, "Record of Decision and Approved Resource Management Plan" (Nov. 2008) at 15

²¹ BLM Utah State Office, "Land Use Plan Evaluation Report" (Jul. 7, 2015), at 5 (emphasis added).



ALL PUEBLO COUNCIL OF GOVERNORS

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undertaking.²²

The result is that unless the BLM proactively inventories the cultural resources in its control, the BLM will continue to suffer from a lack of information and potentially cause destruction of unidentified historic properties.

The Pueblo of Acoma's visit to the region of the December 2018 lease sale confirmed to the Pueblo, the richness of the cultural landscape and likelihood of additional unidentified Acoma cultural resources for this area. APCG shares similar concern that upon further inspection, other Pueblos may also identify and evaluate cultural resources in the same region. BLM should pause to adequately inventory the region of the March 2019 Lease Sale in compliance with its duties under Section 110 of the NHPA.

4. Conclusion

The All Pueblo Council of Governors recommends the BLM initiated immediate government-to-government consultation with the 20 Pueblos of APCG regarding this undertaking (#DOI-BLM-UT-Y020-2019-0004-DNA) as mandated upon the BLM by federal law and executive order.²³ The APCG would welcome BLM staff to present information about this undertaking to the 20 Pueblos Governors. However, the BLM should be made well aware that meeting with the APCG is not substitute for individual government-to-government consultation with each of the 20 Pueblos. Further, any consultation is not a one-time meeting, but a continuing dialogue. Therefore the BLM must know that even at this stage of this undertaking consultation may include sample field visits, interviews, and any number of other methods.

The APCG appreciates the opportunity to provide scoping comments. If you have any questions, please feel free to contact us.

Sincerely,

E. Paul Torres
Chairman

²² BLM Utah State Office, "Decision" (May 17 2018), at 11 (available at: https://eplanning.blm.gov/epl-front-office/projects/nepa/82261/145484/179188/2018-05-17_-_FCM_Protest_Response_eSignature.pdf).

²³ See 54 U.S.C. §§ 300101, et seq. (the National Historic Preservation Act); 42 U.S.C. §§4321, et seq. (the National Environmental Policy Act); 42 U.S.C. §§ 21, et seq. (the American Indian Religious Freedom Act); 25 U.S.C. §§ 3001, et seq. (the Native American Grave Repatriation Act); Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"); and Executive Order 13007 ("Indian Sacred Sites").



ALL PUEBLO COUNCIL OF GOVERNORS

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Cc: Senator Tom Udall
Senator Martin Heinrich
Representative Ben Ray Lujan
Representative Elect Debra Haaland
Representative Elect Xochitl Torres Small

Attachments: APCG Resolution 2018-01