



**10-Mile Withdrawal of Federal Lands from New Mineral
Development in Greater Chaco Region
Designed with Navajo Nation and Protects Navajo Interests
June 2023**

The Navajo Nation helped design and advocate for the 10-mile withdrawal initially, and the 10-mile withdrawal would not stop the flow of money Navajo allottees are currently receiving or prevent them from developing on their land.

Navajo Played a Leadership Role in Designing the Withdrawal.

- The Navajo Nation's cultural ties to Chaco Canyon and the Greater Chaco Region guided the government-to-government engagements between Navajo and the Pueblos to seek protections for Chaco.
- Navajo was originally a driving force behind the Chaco withdrawal.
- Dating back to at least 2015, Navajo people living in the Greater Chaco Region and affected by ongoing oil and gas development requested Navajo leadership address the issue.¹ Navajo leadership informed the Department of the Interior of these concerns.²
- In 2017, tribal leaders representing Navajo and the Pueblos came together government-to-government to strategize, and joint withdrawal efforts were born from those discussions.³ Navajo and Pueblo leadership agreed to advocate for withdrawal of federal land and minerals from new mineral leasing and development in the especially critical 10-mile withdrawal area surrounding the Chaco Culture National Historical Park and including its outliers, and they further agreed to preserve the rights of Navajo and allottees to develop on their land even within this withdrawal area.
- Navajo and the Pueblos worked with their congressional representatives to craft these protections into legislation. Thereafter, Navajo and the Pueblos together supported the Chaco Cultural Heritage Area Protection Act of 2018, S. 2907,⁴ and Navajo again supported its

¹ For example, the Counselor Chapter, Ojo Encino Chapter, Dilkon Chapter, Torreon/Star Lake Chapter, and Diné Medicine Men's Association, Inc. passed resolutions in 2015; the Tri-Chapters of the Eastern Agency wrote to the Resources and Development Committee in 2016, and in a memorandum from Lorenzo C. Bates, Speaker of the 23rd Navajo Nation Council, the Navajo Resources and Development Committee responded to the concerns of the Tri-Chapters, and the Counselor Chapter in 2016 initiated the Hózhóogó na'adá assessment model and process.

² Letter from Russell Begaye, President, Navajo Nation, and Jonathan Nez, Vice President, Navajo Nation, to Bureau of Land Mgmt., Dep't of Interior, re Concerns Regarding Chaco Canyon Cultural Historic Park (Feb. 6, 2017).

³ See [Press Release](#), Navajo Nation, OPVP Protect Chaco Canyon Region Through Collaboration with All Pueblo Council of Governors (Feb. 24, 2017).

⁴ See, e.g., *Chaco Cultural Protection Act of 2018: Hearing on S. 2907 Before the Comm. on Energy and Natural Res. On Pub. Lands, Forests, and Mining* (Aug. 22, 2018) (written testimony of [Russell Begaye](#), President, Navajo Nation); *Chaco Cultural Protection Act of 2018: Hearing on S. 2907 Before the Comm. on Energy and Natural Res. On Pub. Lands, Forests, and Mining* (Aug. 22, 2018) (written testimony of E. Paul [Torres](#), Chairman, All Pueblo Council of Governors).



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Acoma reintroduction as the Chaco Cultural Heritage Area Protection Act of 2019, S. 1079 and H.R. 2181.⁵ The Act passed the House in 2019.

Cochiti

Navajo Changed Its Position.

- Isleta - Navajo thereafter began to change its position on the withdrawal, and Navajo did not participate in support surrounding reintroduction of the Chaco Cultural Heritage Area Protection Act of 2022, S.5124 and H.R. 9344, or the Chaco Cultural Heritage Area Protection Act of 2023, S.1404 and H.R. 3062.
- Jemez - The Navajo Council took up Navajo legislation in 2019 to oppose the 10-mile withdrawal and instead recommend a 5-mile withdrawal.⁶ In 2023, the Navajo Council took up legislation to change its position again, this time opposing any withdrawal.⁷
- Laguna - When the Navajo Council was initially considering legislation to oppose the 10-mile withdrawal, its description of the effects of the withdrawal did not reflect the facts, and the Pueblos submitted comments on the record attempting to correct misunderstandings.⁸ The Pueblos also regularly asked Navajo leadership to meet government-to-government in an attempt to correct misunderstandings.⁹ For the first time in three years, Navajo accepted the invitation, and a delegation of Pueblo leaders was able to present the facts in this briefing paper directly to Navajo leaders in a May 2023 meeting.
- Nambe - Although Navajo leadership has now stepped away from its government-to-government agreement with the Pueblos and reversed its position, many within Navajo maintain support
- Ohkay Owingeh
- Picuris
- Pojoaque
- Sandia

San Felipe

San Ildefonso

Santa Ana

Santa Clara

Santo Domingo

Taos

Tesuque

Ysleta del Sur

Zia

Zuni

⁵ See, e.g., *Chaco Cultural Heritage Area Protection Act of 2019: Hearing on H.R. 2181 Before the Subcomm. on Nat'l Parks, Forests, and Pub. Lands of the H. Comm. on Nat. Res.* (June 5, 2019) (written testimony of Myron [Lizer](#), Vice President, Navajo Nation); *Oil and Gas Development: Impacts on Air Pollution and Sacred Sites: Field Hearing Before the Subcomm. on Energy & Min. Res. of the*

H. Comm. on Nat. Res. (Apr. 15, 2019) (statement of Myron [Lizer](#), Vice President, Navajo Nation); *Oil and Gas Development: Impacts on Air Pollution and Sacred Sites: Field Hearing Before the Subcomm. on Energy & Min. Res. of the H. Comm. on Nat. Res.* (Apr. 15, 2019) (statement of Rickie [Nez](#), Navajo Nation Council Delegate and Chair of 24th Navajo Nation Council Resources and Development Committee, Navajo Nation) (noting cultural importance of Chaco and need to protect air quality for cultural and health purposes); see also Felicia [Fonseca](#), *Tribes Urge US to Ban Drilling Around Sacred New Mexico Site*, NAVAJO-HOPI OBSERVER (Mar. 26, 2019).

⁶ Navajo Nation, Legislation No. [0366-19](#) (Nov. 27, 2019).

⁷ Navajo Nation, Legislation No. [0076-23](#) (April 14, 2023).

⁸ Comments from E. Paul Torres, Chairman, All Pueblo Council of Governors, to Seth Damon, Speaker, Navajo Nation, and Executive Director, Office of Legislative Services, Navajo Nation (Dec. 11, 2019) (commenting on Navajo legislation opposing 10-mile withdrawal in Chaco Cultural Heritage Area Protection Act).

⁹ See, e.g., Letter from Mark Mitchell, Chairman, All Pueblo Council of Governors, to Buu Nygren, President, Navajo Nation, and Crystalyn Curley, Speaker, Navajo Nation (Mar. 14, 2023) (requesting meeting to discuss renewed partnership to protect cultural resources); Letter from Mark Mitchell, Chairman, All Pueblo Council of Governors, to Jonathan Nez, President, Navajo Nation (Feb. 10, 2022) (requesting meeting and access to Navajo land for Tribally-led cultural resource study); Letter from Wilfred Herrera Jr., Chairman, All Pueblo Council of Governors, to Jonathan Nez, President, Navajo Nation, and Seth Damon, Speaker, Navajo Nation (Apr. 15, 2021) (requesting meeting to discuss continued partnership to protect Greater Chaco Region); Letter from J. Michael Chavarria, Chairman, All Pueblo Council of Governors, to Jonathan Nez, President, Navajo Nation, and Seth Damon, Speaker, Navajo Nation (Jan. 30, 2020) (same).



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Acoma

for a withdrawal. For example, a recent Navajo Council Delegate said tribal communities near the withdrawal area face the consequences of the development of fossil fuels while experiencing few benefits.¹⁰ Representatives from the Counselor Chapter discussed ongoing concerns with Harvard for its study on the effects of oil and gas development on local Navajo residents' health during the COVID-19 pandemic.¹¹ And many non-governmental organizations with Navajo members continue to ardently oppose development, including, for example, through the Honoring Chaco Initiative and through litigation challenging individual mineral development approvals.¹²

Cochiti

Isleta

Jemez

Laguna

The Withdrawal Protects Navajo and Allottee Development Rights.

Nambe

- The Chaco Cultural Heritage Area Protection Act, the first place in which the withdrawal was articulated and which Navajo helped design, is designed to protect Navajo and Navajo allottee development rights.

Ohkay Owingeh

- The only land withdrawn from mineral development is federal land located within the boundaries of the withdrawal area and not subject to valid existing rights. Sec. 4(a); *see also* Sec. 3(2).¹³ This means that, in order for the withdrawal under the Act to apply, the land at issue must satisfy all of the following: be federal; be within the specific delineated withdrawal area; have no current mineral development; and be under consideration for new mineral development.

Picuris

Pojoaque

Sandia

- Private, state,¹⁴ tribal, and allotment lands are not federal land withdrawn under the Act. When the Act was reintroduced in 2019, language was added to make explicitly clear that trust land, which is defined to include allotments, does not qualify as federal land under the Act. Sec. 3(2)(B).

San Felipe

San Ildefonso

- In order to provide maximum peace of mind, the Act goes one step further to explicitly preserve allottees' rights to develop minerals on their land, stating nothing in the Act affects the mineral rights of tribes or their members to trust land or allotment land. Sec. 4(e)(1). In 2022, this provision was amended to specifically refer to Navajo allottee rights.

Santa Ana

Santa Clara

- Also added in 2019 is a provision ensuring allottees are able to access their land for development, stating the Act does not preclude improvements to, or rights-of-way for, water, power, or road development on or in the vicinity of withdrawn federal land to assist communities adjacent to those lands. Sec. 4(e)(2). In 2022, this list was expanded to include utilities.

Santo Domingo

Taos

Tesuque

¹⁰ Hannah [Grover](#), *Environmental assessment shows Chaco mineral leasing mineral moratorium would impact few Navajo allottees*, NM POL. REP. (Nov. 17, 2022).

¹¹ Kendra [Chamberlain](#), *For Greater Chaco communities, air pollution compounds COVID-19 Threat*, NM POL. REP. (Apr. 15, 2020).

¹² *See, e.g.,* [Dine C.A.R.E.](#); [NDN Collective](#); [Red Nation](#).

¹³ The citations to bill provisions in this section refer to the Chaco Cultural Heritage Area Protection Act of 2023, S.1404 and H.R. 3062.

¹⁴ The State of New Mexico in 2019 already withdrew New Mexico State trust land from mineral development within the 10-mile withdrawal area. Exec. Order No. 2019-002, [Moratorium](#) on New Oil and Gas and Mineral Leasing in Greater Chaco Area, N.M. Comm'r of Pub. Lands (Apr. 27, 2019).

Ysleta del Sur

Zia

Zuni



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- Acoma - When the Act was reintroduced in 2019, it took the additional step of allowing Navajo to receive federal land within the withdrawal area from the federal government after the Act is enacted into law. Sec. 4(c).
- Cochiti - Also added in 2022, the Act now explicitly recognizes Navajo's ties to the Greater Chaco Region. Sec. 2(7)(A), (11)(B), (13), (14).
- Isleta - The Department of the Interior's administrative withdrawal, carried out under its existing authorities in the Federal Land Policy and Management Act, is designed to accomplish the same withdrawal but for a shorter, 20-year period—only withdrawing public lands, not withdrawing any Navajo or allottee land, and not stopping any ongoing mineral development already taking place even on public lands otherwise withdrawn.¹⁵
- Jemez
- Laguna
- Nambe

Limited Indirect Effects on Navajo Allottees.

- Ohkay Owingeh - Stated concerns regarding withdrawal of surrounding federal land isolating or land-locking allotment parcels and thereby making them less attractive to developers for new development have largely been dispelled.
- Picuris - Examining a detailed land ownership map of the withdrawal area,¹⁶ almost all allotments located in the withdrawal area abut non-federal land that would not be withdrawn or abut federal land with ongoing development that would not be stopped by the withdrawal, and further most allotments fall outside the area where oil and gas resources are likely to be developed based on the Department's projections of reasonably foreseeable development.
- Pojoaque
- Sandia - The Department's Environmental Assessment on the effects of the withdrawal found very minimal impact, concluding: "Overall, 50, or just over 4 percent, of the unleased 1,165 allotments analyzed may see a high or moderate impact on future leaseability. An additional 36 unleased allotments (approximately 3 percent) may see low, but real, impacts on future leaseability. The proposed withdrawal will likely not adversely affect the vast majority (over 92 percent) with respect to real leaseability."¹⁷
- San Felipe
- San Ildefonso
- Santa Ana

Maintenance of Current Status Quo.

- Santa Clara - The withdrawal only makes more permanent the development rules that have been in place for years, and the withdrawal does not stop any development that is ongoing now.
- Santo Domingo - Dating back to at least the Obama Administration, an informal pause was put in place to prevent new oil and gas leasing and development on federal land in the 10-mile withdrawal area.
- Taos

Tesuque ¹⁵ [Public Land Order](#), 88 Fed. Reg. 37266 (June 7, 2023); [Press Release](#), Dep't of Interior, Biden-Harris Administration Protects Chaco Region, Tribal Cultural Sites from Development (June 2, 2023); *see also* [Notice of Proposed Withdrawal](#), 87 Fed. Reg. 785 (Jan. 6, 2022).

Ysleta del Sur ¹⁶ Bureau of Land Mgmt., Dep't of Interior, Prepared at Request of Senator Tom Udall, Proposed Chaco Cultural Heritage Withdrawal Area and Current Development and Mancos Reasonable Foreseeable Development (Nov. 27, 2019) (Attachment); *see also* PROPOSED CHACO AREA WITHDRAWAL [ENVIRONMENTAL ASSESSMENT](#), BUREAU OF LAND MGMT., DEP'T OF INTERIOR, Ch.1, § 1.1, 1-3-1-4 (Nov. 2022) [hereinafter *Withdrawal EA*].

Zuni ¹⁷ [Withdrawal EA](#) at Ch.4, § 4.4.2, 4-19.



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- Acoma - After a brief but worrisome period of reversal that required significant tribal and other advocacy, the Trump Administration also put in place a similar pause and ultimately did not approve new mineral development on federal land in the withdrawal area.¹⁸
- Cochiti - Since December of 2019, Congress through appropriations legislation has also **maintained a moratorium** preventing new oil and gas leasing and development on federal land in the withdrawal area.¹⁹
- Isleta
- Jemez - When the Department announced that it would consider its administrative withdrawal, it segregated the federal land for two years while it considered whether to complete the withdrawal.²⁰
- Laguna

Tribal Consultation with Navajo.

- Nambe - Navajo has not only had a seat at the table from the beginning, but Congress and the Department have sought Navajo's input throughout the withdrawal process.
- Ohkay Owingeh - The Act has been the subject of multiple congressional hearings, including a field hearing.²¹ Members of the New Mexico congressional delegation have also met with Navajo separately on this issue.
- Picuris - The Department has consulted with Navajo through tribal consultations and public meetings on its administrative withdrawal.²² It has also invited Navajo to participate in the collaborative Honoring Chaco Initiative, designed to explore ways the Department can manage existing energy development, honor sensitive areas important to tribes, and build collaborative management frameworks toward a sustainable economic future.²³ Leadership within the Department has also met with Navajo separately on the withdrawal issue.
- Pojoaque
- Sandia
- San Felipe

¹⁸ See [Press Release](#), Sen. Martin Heinrich, Heinrich Secures Commitments from Interior Secretary to Protect Chaco Canyon (May 28, 2019).

¹⁹ Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 428 (2022) (“None of the funds made available by this Act may be used to accept a nomination for oil and gas leasing under 43 CFR 3120.3 et seq., or to offer for oil and gas leasing, any Federal lands within the withdrawal area identified on the map of the Chaco Culture National Historical Park prepared by the Bureau of Land Management and dated April 2, 2019, prior to the completion of the cultural resources investigation identified in the explanatory statement described in section 4 in the matter preceding division A of the Consolidated Appropriations Act, 2021 (Public Law 116– 260).”); Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, § 428 (2022); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 430 (2020); Further Consolidated Appropriations Act, 2020, Pub L. No. 116-94, § 442 (2019).

²⁰ [Notice](#) of Proposed Withdrawal, 87 Fed. Reg. 785 (Jan. 6, 2022).

²¹ See, e.g., [Transcript](#), H. Comm. on Nat. Res., Chair Grijalva Announces April 15 Field Hearing in New Mexico on Air Quality, Sacred Sites Impacts of Oil and Gas Development (Apr. 15, 2019).

²² The Department held in-person public meetings on February 23, 2022, and a virtual public meeting on February 24, 2022, as well as accepting written comments. [Notice](#) of Proposed Withdrawal, 87 Fed. Reg. 785 (Jan. 6, 2022). At the urging of tribes, the Department [announced](#) that it scheduled additional public meetings and tribal consultations for April 27 and 29, 2022, at which it accepted oral comments, and it also extended the public commenting period for written comments to May 6, 2022. The Department released its National Environmental Policy Act Environmental Assessment for the administrative withdrawal on November 10, 2022, and accepted comments at in-person public meetings held on November 14-15, 2022, as well as written comments through December 10, 2022. [Press Release](#), Bureau of Land Mgmt., Dep’t of Interior (Nov. 10, 2022).

²³ [Press Release](#), Dep’t of Interior, Secretary Haaland Announces Steps to Establish Protections for Culturally



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- The Department has consulted with Navajo through tribal consultations and public meetings on its administrative withdrawal. It has also invited Navajo to participate in the collaborative Honoring Chaco Initiative, designed to explore ways the Department can manage existing energy development, honor sensitive areas important to tribes, and build collaborative management frameworks toward a sustainable economic future. Leadership within the Department has also met with Navajo separately on the withdrawal issue.

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Significant Chaco Canyon Landscape (Nov. 15, 2021). The Department has thus far held a number of stakeholder, technical expert, and tribal meetings that have resulted in an August 30, 2022 Phase I: Situation Assessment and November 23, 2022 Phase I [Final Report](#).