

House Natural Resources Committee
Subcommittee on Energy and Mineral Resources
July 13th, 2023
Written Testimony on H.R. 4374 - “Energy Opportunities for All Act”

Mario P. Atencio, Vice-President of Torreon/Starlake Chapter of the Navajo Nation Government

Good afternoon Chair Stauber, Ranking Member Ocasio-Cortez, and members of the subcommittee. My name is Mario Atencio and I am a citizen of the Navajo Nation. I serve as the Vice-President of the Torreon/Star Lake Chapter in Northwestern New Mexico, which is in the Greater Chaco Landscape. Chapters are the local unit Navajo Nation Government. My family owns an Indian Allotment in the heart of this landscape, just on the edge of the 10-mile administrative withdrawal of federal lands recently implemented by Secretary Haaland.

I appreciate the opportunity to testify today in opposition to House Resolution 4374, and in strong support of Secretary Haaland’s actions to protect the Greater Chaco Landscape through the Honoring Chaco Initiative, of which the 10-mile mineral withdrawal is a crucial first step.

I. Harms of Oil and Gas Extraction

My family and I have deep spiritual and cultural connections to the lands surrounding our home. But over the years, especially in the last decade with the introduction of industrialized fracking, we have seen our lands and environment become deeply degraded by oil and gas pollution. There are nearly *40,000 wells* across the Greater Chaco Landscape. The vast majority of federal lands are already leased for extraction. Our family lands in Torreon and Counselor are surrounded by fracking sites, pipelines, and other oil and gas infrastructure. The roads have been torn up by oil and gas traffic. During inclement weather, poor road conditions often prevent community members from traveling safely to school, work, and medical appointments. The air quality has become hazardous, smelly, and difficult to bear, and in some areas pollution levels exceed federal air quality standards.¹ Vegetation, animals, and medicinal plants are disappearing. I worry about how these changes are cumulatively affecting the health and wellbeing of my family and my community, especially the young, the elderly, and the most vulnerable among us.

A study published by the Counselor Health Impact Assessment - K’é Bee Hózhqogo Iiná Silá Committee and approved by the Navajo Nation Human Research Review Board found that Navajo residents in Counselor Chapter are exposed to dangerous levels of hazardous air pollutants, and that almost all residents surveyed reported health symptoms consistent with exposure to oil and gas pollution. For example, over 90% of residents suffer from a sore throat and sinus problems, while 80% reported coughs, headaches, itching or burning eyes, joint pain,

¹Tsosie D, Benally H, Seamster T, et al. 2021. “A Cultural Spiritual and Health Impact Assessment of Oil Drilling Operations in the Navajo Nation Area of Counselor, Torreon and Ojo Encino chapters”. July 15, 2021. Available at: <http://nmhep.org/wpcontent/uploads/FINAL-HIA-KBHIS-06-52-2021-00-copy1.pdf>; American Lung Association. 2023. “Report Card: New Mexico”. <https://www.lung.org/research/sota/city-rankings/states/new-mexico>

fatigue, and sleep disturbance.² As Diné people, we are tied to these lands. For many of us there is no option to “move away” from the pollution, because that would entail an unbearable loss of cultural identity, and would disrupt our ability to pass on cultural traditions to future generations.

My family and many members of our community practice traditional cultural and spiritual ways that reference significant sacred sites in our homelands of Dinétah, within the Greater Chaco Landscape. We make pilgrimages that consist of traditional offerings and prayers to sacred mountains and sites in Dinétah. These areas are known to have historically supported medicinal plants and ceremonial herbs that today are threatened by oil and gas drilling. Medicine People and elders in my community have noted the gradual disappearance of these plants, as well as the degradation of the air and important lines of sight across the landscape. Oil and gas pollution and the destruction of sacred places in the Greater Chaco Landscape directly harms my and my relatives’ ways of life, including our holistic wellness and our ability to continue our spiritual and cultural lifeways as Diné people. The visual, olfactory, and auditory disturbances caused by oil and gas extraction - including pipeline and road construction, traffic, ground disturbance, air pollution, and the physical presence of oil and gas infrastructure on the landscape - cumulatively alter the experience of being in my homelands and negatively affect my and my family’s connection to place, culture, and tradition.

In February 2019, my family’s allotment land and water in Counselor was contaminated by a massive 42,000-gallon toxic liquid waste and 12,500-gallon crude oil spill at a fracking site operated by Enduring Resources.³ Neither my family nor our Chapter community were notified of this spill by state or federal agencies or by Enduring. We were never made whole after our land, water, and livestock were poisoned by this toxic spill.

Toxic spills like the one that devastated my family’s land in 2019 happen at an average of 4 times per day in New Mexico.⁴ These incidents illustrate why actions to protect land and people from oil and gas pollution, like Secretary Haaland’s Public Land Order 7293, are critical. The administrative withdrawal is a step towards ensuring the integrity of numerous sacred sites and places, and towards protecting the health and wellbeing of communities living on the frontlines of extraction.

It is crucial to understand that Diné citizens of the Greater Chaco region have been voicing concerns about the impacts of oil and gas extraction for decades. Secretary Haaland’s historic Honoring Chaco Initiative is the outcome of longstanding advocacy from Tribes, Pueblos, Navajo Chapters, impacted community members, and allied groups to protect this cherished place. These efforts have deep roots. The most recent wave of advocacy began in response to the introduction of multi-stage, high-pressure, high-volume hydraulic fracturing (fracking) in the Greater Chaco Landscape. To provide further context for my support of the 10-mile mineral

² Tsosie et al. 2021; Atencio et al. 2022. Federal Statutes and Environmental Justice in the Navajo Nation: The Case of Fracking in the Greater Chaco Region. *American Journal of Public Health*. 112, 116_123, <https://doi.org/10.2105/AJPH.2021.306562>

³ See *Atencio et al. v State of New Mexico et al.*, D-101-CV-2023-01038, (N.M. May 10, 2023); lte Environmental, inc. “Report of Final Sampling & Closure Request: neu 315, Release Response api 30-043-21888, NMOCD Incident ncs1905249442, Sandoval County, New Mexico.” 077919003. Prepared for Enduring Resources, 2019.

⁴ See New Mexico Oil Conservation Division data or Center for Western Priorities. “2022 New Mexico Spills”. Available at <https://westernpriorities.org/resource/2022-new-mexico-spills/>

withdrawal, I will briefly review the history of Tribal engagement to protect the landscape from fracking under the federal oil and gas program, at the individual level, the level of Chapter House Government, and at the government-to-government consultation level.

II. History of Inter-Tribal Advocacy in Support of Greater Chaco Protections

Dinétah, in the heart of the Greater Chaco Landscape, is the place of emergence of the Diné people. Diné people have lived in Dinétah since time immemorial, caring for the land as instructed by the Holy People. After Diné people were forcibly removed from our lands and imprisoned by the U.S. government from 1863-1868, we returned to a newly established Treaty reservation. Years later, the lands in Dinétah became Navajo Trust Land and part of the Navajo Reservation as it was extended through President Roosevelt's Executive Orders 709 and 744. However, through subsequent Executive Orders and processes of Indian allotment, homesteading, railroading grants, and New Mexico statehood, our Diné homelands were taken away again and out of trust status, transforming this region into a "checkerboard" of land statuses, including federal, state, private, tribal trust, and tribal allotment land.⁵

The Navajo Nation Council was first established by the U.S. government in 1923 for the purpose of approving oil leases in the Greater Chaco region after oil was discovered there in 1921.⁶ Before the imposition of the United States, the traditional government was mostly local and based on kinship. Today, the basic unit of local government in the Navajo Nation is the Chapter, each with its own Chapter House. The Chapter system was created in 1922, and there are currently 110 local chapters, each of which is able to meet in their respective Chapter House to express concerns to their Navajo Nation Council Delegate. The legislative branch of Diné government, the Tribal Council, consists of 24 Delegates, who represent the 110 Chapters. The Office of the President was created in 1991. Despite what opponents of the withdrawal might argue, the Navajo Nation government structure is multifaceted and the executive office is not the only expression of Diné community power and opinion. My Chapter, Torreon/Star Lake, is directly in the zone impacted by oil and gas development. It is with that lens that I explain the decade of support for Greater Chaco protections.

The current Bureau of Land Management (BLM) Resource Management Plan (RMP) for the Farmington Field Office in the Greater Chaco Landscape was finalized in 2003.⁷ A Resource Management Plan is the federal land management blueprint for a particular region, and the 2003 Farmington Field Office RMP covered a large part of the Greater Chaco Region. The 2003 RMP foresaw the potential for up to 10,000 new wells, but explicitly stated that fracking was not a technologically or economically viable option for the region. However, by 2010, the first

⁵ Redhouse, John. 1984. *The Leasing of Dinétah: An Eastern Navajo Odyssey*. Roots of Navajo Relocation Series. Albuquerque, New Mexico: Redhouse/Wright Productions; See Navajo Nation Council resolutions CJY-66-97 (1997), CMY-23-88 (1988) CAP-11-11 (2011), CO-47-12 (2012), and ENLC Resolution ENLCF-01-10 (2010); Grant, Silas. 2022. "Chess or Checkers? Fracking in Greater Chaco". In Rensink, Brenden (Ed). *The North American West in the Twenty-First Century*. University of Nebraska Press.

⁶ Chamberlain, Kathleen. 2000. *Under Sacred Ground: A History of Navajo Oil, 1922-1982*. Albuquerque, New Mexico: University of New Mexico Press.

⁷ The most recent RMP for the Rio Puerco Field Office, south of the Farmington Field Office and also part of the Greater Chaco Landscape, is from 1992. It does not account for *any* oil and gas activity.

horizontally fracked well was drilled in the Farmington Field Office to extract oil from the Mancos shale. The Mancos shale is richest in oil in and around Diné communities living near Chaco Culture National Historical Park. Soon, hundreds more wells were drilled. As fracking encroached across the landscape, our Eastern Diné communities were devastated by what former Navajo Nation Council Delegate Daniel Tso aptly describes as a “tsunami of fracking”.

In 2013, the Eastern Navajo Agency Council, which is made up of thirty-one Navajo Chapters, passed a resolution calling for a moratorium on new fracking activities within Eastern Navajo Agency, because the BLM had yet to analyze and disclose the impacts of fracking in the area.⁸

In 2014, the BLM admitted it had failed to fully analyze or address the impacts of fracking in its 2003 RMP, and said it would prepare Resource Management Plan Amendment and Environmental Impact Statement (RMPA-EIS) to analyze new oil and gas activities in the area.⁹ The Bureau of Indian Affairs joined BLM as a co-leading agency in the RMPA-EIS process in 2016. To this day, nearly ten years later, the RMPA-EIS has not been finalized, but BLM has continued to approve new fracking across the landscape.

Beginning in 2015, the Navajo Nation Chapters of Counselor, Ojo Encino, and Torreon/Star-Lake, and other Chapters in Eastern Navajo Agency, passed numerous resolutions attesting that federal agencies have failed to consult with local Diné communities about oil and gas extraction, and have demanded a moratorium on new development until BLM and BIA complete and finalize the Mancos-Gallup RMPA-EIS. These Chapters have further submitted comments and protests in response to multiple BLM oil and gas lease sales that would affect their lands.¹⁰

Also in 2015, the All Pueblo Council of Governors, which is a Pueblo leadership organization and political entity composed of 20 Pueblo Governors of the sovereign Pueblo Nations of New Mexico and Texas, passed a resolution supporting the protection of Chaco Canyon and all traditional cultural properties and sacred sites affiliated with Chaco Canyon.

In 2016, the Diné Medicine Man Association and the Diné Hataalii Association, a nonprofit organization comprised of over 200 Diné medicine men and women from across the Navajo Reservation that exists to protect, preserve, and promote the Diné cultural wisdom, spiritual practice, and ceremonial knowledge for present and future generations, passed resolutions affirming the importance of the Greater Chaco region, where Diné communities were negatively impacted by hydraulic fracturing, and requesting an inter-agency field hearing to investigate these impacts. Both bodies also called for United Nations observers to come to Dinétah to record violations of the rights of Indigenous peoples caused by fracking in the region.¹¹

In December 2016, the Eastern Navajo Agency Council, representing all 31 Chapters in Eastern Navajo Agency, passed a resolution “in opposition to further approvals of federal fluid mineral

⁸ Resolution No. ENAC 12-2013-03.

⁹ Federal Register, Vol.79, No. 37, Tuesday, February 25, 2014; Federal Register, Vol. 81, No. 204. Friday October 21, 2016.

¹⁰ See for example the Resolution of Torreon Star Lake Chapter passed on March 9, 2015; Counselor Chapter Resolution passed on March 10, 2015; and Ojo Encino Chapter Resolution 03-09-15/002 passed on March 9, 2015.

¹¹ See OLC-7-01. <http://www.dineresourcesandinfocenter.org/wp-content/uploads/2017/02/0025-17.pdf>

leases, federal oil/gas related projects, and related environmental analysis approvals by Bureau of Land Management within or impacting Navajo Nation Eastern Agency areas and communities”.¹²

In February 2017, Navajo Nation President Russell Begaye and Vice President Johnathan Nez wrote to the BLM Farmington Field Office requesting that BLM “place a moratorium on fracking-related activities such as multi-stage hydraulic fracturing and horizontal drilling and lease sales and permit approvals in the Mancos Shale/Gallup formation in the greater Chaco area until such as time as the amendment to the resource management plan is completed and an environmental impact statement is finalized”. This request was made out of concern that increased drilling was “interrupting the daily lives of Navajo people who live in the Navajo Nation Chapters such as Counselor, Nageezi, Torreon and Ojo Encino”.¹³

Days later, the All Pueblo Council of Governors and Navajo Nation President and Vice President held a historic meeting in which they issued a joint statement opposing horizontal fracking in the Greater Chaco region.¹⁴

Shortly thereafter, in 2017, the National Congress of American Indians passed a resolution supporting a moratorium on leasing and drilling in the region.¹⁵

Throughout 2018, Navajo Nation Chapters in the Greater Chaco region and Pueblo governments continued to protest BLM oil and gas lease sales. In March of 2018, then Interior Secretary Zinke deferred an oil and gas lease sale in the Greater Chaco landscape in response to protests from Tribes, Pueblos, and advocates. Zinke cited the need to further analyze over 5,000 cultural sites in the leasing area, underscoring the irreplaceable value of the landscape.¹⁶

In February 2019, Counselor Chapter passed a resolution supporting federal legislation that would withdraw federal minerals from future oil and gas leasing within 10-miles of Chaco Culture National Historical Park.¹⁷

In March 2019, the All Pueblo Council of Governors and the Navajo Nation Office of the President and Vice President held a second historic summit to support protections for the Greater Chaco Landscape, where the sovereign governments announced their support of the Chaco

¹² Eastern Navajo Agency Council BLM Resolution. Resolution No. ENAC 12-2016-03. Attached.

¹³ Begaye, Russel, and Jonathan Nez. 2017. “Re: Concerns Regarding Chaco Canyon Cultural Historic Park,” February 6, 2017. <https://www.sanjuancitizens.org/wp-content/uploads/2017/03/NN-Moratorium-request-2017-02-23-.pdf>

¹⁴ Navajo-Hopi Observer. 2017. “Fracking and drilling near Chaco Canyon challenged by Begaye, Nez”. *Navajo-Hopi Observer*. February 28, 2017. Accessed July 8, 2023. <https://www.nhnews.com/news/2017/feb/28/fracking-and-drilling-near-chaco-canyon-challenged/>

¹⁵Riley, Kurt, 2017, “To Support Moratorium on Leasing and Permitting In Greater Chaco Region.” Resolution, Cultural Protection & NAGPRA, Milwaukee: National Congress of American Indians, <http://www.ncai.org/resources/resolutions/to-support-moratorium-on-leasing-and-permitting-in-greater-chacoregion>

¹⁶United States Bureau of Land Management, 2018, “BLM Defers Oil and Gas Lease Sale in New Mexico,” March 2, <https://www.blm.gov/press-release/blm-defers-oil-and-gas-lease-sale-parcels-new-mexico>.

¹⁷ Resolution of Counselor Chapter, #COUN-2019-02-001. Attached.

Cultural Heritage Area Protection Act, which would withdrawal federal minerals from future leasing within approximately 10 miles of Chaco Culture National Historical Park.¹⁸

A month later, in April 2019, the House Natural Resources Committee Subcommittee on Energy and Mineral Resources held an Oversight Field Hearing on “Oil and Gas Development: Impacts on Air Pollution and Sacred Sites” during which I joined members of the Committee on a visit to Chaco Culture National Historical Park and a tour of nearby oil and gas sites. The following day, the Committee heard testimony from Navajo Nation Vice President Myron Lizer in support of withdrawing federal minerals within 10-miles of Chaco Park “to support the continuance of our cultural practices vital to our present identity”.¹⁹ The Committee also heard support for the mineral withdrawal from several other distinguished witnesses.

In a joint effort between the New Mexico State Land Office, Pueblos, Tribes, and local communities, the State of New Mexico Commissioner of Public Lands issued Executive Order 2019-002 “Moratorium on New Oil and Gas Mineral Leasing in the Greater Chaco Area”. Signed on April 27, 2019, this action placed a moratorium on new oil and gas leasing on state trust lands within the same area as the federal 10-mile mineral withdrawal.²⁰

In May of 2019, then Interior Secretary Bernhardt committed to defer for one year any new oil and gas leasing within 10-miles of Chaco Culture National Historical Park during a visit to the Park with Senator Martin Heinrich.²¹ This de facto moratorium on new federal leasing within 10-miles of the Park has remained in place and was recently codified through Public Land Order 7923.

In December 2019, Torreon/StarLake Chapter passed a resolution supporting a 10-mile administrative withdrawal of federal lands from future mineral leasing surrounding Chaco Culture National Historical Park.²²

In response to requests from Tribes and Pueblos, the Fiscal Year 2020 Interior, Environment, and Related Agencies Appropriations Bill included a \$1 million appropriation to fund an ethnographic study for Tribes to identify culturally important sites within the Greater Chaco

¹⁸All Pueblo Council of Governors, 2019, “Tribal Leaders Host Historic Summit to Support the Protection of the Greater Chaco Landscape,”<https://www.apcg.org/uncategorized/historic-joint-convening-between-the-all-pueblo-council-of-governors-and-navajo-nation-2019/>.

¹⁹ Lizer, Myron. 2019. Testimony of Navajo Nation Vice President Myron Lizer for the U.S. House Committee on Natural Resources Field Hearing on, “Oil and Gas Development: Impacts on Air Pollution and Sacred Sites.” Santa Fe. <https://www.congress.gov/event/116th-congress/house-event/LC63888/text?s=1&r=21410>

²⁰ New Mexico State Land Office Executive Order No.2019-002, “Moratorium on New Oil and Gas and Mineral Leasing in Greater Chaco Area”, April 27, 2019. https://www.nmstatelands.org/wp-content/uploads/2019/06/SLO_EO-2019-002.pdf

²¹Streater, Scott. 2019. “Bernhardt Commits to Leasing Moratorium Near Chaco Canyon”. *E&E News*. <https://www.heinrich.senate.gov/newsroom/in-the-news/bernhardt-commits-to-leasing-moratorium-near-chaco-canyon>

²² TSL #12/2019-35, passed December 8, 2019. Attached.

Landscape.²³ This money was allocated by Congress to the Chaco Heritage Tribal Association (CHTA), comprising Pueblos of Acoma, Jemez, Laguna, and Zuni, and the Hopi Tribe, with support from the Pueblos of San Felipe, Santa Clara, Tesuque, and Zia and the blessing of the All Pueblo Council of Governors; and to the Navajo Nation. In FY21 additional funds were appropriated in the omnibus spending bill to allow both the Navajo Nation and the CHTA to complete their work. CHTA was allocated an additional \$600,000.²⁴

The Navajo Nation’s ethnographic report was completed in September 2022. Volume II, “Navajo Religion and Chaco Canyon: An Ethnographic Report Based on Hataalii Interviews” finds that for Navajo people “Chaco Canyon is where all the ceremonies came together” (38). As the report describes, Hataalii, or Navajo ceremonialists, are the “primary knowledge-keepers of the history and practice of ceremonies and sacred places” (43). The Hataalii interviewed impart the immense significance of the Chaco area for Navajo people. The Greater Chaco region is, according to the Hataalii, an area worthy of protection.

In 2021, during the Biden-Harris administration’s first White House Tribal Nations Summit, President Joe Biden and Interior Secretary Deb Haaland announced steps to protect Chaco Canyon and the greater connected landscape by initiating the process for a 20-year moratorium on new oil and gas leasing on federal lands within a 10-miles of Chaco Culture National Historical Park.²⁵ The Secretary also announced the “Honoring Chaco Initiative”, a “regional conversation among BLM field offices, BIA, and interested Tribes, Pueblos, and other Tribal interests in the Greater Chaco area to develop a broader cultural approach to all land management decisions across the Greater Chaco Landscape”.²⁶

In January 2022, BLM initiated an Environmental Assessment (EA) process to evaluate the impacts of the proposed mineral withdrawal. During the EA process, BLM reviewed 16,715 comments in total, expressing a variety of opinions about the withdrawal, including many comments from Dine organizations, Chapter Houses, and Pueblos supporting the buffer zone and asking for the BLM to go beyond the 10-mile zone to embrace a holistic approach to protecting the sacred landscape.²⁷ The EA was published in November 2022. Secretary Haaland announced the mineral withdrawal on June 2, 2023.

²³Office of Senator Tom Udall. 2019. “NM Delegation Secures Protections for Chaco Canyon Area in Government Funding Bill”. *KRWG*. December 19, 2019.<https://www.krwg.org/post/nm-delegation-secures-protections-chaco-canyon-area-government-funding-bill>

²⁴ Vallo, Brian. 2021. Written testimony of Brian Vallo, Governor of the Pueblo of Acoma for the Senate Energy and Natural Resources Committee. “The Department of the Interior’s Onshore Oil and Gas Leasing Program” oversight hearing—April 27, 2021. 2021. Available at: <https://www.energy.senate.gov/services/files/0F06A226-45A5-423EA5FF-14271D3BFA14>.

²⁵United States Department of the Interior. 2021. “ Secretary Haaland Announces Steps to Establish Protections for Culturally Significant Chaco Canyon Landscape”. November 15, 2021. <https://www.doi.gov/pressreleases/secretary-haaland-announces-steps-establish-protections-culturally-significant-chaco>

²⁶ United States Bureau of Land Management. 2023. “Honoring Chaco Initiative”. Accessed July 11, 2023. <https://www.blm.gov/honoringchacoinitiative>

²⁷United States Bureau of Land Management. 2023. “Proposed Chaco Area Withdrawal Area Environmental Assessment (EA) Public Comment Response Report”. BLM Farmington Field Office. https://eplanning.blm.gov/public_projects/2016892/200507928/20080198/250086380/20230604_ChacoWithdrawal_CommRespRept.pdf

III. Honoring Chaco Initiative: An Opportunity to Work Towards Economic and Environmental Justice for the Future of Greater Chaco

Today you will hear that withdrawing federal minerals from future mineral leasing around Chaco Culture National Historical Park will decrease domestic energy production and cause financial losses for Diné families who hold shares in Indian allotments within the withdrawal area. I encourage members of the Committee to think critically about the terms in which this debate has been framed. The question before us today is fundamentally one of which actions will support an economically and environmentally just future for the people of the Greater Chaco region, and what does that future look like? I posit that the only way for this region to move forward towards economic and environmental justice for Diné people and other Indigenous relatives who hold this place sacred is to break free from the legacy of being treated like a national energy sacrifice zone.²⁸

The Environmental Assessment on the proposed Chaco area withdrawal completed in 2022 (DOI-BLM-NM-F010-2022-0011) showed that the withdrawal will only result in an approximate 0.5 percent reduction in annual gas production and an approximate 2.5 percent reduction in annual oil production in the San Juan Basin. The impact on the region's fossil fuel production is thus minimal. Indeed, more needs to be done to reduce oil and gas pollution in the Greater Chaco region to protect public health and the climate. New Mexico is particularly vulnerable to climate harms, and within our state Indigenous peoples are disproportionately impacted by rising temperatures, stressed vegetation, arid soils, and increasing drought. The 2023 United Nations Intergovernmental Panel on Climate Change (IPCC) 6th Synthesis Report found that carbon dioxide (CO₂) emissions from existing fossil fuel infrastructure would exceed the remaining budget for a 1.5°C global warming scenario. In order to preserve a chance of limiting planetary warming to 1.5°C, there can be no new fossil fuel infrastructure, and existing extraction must be rapidly phased out. Secretary Haaland's Honoring Chaco Initiative provides an opportunity to address the cumulative harms of fossil fuels in the Greater Chaco region, and to develop co-management approaches so that Diné people and our relatives may thrive in this landscape. As we work towards this goal, the 10-mile administrative withdrawal is a good first step.

Throughout the 19th and 20th centuries, Diné homelands in Greater Chaco were violently stolen and then reorganized into a checkerboard pattern of federal, state, private, tribal trust, and tribal allotment parcels.²⁹ The General Allotment Act of 1887 is widely recognized as a settler colonial tool used to dispossess Indigenous peoples of their collective land base. Across the United States, allotment was used to take 90 million acres of Indigenous lands out of Tribal

²⁸ See Energy Policy Project of the Ford Foundation. 2014. *A Time to Choose: America's Energy Future*. Cambridge, MA:

Ballinger Publishing Company, 1974; *Our Story: The Indigenous Led Fight to Protect Greater Chaco*. Directed by Daniel Tso and Michael Ramsey. 48 minutes.

²⁹ See Navajo Nation Council resolutions CJY-66-97 (1997), CMY-23-88 (1988) CAP-11-11 (2011), CO-47-12 (2012), and ENLC Resolution ENLCF-01-10 (2010); Grant, Silas. 2022. "Chess or Checkers? Fracking in Greater Chaco". In Rensink, Brenden (Ed). *The North American West in the Twenty-First Century*. University of Nebraska Press.

control and ownership.³⁰ The same is true in Dinétah. The fragmentation of Eastern Diné lands through allotment and the fractionation of allotments over the years has posed significant challenges to the self-determination of our communities. Approximately 4,000 allotments were patented to Diné individuals between 1906 and 1934, with about 3,900 of those tracts located in northwestern New Mexico and the rest in Arizona. These parcels cover over 750,000 acres of land with over 40,000 known co-owners.³¹ Diné allottees are numerous and, like the citizens of any nation, hold differing views. What unites us is our ties to Diné Bikeyah.

After the forced, genocidal long walk of the Diné, *Hwééldih*, from 1863-1868, Diné people attempted to return to their traditional kinship-based form of government and social organization.³² Still, the federal government was not satisfied, and forced the reorganization of the Navajo government in order for oil and gas industries to have enforceable contracts--just two years after the discovery of oil in the region. That same federal government continues to operate oil and gas leases to this day, under the same claim of title. Diné Bikéyah has been used as a sacrifice zone to meet the needs of the federal government for the last hundred years--sometimes for uranium, sometimes for oil and gas, and it is Diné workers and community members who pay the price. Bear in mind that while the proponents of HR 4374 will argue that the federal government will lose revenue, at this very moment, there are over 20 wells operating within a mile of Lybrook Elementary School, where Diné children are being exposed to hazardous air pollutants while they play at recess--all to perpetuate the federal oil and gas program. Future generations are already shouldering a century-old tradition in Navajoland of being poisoned, with the blessing of the Federal Government, to prop up an industry that takes its profits elsewhere. It is past time for the extraction in this sacred place to end.

As an elected Tribal leader and heir to an allotment, I care deeply about the wellness of all my fellow community members in the Greater Chaco region. Growing up in this region, I have seen that the ongoing legacies of settler colonialism and unfettered extraction have not benefited our communities. Instead, our region has an approximate 40% unemployment rate and about 40% of people live below the poverty line.³³ For some of our community members, these conditions can produce an impossible choice between extraction and economic survival. Some allotment holders, including members of my family, receive royalty payments from leased allotments. The withdrawal will not affect existing leases and payments, but may, for a very small percentage of parcels, affect future leaseability.³⁴ The Honoring Chaco Initiative provides an opportunity to

³⁰ Guzman, Kathleen. 2000. "Give or Take an Acre: Property Norms and the Indian Land Consolidation Act." *Iowa Law Review* 85.

³¹ See "Indian Land Consolidation Act Amendments: And To Permit The Leasing of Oil and Gas Rights on Navajo Allotted Lands". United States Congress Senate Committee on Indian Affairs. S. HRG 106-282. . Statement of Shenan Atcitty, Nordhaus Law Firm, for the Shii Shi Keyah Association. November 4, 1999

³² Todacheene, Heidi. 2014. "She Saves Us From Monsters: The Navajo Creation Story and Modern Tribal Justice". *Tribal Law Journal*. Volume 15. Article 2. 30.66.

<https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1071&context=tlj>

³³ Morales, Laurel. 2019. "On the Navajo Nation, 5,000 Workers Dependent On A Federal Paycheck." National Public Radio, January 12, 2019, sec. Weekend Edition; Nez, Jonathan. 2020. U.S. House Energy and Commerce Committee Hearing; *Addressing the Urgent Needs of Our Tribal Communities*, Testimony by Jonathan Nez, President, Navajo Nation. Congressional Documents and Publications. (July 8, 2020).

³⁴ In its Environmental Assessment of the proposed withdrawal, BLM found that "overall, 50, or just over 4 percent, of the unleased 1,165 allotments [within the withdrawal area] analyzed may see a high or moderate impact on future leaseability. An additional 36 unleased allotments (approximately 3 percent) may see low, but real,

reject the false choice that our communities have been forced into between extraction and economic prosperity and to instead develop remedies for all allotment owners whose economic futures will be affected as we take the necessary steps to transition away from dependence on fossil fuels that puts our health, sacred places, and planet at risk. For example, through the Honoring Chaco Initiative, Tribes, Pueblos, and Indigenous stakeholders can collaborate with Interior to develop federally-funded compensation plans to support allotment holders who could potentially lose mineral revenue.³⁵ Through the Honoring Chaco Initiative, we can also collaborate to support the development of other economic opportunities for which our region is well suited, including solar and wind energy, small businesses, and tourism.

IV. Oppose H.R. 4374 and Support Environmental Justice for Greater Chaco

As stated, there is a long and rich history of engagement from local Navajo Chapters, the Eastern Navajo Agency Council, the Navajo Nation, and the All Pueblo Council of Governors in support of protecting the Greater Chaco Landscape. The mineral withdrawal around Chaco Park is a first step towards realizing the protections that are needed for the land and the people. As we continue along this path, we must center the needs of those directly impacted, including Diné allotment owners, so that we may achieve environmental and economic justice for the region, and finally put an end to the era of sacrifice zones.

As an elected Tribal leader and allotment shareholder, I envision a future in which Eastern Diné communities can thrive in harmony and balance with our lands. Crucial to that future is access to more economic opportunities, and support in working towards a just and equitable transition. I am committed to helping our communities achieve that future, and I welcome you to join us.

I look forward to working with members of this Committee and with the Department of the Interior to continue to achieve landscape-level protections for the Greater Chaco region through the Honoring Chaco Initiative. I urge you to oppose House Resolution 4374 so that we can get to work.

Ahé'hee' (Thank you),

Mario P. Atencio

impacts on future leaseability. The proposed withdrawal will likely not adversely affect the vast majority (over 92 percent) with respect to real leaseability.”

³⁵ There is precedence for compensation of this kind through the *Mescal v. United States* (1983) settlement agreement, a case in which allotment owners in the Greater Chaco region sued the United States government for rightful title to the mineral estate. 79 of 2,500 allotments at issue in this case were already encumbered by existing leases that had illegally been issued by the United States. The settlement created a fund out of which money was disbursed to allottees whose lands were already encumbered.