

SANTA CLARA

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INDIAN PUEBLO

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MAY 01 2019

April 30, 2019

Via hand delivery

Tim Spisak
Acting State Director
Bureau of Land Management
New Mexico State Office
301 Dinosaur Trail
Santa Fe, NM 87508

PAID
RECEIPT # _____

Re: Santa Clara Pueblo's protest of Bureau of Land Management's Farmington Field Office and Rio Puerco Field Office June 2019 Oil and Gas Lease Sale

Dear Mr. Spisak:

Santa Clara Pueblo protests the June 2019 notice of competitive oil and gas lease sale for the following two (2) parcels nominated by the Bureau of Land Management ("BLM") Farmington Field Office ("FFO")(collectively the "FFO parcels"):

1. NM-201906-025
2. NM-201906-047

Santa Clara Pueblo also protests the June 2019 notice of competitive oil and gas lease sale for the thirty-eight (38) parcels nominated by the BLM Rio Puerco Field Office ("RPFO") that are numbered NM-201906-012 through NM-201906-024 and NM-201906-026 through NM-201906-051 (collectively the "RPFO parcels"). Santa Clara Pueblo protests the lease sale of the FFO parcels and RPFO parcels individually and collectively.

Santa Clara Pueblo is a federally-recognized Indian tribe with significant and ongoing connections to Chaco Canyon and the larger connected landscape around it including the cultural resources, sacred sites, natural formations and shrines within that entire connected landscape (referred to here as the "Greater Chaco Region"). Both the FFO parcels and RPFO parcels are located amongst ancestral lands of importance to the continuing traditions of the Santa Clara Pueblo people. Because of the Pueblo's spiritual connection to this overarching area, which includes the areas of the FFO parcels and RPFO parcels, Santa Clara Pueblo has an interest in

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ensuring that any historic properties and traditional cultural properties ("TCPs") of importance to the Pueblo are protected to the greatest extent possible. Santa Clara Pueblo also recognizes that many other Pueblos have sacred ties to the area and the Pueblo has an interest in supporting the recognition and protection of those Pueblos' historic properties and TCPs as well.

Santa Clara Pueblo protests the June 2019 lease sale of the FFO parcels and RPFO parcels for the following primary reasons: BLM consultation with Santa Clara Pueblo about the FFO parcels and RPFO parcels in accordance with section 106 of the National Historic Preservation Act, P.L. 89-665, 80 Stat. 915, 54 U.S.C. §306108 ("NHPA") has been wholly inadequate. BLM's identification and analysis of potential adverse effects on the Pueblo's TCPs that are eligible for the National Register of Historic Places also has been wholly inadequate. And, the analysis of cumulative effects of leasing the FFO parcels and RPFO parcels collectively as well as the cumulative effects of all of the BLM leases in the Greater Chaco Region is incomplete and wholly inadequate because BLM has yet to complete a comprehensive cultural landscape analysis for the Greater Chaco Region as repeatedly requested by Santa Clara Pueblo, many other Pueblos individually, and the All Pueblo Council of Governors ("APCG"), of which Santa Clara Pueblo is a member.

Santa Clara Pueblo adopts fully herein the comments it submitted dated March 20, 2019 regarding both environmental assessments for the FFO parcels and RPFO parcels (*i.e.*, comments regarding the March 11, 2019 Draft Environmental Assessment for Farmington Field Office Oil and Gas Lease Sale, June 2019, DOI-BLM-NM-F010-2010-0032-EA and associated proposed Finding of No Significant Impact as well as the comments the Pueblo submitted regarding the March 11, 2019 Draft Environmental Assessment for Rio Puerco Field Office Oil and Gas Lease Sale, June 2019, DOI-BLM-NM-A010-2010-0010-EA and associated proposed Finding of No Significant Impact). Those comments explain why the proposed lease sale for the FFO parcels and RPFO parcels violate the NHPA and the National Environmental Policy Act P.L. 91-190, 83 Stat. 852, 42 U.S.C. §4321 ("NEPA"). As explained in those comments, the BLM is not meeting NHPA mandates for these lease sales because the BLM is advocating completing the NHPA section 106 process *after* committing itself to a course of action that might affect historic properties (including TCPs) due to choosing an inadequate method of cultural resources survey - the Class I literature review -- at the lease sale stage. Those comments also explain why it is improper under NEPA for the BLM to rely on future, unspecified mitigation through proposed lease sale stipulations in order to try to avoid a finding of significance.

Santa Clara Pueblo supplements that analysis by adding that NHPA regulations also require BLM to consider not only direct and indirect effects to cultural sites within separately defined "areas of potential effects" but also to consider "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). BLM is thus required to evaluate the cumulative impact of the entire lease sale program on Pueblo TCPs in the context of the entire cultural landscape at issue.

Moreover, Santa Clara Pueblo notes that NHPA regulations also specify that, in applying the National Register of Historic Places criteria to properties identified by Indian tribes as having

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religious and cultural significance, "[t]he passage of time, changing perceptions of significance, or incomplete evaluations may require the agency official to reevaluate properties previously determined eligible or ineligible." *Id.* at § 800.4(C)(1). This provision thus instructs that the FFO and RPFO should reevaluate eligibility determinations from prior lease sales (especially where drilling has not yet begun) because those evaluations were incomplete. It is Santa Clara Pueblo's understanding that the FFO and RPFO have only ever used Class I surveys of cultural resources for these lease sales in recent years (along with outdated work from 2003 that predated Santa Clara Pueblo having its own Tribal Historic Preservation Office) while punting any real analysis of effects on TCPs to potential later Class III surveys that might occur when applications to drill are filed (as set forth in stipulations attached to a lease sale). As Santa Clara and other Pueblos and the APCG have repeatedly indicated, Class I survey analyses at the lease sale stage are insufficient under the NHPA and must be reevaluated. NHPA's statutory requirements in section 106 and its implementing regulations require extensive tribal consultation because often only the tribes have the specialized knowledge required to identify TCPs that could be adversely affected by federal undertakings. The prior Class I surveys and those directly at issue for the current FFO and RPFO parcels did not include input from qualified traditional practitioner experts from the Pueblos who are able to identify cultural resources that may be eligible for the National Register of Historic Places in a manner that archaeologists simply cannot. At Santa Clara Pueblo, our Cultural Committee and Tribal Historic Preservation Officer have knowledge of our cultural resources and sacred sites and landscapes that are integral to our identity, spirituality, and survival as a people and that are simply not known by archaeologists and cannot be ascertained from Class I literature reviews.

For the reasons described herein, Santa Clara Pueblo urges the BLM to cancel the proposed June 2019 oil and gas lease sale for the FFO parcels and RPFO parcels. At a minimum, any action on the parcels at issue for the June 2019 lease sale should be deferred until proper and complete consultation under the NHPA section 106 first occurs.

Sincerely,



J. Michael Chavarria
Governor

cc via first-class mail:

Hon. Tom Udall
Hon. Martin Heinrich
Hon. Ben Ray Lujan
Hon. Deb Haaland
Hon. Xochitl Torres Small

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cc via e-mail only:

Santa Clara Pueblo Tribal Council Officers and Members

Mel Tafoya, Santa Clara Pueblo Tribal Administrator

Gilbert R. Tafoya, Santa Clara Pueblo Deputy Tribal Administrator

Ben Chavarria, Director, Santa Clara Pueblo Office of Rights Protection and THPO

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