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Re: Request to Postpone the Farmington Mancos-Gallup Resource Management Plan Amendment Process Until Such Time that Public Meetings and Hearings Can be Scheduled

Cc: David Bernhardt, Secretary of the Interior

*Submitted via email to jgaragon@blm.gov, robert.begay1@bia.gov, and exsec@ios.doi.gov*

March 27, 2020

Dear Ms. Aragon and Mr. Begay:

Due to the health crisis in New Mexico, the United States and beyond, New Mexico Governor Michelle Lujan Grisham's executive order declaring a Public Health Emergency on March 11, 2020, and President Donald J. Trump's recent executive order declaring a State of National Emergency on March 13, 2020, we request an extension to the BLM's Farmington Field Office and BIA Navajo Regional Office's open public comment period on the Farmington RMP: Mancos-Gallup Amendment (RMPA). We appreciate the steps that you have already taken in this regard, to cancel or postpone the public meetings. We believe this is the necessary next step to ensure the public has adequate opportunity for engagement in the process.

As requested by New Mexico's congressional delegation, it is imperative that BLM extend the public comment period by at least 120 days and delay any interim or final decisions on the Farmington RMPA until such time that the state of emergency is lifted and the risk of spread has ceased. Resource Management Plans set management directions and policy goals for decades, and this RMPA specifically is of critical importance to numerous stakeholders. It would be a violation of the National Environmental Policy Act (NEPA), current guidelines set by the Council on Environmental Quality (CEQ), and the BLM Manual for BLM to make a final decision on this RMPA without adequate public engagement which must include opportunities for the public to hear from BLM officials, engage with the material, and ask questions.

This RMPA is of interest to various stakeholders, including the Navajo Nation, the All-Pueblo Council of Governors, the New Mexico pueblos, and other Tribes. As recently reported by the Albuquerque Journal, "less than half of households on tribal lands have access to fixed broadband service, representing a nearly 27% gap compared with non-tribal rural areas. In 2018, the [Federal Communications Commission] estimated 35% of Americans living on Tribal lands

lacked access to broadband services, compared with 8% of all Americans.”<sup>1</sup> As both BLM and BIA offices have recognized, hosting in-person public meetings is not feasible at this time. However, with such a dearth of reliable internet service among critical stakeholders, digital meetings are similarly not feasible at this time. The only way to ensure public engagement and a genuine process is to extend or suspend the public comment period until it is once again safe for in person meetings and the federal, state, and local authorities lift restrictions around public gatherings and social distancing to allow for in-person meetings. We request the re-initiation of the full comment period at that time.

Due to the size of the planning area, it is vital that BLM postpone the decision-making process until such time that public meetings can be held. It is clear from the outreach already conducted and will be made abundantly clear from the amount of public comments received, that this specific RMPA is of the utmost importance to a number of stakeholder groups and therefore raises significant environmental controversy. CEQ regulations provide: “Agencies shall...[h]old or sponsor public hearings or public meetings whenever appropriate[.] Criteria shall include whether there is...substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.” 40 C.F.R. § 1506.6(c)(1). This letter signed by organizations and stakeholders serves as merely one piece of evidence of the more than substantial interest in holding public hearings and public meetings on this RMPA.

Furthermore, BLM’s own internal guidance mandates meaningful opportunities for public participation and for coordination with an interested public during planning processes. This cannot be accomplished without public meetings or hearings, and any process which proceeds without meaningful and genuine opportunities for public engagement and participation will fall well short of the requirements of the BLM manual, which specifies how crucial and important these planning processes are and instructs the BLM to coordinate with the public: “The land use planning process is the key tool used by the BLM, *in coordination with interested publics*, to protect resources and designate uses on Federal lands[.]” BLM Manual § 1601.01 (emphasis added). Additionally, the Manual requires BLM to “[e]nsure opportunities for participation by...the public.” BLM Manual § 1601.02(C). We are well aware of the public comment period currently underway, but this is merely one facet of what must be a much broader and genuine public participation approach, which includes public meetings with BLM staff.

Public meetings and hearings ensure that all interested members of the public have the opportunity to engage with the process. Planning documents can be dense and confusing, public meetings give the public the opportunity to ask questions and clarify what can often be technical language. Planning documents set the management priorities and designate uses on Federal lands for decades, public meetings give the less-tech savvy public and those without access to critical digital infrastructure the opportunity to submit their comments and have their voices heard. Planning documents are simply too important and impactful to be advanced without face-to-face engagement with the interested public.

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<sup>1</sup> ALBUQUERQUE JOURNAL, *Bill would speed broadband access*, Feb. 22, 2020, available at <https://www.abqjournal.com/1423573/bill-would-speed-broadband-access.html>.

The BIA handbook similarly require robust public involvement when an EIS is being considered for final approval. “Public disclosure and involvement is a key requirement of NEPA. The extent of public involvement is largely dependent of the level of NEPA review being conducted.” 59 IAM 3-H § 2.4. The handbook goes on, “Public involvement is critical in the preparation of an EIS. The CEQ regulations (40 CFR 1506.6) stress that an adequate opportunity must be given to allow for public comment through notices, hearings, and public meetings.” 59 IAM 3-H § 8.3.1. Finally, the handbook requires at least one public meeting: “During the DEIS review period, at least one public meeting must be held.” 59 IAM 3-H § 8.5.2(6). The handbook does not go so far as to require, but it does recommend that the public meeting be held “near the middle of the comment period, to allow those attending time to prepare comments they may wish to submit in writing.” 59 IAM 3-H § 8.5.2 Note.

All of these provisions make it clear that the BIA cannot approve a final plan without holding at least one public meeting. We urge the BIA to extend the public comment period until the spread of COVID-19 no longer requires social distancing and similar common-sense precautions. When it is safe for public meetings to be held, we urge the BIA to hold more than just the one required by the manual, including meetings on the Navajo Nation, at a location where New Mexico Pueblos and other interested Tribes can easily attend, and in Santa Fe and Albuquerque.

It is important to Tribal and other traditional communities across New Mexico to engage in this process in person and via face-to-face meetings. While holding meetings digitally may seem like a solution to the current crisis, it simply does not allow for full or meaningful engagement by these stakeholders. The federal government’s trust responsibilities to these communities demands that BIA extend the public comment period by at least 120 days, or until such a point that a full 90-day period may occur without restrictions against public meetings.

This RMPA and EIS will have far reaching and permanent effects on important cultural sites across the Greater Chaco Landscape and cannot be done in haste and without meaningful public engagement. We stand with New Mexico’s congressional delegation and urge the BLM and BIA to extend the public comment period by at least 120 days, and to allow for a full 90 day comment period once it has become safe to hold in-person meetings and the threat of the pandemic has passed. This is the only way to ensure public engagement required by NEPA, CEQ regulations and guidance, and the BLM and BIA handbooks can be met. Please let us know if you have any questions, include us on the list of interested parties, and include this letter in the official record.

Sincerely,

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