

**Questions from the US/ICOMOS webinar: World Heritage Site at Risk:
Chaco Culture National Historical Park**

We received a number of questions that could not be answered during the webinar. Below, we address many of these questions. Similar questions have been combined in the answers below.

Is there any movement towards an organizational sign-on?

Our group of partners have developed group comments to submit by Sept. 25. Please contact me at preed@archaeologysouthwest.org and we can provide information to your group.

If the administration changes, will leasing activity cease immediately?

The short answer is no. Current BLM regulations require that oil-gas lease sales be held quarterly in every BLM field office in the West. Many factors are involved and many of the field offices do not hold lease sales every quarter.

It is our hope that under a new administration, a different approach to oil-gas leasing that is more measured and balanced can be implemented in the Chaco region and across the West. But, this will take time to put in place.

Did BLM hold government to government meetings with Pueblos as it engaged in this planning effort?

To be honest, from the Federal Government's perspective yes, the Pueblos were consulted. They adhered to Federal Guidelines and met all the requirements for Tribal Consultation.

From the Pueblos' perspective the consultation was not timely, it was inadequate, and left them with little alternative but to submit protests and or to file legal actions against their Trustee. It was only after some of these actions, along with support and advocacy of our Congressional delegation, and effort by the All-Pueblo Council of Governors, did the Federal Government consider delaying or postponing some quarterly lease sales. The Pueblos, because their cultural resources lie in differing jurisdictions, were constantly being tasked with responding to requests for Tribal Consultation from the Federal Government. The Pueblos have cultural resources within the Farmington, Rio Puerco, and Monticello Field offices. The Field Offices did not follow the same processes in their lease sales, therefore putting the Pueblos at a disadvantage as where to prioritize their efforts. I think after reading my response to the next questions that readers will be able to come to their own conclusion as to whether or not the BLM held timely and adequate Tribal Consultation with the Pueblos and whether or not the Pueblos were truly engaged in the BLM's planning process.

Chairman Riley, can you speak to the importance of early and meaningful consultation in protecting cultural resources and landscapes, include Chaco. Do you feel that the BLM has engaged in meaningful consultation with the Acoma Pueblo and other tribes in the region?

From the Pueblos' perspective the importance of early and meaningful consultation means:

1. The recognition of the Federal Government's unique relationship with the Pueblos, Tribes and Nations within the United States. With that comes the recognition of each one's unique Tribal Sovereignty and their relationship they have with their ancestral homelands, sacred sites and cultural resources on those homelands. The Federal Government as their Trustee must conduct

early and meaningful consultation with the appropriate Pueblo, Tribe and Nation on any Federal action that affects their Sovereignty to protect their cultural resources, especially on Federally controlled lands no matter the department or agency that has jurisdiction over those lands.

2. Early and meaningful consultation means at the inception of any Federal Action, Pueblos, Tribes, and Nations should be asked to be a part of the planned action to provide the meaningful consultation to lessen the delay of those actions, to reduce the cost of legal actions in the future and to be a planning partner as the action moves forward. In this case Chaco Canyon has been recognized and is well documented to be the ancestral homelands of the current pueblo people in New Mexico and Arizona. As a Trustee, the Federal Government should do everything within its power to protect the cultural resources of the Pueblo People. Much has already been done without the Pueblos' notification or consent since the day Chaco was discovered. However now that some of these lands are under the jurisdiction of the Federal Government, whether it be the National Park Service, Bureau of Land Management or the Bureau of Indian Affairs, they are all under the department of the Interior. As such, the Pueblos' expect that the Federal Government will live up to its responsibilities as its Trustee to protect their interests. In most cases the Pueblos, Tribes and Nations have no choice but to take legal action due to the lack of early and meaningful consultation. Taking legal action against the Federal Government on these leases on a quarterly basis is costly to the any Pueblo, Tribe or Nation.
3. The Pueblos also consider consultation to mean that it is an ongoing conversation between the Pueblos and Federal authorities. The BLM has had a long history of consultation with the Navajo Nation being the current Tribal Entity within the region. However as stated before recognizing that Pueblo Ancestral cultural resources can only be identified by pueblo cultural experts, and that neither the BLM nor the Navajo Nation have Pueblo cultural experts, it is logical that the Federal Government would reach out to the Pueblos to consult with them about the 19 pueblos' cultural resources. A single meeting, a letter requesting a response, or a single video or conference call does not constitute meaningful consultation. Why? Because there are always changes that can affect any Federal Action. In this administration we have experienced; changes in administrative staff, budgetary constraints, travel expenses, scheduling conflicts, lack of time, staff and financial resources in light of the Covid-19 pandemic to respond within the timeframes of the Federal Government, prior to and during this pandemic.
4. During my appointment as the Acoma Governor, the Pueblos asked and upon request of the BLM the Pueblos submitted a proposal to the BLM to do a limited cultural survey on lease parcels with a high probability of being put up for lease by the BLM. The survey was to be an example of how the pueblos could work to identify pueblo cultural resources on or near the proposed withdrawal area under the then Chaco Canyon Protection Act Draft Bill. The purpose was to show BLM how quickly such a survey, done by Pueblo Cultural experts could be done in order to provide BLM with the information about Pueblo cultural resources that they did not have available prior to BLM lease sales. To my limited knowledge, funding by the Department of Interior, Bureau of Land Management has not been authorized.
5. Such surveys done by Pueblo Cultural Experts would provide the BLM with information currently lacking in their Resource Management Plan Amendment. No such surveys have been done in the past nor have any documents been made available to the Pueblos that the Pueblos feel address their interests in protecting their cultural resources on these proposed lease parcels. Such a survey would meet the intent of the National Environmental Policy Act as well as the National

Historic Preservation Act where it is the responsibility of the Federal Government to identify and preserve historic and archeological sites that could possibly be placed on the Register of Historic Places. Under section 106 of the NHPA is where Pueblos, Tribes and Nations have been given the opportunity in the past to have meaningful and adequate consultation to protect their cultural resources. Some of which like Chaco Culture National Historic Park and some of its outliers have been protected. In addition, Pueblo Cultural Resources include not only sacred sites, it includes water sources, plants, animals, mineral resources to mention a few.

6. The Pueblos' position has always been that the BLM has no Pueblo Cultural Experts or documents to adequately protect Pueblo Cultural Resources. The Pueblos' position is that only Pueblo Cultural Experts can identify their cultural resources and only ask that they be given the same opportunity as BLM has given other Tribes and Nations in the area to identify and protect their cultural resources. As their Trustee, it is their responsibility to protect and defend the interests of their beneficiary, the Pueblos of New Mexico and Arizona.

So, in my opinion, no, the Federal Government has not engaged in meaningful consultation with the Pueblos. I cannot speak for the other Tribes and Nations as to whether they were meaningfully consulted on this matter.

You spoke about how this recent community engagement program (virtual meetings) was a farce. Can you speak a bit about earlier efforts went, if they were more appropriate, what results may have come from them, and what we can do moving forward to strengthen the outcomes?

Correction, I did not state that the virtual meetings addressing community engagement was a farce. I think that I addressed in my previous response about earlier efforts that they were not meaningful or adequate. If virtual tribal consultation was/is being done it is in my opinion still inadequate due to the number of parcels being proposed for lease sale and the limited time to respond to each proposal. The Pueblos lack the staff and resources to adequately respond much less access to the internet, in some case and the technology to be present and respond virtually.

Moving forward, I would ask, as I did before, for concerned citizens to submit responses to this issue via the sites that were provided. Also contact your Congressional delegation to express your opinion on this matter, especially those who may be on important House or Senate Committees that involve such matters of the Department of the Interior or the Bureau of Land Management. Ask them to contact the Senators of New Mexico to provide support to continue with their efforts on the Chaco Canyon Protection Bill. As well as their representative on the House side to learn more about the Bill that was previously passed. Ask your representatives to contact the DOI Secretary to ask about funding the Pueblo Cultural Survey and to emphasize that only Pueblo Experts can do such a survey and to work with the Pueblos to conduct such a survey

Any way to expand the area and recapture more land. Thinking ACHP hearing in Montana and the Blackfoot nation under Obama to delete gas exploratory leases? And, can an ecological review to protect water, plants, wolves, etc. be useful to expand and connect to cultural boundaries such as Cascade-Siskiyou National Monument that was expanded by President Obama?

The land surrounding Chaco Culture National Historic Park has a variety of land owners and managers, including Bureau of Land Management (BLM), Navajo Nation, Navajo allotted land, State of New Mexico Trust lands, and private, and is known as the Checkerboard. This mixed jurisdiction makes it extremely

difficult to pursue any single policy for these lands. Expansion of the National Park is not a viable alternative and pursuing a BLM National Conservation Area would be difficult given the mixed land ownership.

What we have learned from working more closely with Tribes, particularly the Pueblo of Acoma, is that the natural and cultural worlds are closely linked. An ecological approach could be helpful in Greater Chaco but given the complicated land jurisdiction, taking an approach similar to that used at the *Cascade-Siskiyou National Monument* would be difficult to implement.

In the early 1990s, the NASA Stennis Space facility conducted remote sensing exploration of Chaco Canyon and merged it with previous images. Do you know if this is being used for management and protection of Chaco Canyon Park and the surrounding area?

NASA imagery, other satellite data, and LiDAR data are currently being used by Federal agencies and researchers to better understand and manage the Greater Chaco Landscape.

How are the outliers affected by the proposed leases?

Surrounding Chaco Canyon are hundreds of outlying, affiliated great house communities. Many of these Outliers are located in the areas impacted by the BLM and BIA management plans and EIS documents. Because these sites are outside the Park boundaries, they do not have adequate protection from encroaching oil-gas leasing. Aside from insisting that the 10-mile cultural protection zone be honored by BLM in all future leasing, one of our initiatives involves asking the Federal Agencies to increase the protective zones around Chacoan Outliers and other sensitive cultural properties across Greater Chaco.

Is there a group of professional indigenous archaeologists ready to become involved? Or is that not the point? I understand the need to involve to involve the community as Mr. Riley is now describing.

There are a number of Native-owned archaeological companies that work across the Southwest, on a variety of projects that require archaeological work prior to development. We have not yet had contact with folks who want to be directly involved in the Greater Chaco protection efforts but are certainly open to partnering. One of the difficult issues relates to funding. The oil-gas environmental and cultural work related to permitting is funded directly by the companies doing the drilling. They hire professionals to complete the work. BLM and BIA review the reports that are submitted but do not fund any of the cultural work or choose the archaeologists and cultural staff to complete the work. For Navajo Nation lands, Native companies have preference for the work but this is not the case for BLM and other lands.

The Navajo-Gallup Water Supply project that Mr. Riley referred to is a little different because the Bureau of Reclamation (BOR) as the Federal agency completing the project has both the regulatory authority and the funding. Thus, BOR was able to fund Tribes directly to complete background work and fieldwork. It is safe to say that the cultural work being completed for oil-gas development across Greater Chaco would benefit from much greater involvement by the Tribes. The DOI-sponsored ethnographic-cultural project that was funded for \$1 million in 2019 has yet to be undertaken because of the covid-19 pandemic. The Tribes, APCG, the NM Congressional delegation, and our partnership has pushed the Agencies to delay completing the current planning process until results of the ethnographic-cultural project are available.

Is there any contact with/from UNESCO or move towards putting the site on World Heritage list of sites in danger?

US/ICOMOS is looking at a range of actions to take and will make a decision based upon what is most likely to generate the popular and political support needed for the protection and preservation of the Greater Chaco Landscape.

Fracking messes with underground cavities. What is the impact of underground tremors and increased heavy traffic on fragile ancient walls? Is fracking a reality near Chaco? If so, could it cause earthquakes at the World Heritage site?

So far with the data in hand, the Greater Chaco Landscape has not seen increased seismicity from the fracking that has occurred. In other states, such as Oklahoma, fracking has caused a large uptick in seismicity, with hundreds of smaller earthquakes. This has been attributed in large part to the practice of injecting wastewater at high pressure and in very large quantities – two practices that not used currently in New Mexico. The staff at Chaco Park and other groups are monitoring this situation closely.

How do these leases impact water? And, is there a way to contest via water rights?

Development and fracking of these leases requires a tremendous amount of water—in the millions of gallons per well—and will most definitely impact both groundwater quantity, as well as quality. Oil and gas companies will have to secure or otherwise acquire groundwater rights to develop, but they never seem to have any trouble with that. One potential impact of this rampant development is the possibility that nearby fracking operation could easily dry out aquifers that local Navajo residents rely on. Unfortunately, there is no easy legal argument to be made here until after the damage is done.

What discretion does BIA have over Indian allotments--are they required to permit oil & gas development as part of their trust responsibilities?

BIA provides approval to leases on allotted lands and BLM issues the final approval to drill. BIA and Navajo Nation (on allotted lands) are required to complete NEPA environmental and Section 106 cultural studies prior to approval. The leasing process, however, is in the hands of the allotment holders, who conduct their own negotiations with oil-gas companies.

Can NM's U.S. Senators put pressure on DOI to delay the auction?

The current issue is not about an individual lease sale or auction. The focus is on the BLM amendment to the resource management plan and BIA's EIS process. Both New Mexico Senators Udall and Heinrich have been very supportive of our efforts to protect Greater Chaco for years now. Their pressure on DOI in May was very important as Secretary Bernhardt agreed to move the deadline for comments and public participation to Sept. 25. Along with the All-Pueblo Council of Governors, the entire New Mexico Congressional delegation has recently asked DOI to extend the comment and public participation period indefinitely. Unfortunately, it is unlikely that the deadline would be extended again.

Does NPCA have a web page devoted to this lease sale with bullet points or comment suggestions that we can incorporate into our comments?

The [NPCA online comment portal](#) will take you to a draft comment letter that addresses the key issues with the Resource Management Plan. Members of the public are encouraged to personalize and add to

this letter in any way they would like. In addition, a brief executive summary covering the key issues in the extensive comments that will be submitted by our coalition is available here:

<https://usicomos.org/wp-content/uploads/2020/09/ExecSummaryFarmingtonDraftRMP.pdf>