



COMMENTS OF THE ATTORNEY GENERAL OF THE STATE OF NEW MEXICO

U.S. Department of the Interior
Bureau of Land Management
Farmington Field Office

Submitted via BLM National NEPA Register at eplanning.blm.gov

July 29, 2026

**Re: Proposed Rescission of Public Land Order No. 7923, Environmental Assessment
DOI-BLM-NM-F010-2026-0002-EA (July 2026)**

The Attorney General of the State of New Mexico respectfully submits this comment in opposition to the Department of the Interior Bureau of Land Management’s (“BLM”) proposal to rescind Public Land Order No. 7923 (“PLO No. 7923”) establishing a 10-mile buffer surrounding Chaco Canyon National Historic Park. The greater Chaco Canyon area holds over a thousand years of irreplaceable cultural, religious, and historical significance. Recognizing the immense value of the area, BLM initially conducted a year-and-a-half long rulemaking process, ultimately finding the proposed 10-mile buffer to be imperative. Three years later, BLM now abruptly proposes to rescind the buffer in its entirety, providing a mere 7-day scoping period and 14-day public comment period with no public meetings and reportedly little to no meaningful Tribal consultation. Misguided and unlawful, BLM’s truncated procedural processes deprive the State, Tribes, and public of a meaningful opportunity to protect their longstanding rights and interests. Likewise, BLM’s inconsistent and inadequate draft Environmental Assessment (“EA”) fails both to contend with the original purpose of the buffer and to properly consider the rescission’s impacts on interested parties, including the State of New Mexico. The Attorney General requests that BLM rescind the proposal wholly or adopt the “No Action” alternative. At a minimum, BLM should also provide an extended public comment period and conduct at least one public meeting.

I. BLM’s Proposed Rescission of the Buffer Is Procedurally Deficient and Deprives the State, Tribes, and Public of Meaningful Participation

Prior to implementing the 10-mile buffer in 2023, BLM conducted 150 days of public comment, convened eight public meetings, held extensive Tribal consultation, and executed a comprehensive EA. Now, in stark contrast, BLM has held a 7-day scoping period and a 14-day public comment period, has omitted proper notice, has reportedly foregone meaningful Tribal

consultation, and has produced an insubstantial EA. These unlawful actions are not only an abrupt departure from BLM's previous procedure and reasoned decisions, but they constitute a failure to uphold its statutory and regulatory obligations under the Federal Land Policy and Management Act¹ ("FLPMA"), the National Environmental Policy Act² ("NEPA"), and the Administrative Procedure Act³ ("APA"). By supplanting adequate public and Tribal participation with a deficient EA, BLM attempts to foreclose essential review of its actions. BLM demands that commenters identify and document all potential environmental impacts in order to preserve their rights and interests—many of which have spanned centuries—in only 14 days without proper notice. This was previously a task for which BLM dedicated a total of 150 days after proper notice. The Attorney General urges BLM to extend the public comment period, conduct at least one public meeting, and engage in good-faith Tribal consultation.

II. BLM's Proposed Rescission of the 10-Mile Buffer Would Adversely Impact New Mexico's Long-Established Interests

FLPMA declares as the policy of the United States that "public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; . . . and that will provide for outdoor recreation and human occupancy and use."⁴ FLPMA's policy also recognizes the importance of coordinating federal land use planning processes with State planning efforts.⁵ BLM's actions, however, contravene FLPMA's policy objectives and impede New Mexico's ability to safeguard our longstanding interests in the environmental integrity, cultural preservation, and economic value of the greater Chaco Canyon area. New Mexico has a quasi-sovereign interest in preventing harm to the health of our natural resources and ecosystems⁶ and is entitled to "special solicitude" in seeking redress for environmental harms within our borders.⁷ Similarly, New Mexico maintains extensive interests in preserving our distinct cultural landscapes, including the protection of the thousands of documented archeological sites in the greater Chaco Canyon area. New Mexico also has a proprietary interest in associated economic benefits such as the millions of dollars of economic activity generated by tourism and outdoor recreation in the area.

Though expansive, New Mexico's interests are not abstract. Indeed, New Mexico maintains state trust lands immediately adjacent to the federal public lands at issue. To fortify our interests, the State has developed an extensive regulatory and policy framework, including by issuing a 20-year moratorium on new oil and gas and mineral leasing on state trust lands in the

¹ 43 U.S.C. § 1701 et seq.

² 42 U.S.C. § 4321 et seq.

³ 5 U.S.C. § 551-559.

⁴ 43 U.S.C. § 1701(a)(8).

⁵ *Id.* § 1701(a)(2).

⁶ *Massachusetts v. EPA*, 549 U.S. 497, 519–22 (2007).

⁷ *Id.* at 520.

greater Chaco Canyon area.⁸ In spite of this demonstrated State effort to safeguard Chaco Canyon, BLM has exhibited a profound disregard for our laws and policies, which themselves ultimately complement FLPMA's greater policy objectives. Further, BLM's EA fails to address reasonably foreseeable harms to the State. BLM's inconsistent stance undermines years of reasoned, bipartisan decision-making⁹, creating considerable regulatory uncertainty for the State as well as private actors for whom its actions purport to benefit. The New Mexico Department of Justice will continue to uphold state and federal law and defend our interests in Chaco Canyon.

III. BLM's Environmental Assessment is Insufficient to Support the Rescission

BLM's EA does not meet the requirements of NEPA and APA. In establishing the 10-mile buffer, BLM stated its purpose to "protect these public lands and the greater connected landscape having a rich Puebloan, Tribal Nation, and cultural legacy from the impacts associated with potential oil and gas development and locatable mineral exploration and mining . . ."¹⁰ There is no doubt that the buffer prevents severe impacts, including harms to the public health from poor air quality and the destruction of important archeological and cultural sites from oil and gas infrastructure. Now, in a complete reversal that fails to meet the minimal threshold of reasoned analysis, BLM simply states that other "designations, laws, regulations, and policies offer protections and management directions for the landscape connected to this cultural legacy."¹¹ BLM merely refers to broad statutes and policies without an explanation as to how they justify the proposed rescission in light of the buffer's original purpose. Instead, BLM attempts to override its prior reasoning by relying on the unspecified effects of extraneous protections. The federal government's ongoing efforts to diminish those very protections further demonstrate the inadequacy of this reasoning.¹²

In addition to not contending with the original purpose of the buffer, BLM fails to provide a reasoned purpose for pursuing a rescission. BLM states that its purpose is to restore its discretion over mineral leasing and facilitate mineral development pursuant to two executive

⁸ N.M. State Land Office, Exec. Order No. 2023-002 (Dec. 14, 2023).

⁹ Letter from N.M. Cong. Delegation to Sec'y Doug Bergham (June 6, 2025), <https://www.heinrich.senate.gov/imo/media/doc/nmdelegationurgesinteriorsecretaryburgumtoprotectchacocanyon.pdf>.

¹⁰ U.S. Dep't of the Interior, Bureau of Land Management, DOI-BLM-NM-F010-2026-0002-EA ("EA") (Jul. 2026), at 1.

¹¹ *Id.* at 2.

¹² For example, BLM cites the National Historic Preservation Act ("NHPA") as an authority that "remains in effect and would guide the BLM in managing cultural resources regardless of which alternative the Secretary selects." EA at 2. The Advisory Council on Historic Preservation, however, recently voted to advance a notice of proposed rulemaking to revise its regulations pursuant to NHPA Section 106. *ACHP Votes to Move Forward with Notice of Proposed Rulemaking*, Advisory Council on Historic Preservation (Jul. 24, 2026), <https://www.achp.gov/news/achp-votes-move-forward-notice-proposed-rulemaking>. Given the uncertainty of these proposed revisions, the public has no basis to evaluate BLM's contention that extraneous protections, including those under NHPA, will adequately protect this cultural landscape.

orders and BLM's implementing secretarial order on expanded energy and mineral production.¹³ Executive orders, however, cannot override statutory requirements, and to the extent the orders require BLM to rely on factors that Congress did not intend to consider, or disregard factors Congress did intend, they are without legal effect.¹⁴ Furthermore, BLM's own EA negates its stated purpose of expanding development, noting the limited quality and potential of oil and gas production in the area. BLM projects that the rescission could result in the addition of only 14 new oil and gas wells. Though even minimal production may nonetheless incur harm, this production potential is grossly overshadowed by the State's enormous and increasing oil and gas production.¹⁵ In short, BLM seeks to jeopardize invaluable cultural assets reflecting a thousand years of human history and subvert its statutory obligations for only speculative and de minimis increases in production.

Further demonstrating its arbitrary reasoning, BLM only marginally considers the potential harms of other forms of energy and mineral development in the greater Chaco Canyon area. For example, despite the history of coal and uranium extraction in the surrounding areas and BLM's purported purpose of increasing energy and mineral production broadly, BLM affords only cursory analysis on the impacts of such production. By providing a wholly inconsistent and inadequate EA, BLM shifts the analytical burden to commenters. Concurrently, BLM restricts the ability of commenters to participate through its procedural deficiencies, foreclosing any reasonable review of its actions under applicable law. The Attorney General urges BLM to act in accordance with the law and conduct a full environmental analysis.

Conclusion

Chaco Canyon is a unique cultural, religious, and historical resource woven into the fabric of New Mexico's heritage. Its tremendous value, recognized nationally, internationally, and by the State of New Mexico, is irreplaceable. FLPMA's very purpose seeks to protect public lands like these, as recognized by BLM's initial implementation of the 10-mile buffer in PLO No. 7923. BLM's current proposal, however, utterly ignores FLPMA's central objective to preserve the critical values that Chaco Canyon inherently holds. BLM has failed to provide proper notice, has curtailed public participation, and has reportedly foregone meaningful Tribal consultation, all while proffering an insufficient EA. These actions are unlawful under prevailing legal authorities to which BLM is bound, including FLPMA, NEPA, and APA. BLM's proposed rescission would result in irreparable harm to the State of New Mexico. The Attorney General of

¹³ Exec. Order No. 14241, 90 Fed. Reg. 13673 (Mar. 20, 2025); Exec. Order No. 14154, 90 Fed. Reg. 8353 (Jan. 20, 2025); U.S. Dep't of the Interior, Secretary's Order No. 3418, Unleashing American Energy (Feb. 3, 2025).

¹⁴ *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

¹⁵ See *New Mexico Field Production of Crude Oil*, U.S. Energy Information Administration, <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRFPNM2&f=M>; *New Mexico Natural Gas Data*, U.S. Energy Information Administration, <https://www.eia.gov/states/NM/data/dashboard/natural-gas>.

the State of New Mexico therefore requests that BLM rescind its proposal or adopt the “No Action” alternative to maintain the 10-mile buffer.

FOR THE STATE OF NEW MEXICO

RAÚL TORREZ

Attorney General

/s/ Thomas Silva

Thomas Silva

Assistant Attorney General

201 Third St. NW, Suite 300

Albuquerque, New Mexico 87102

Tel. (505) 681-4894

TSilva@nm DOJ.gov