

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”

Thank you Chairman Lowenthal, Representative Grijalva, Representative Haaland, and Representative Luján. My name is Myron Lizer and I am the Vice President of the Navajo Nation. I appreciate the opportunity to testify today at this field hearing on the impacts of oil and gas development for air pollution and sacred sites. Oil and gas development has provided sustained income for the tribal government and provided jobs for the Navajo Nation, which has about 42% unemployment. In the past, the Navajo Nation has used its carbon-based natural resources to provide energy to the United States. However, the ability for the Navajo Nation to determine where oil and gas development occurs and the ability to regulate oil and gas development is fundamental to providing a clean environment and protecting Native American sacred sites.

While oil and gas development on the Navajo Nation has provided royalties to the Navajo Nation for government services and general funds, we are also looking toward the future and alternative sources of energy to provide revenue for the Nation. Most recently, Navajo Nation President Jonathan Nez and myself issued the “Navajo Hayoólkáál Proclamation” or the “Navajo Sunrise Proclamation” to diversify the Navajo Nation energy portfolio from carbon-based energy to renewable energy development, and to restore the environment, provide electricity to rural homes, and support new community and utility-scale renewable energy projects to provide power to the Navajo Nation and the Western United States. By setting this direction for the Navajo Nation, we look to be the leader in the clean energy market.

With regards to oil and gas development, we are sensitive to the location of these facilities near our sacred and cultural sites. This is dictated by our Navajo culture and tradition to respect our relatives who have come before us. This is the reason we continue to support the protection of the Chaco Canyon area from mineral mining and development and the long-awaited Chaco Cultural Heritage Area Protection Act that Senator Udall introduced.

Although we are not direct descendants of the pueblo who inhabited Chaco, our people have long settled in the area and many of our traditional stories are connected to the Chaco area and the surrounding region. As native people, we are connected to the land and it is important to preserve and protect the dwellings and the belongings of ancestral Native people from disturbance. This is not only a Navajo teaching but an acknowledgement of a way of life for all indigenous peoples.

The Bureau of Land Management (BLM) has postponed oil and gas lease sales near Chaco Canyon to allow for the further review of the cultural impacts. With regards to BLM's development of a management plan for the area, the Navajo Nation supports the BLM's development of a sustainable management plan that would prevent federal oil and gas extraction in a 10-mile radius or Protection Zone from the epicenter of the Chaco Cultural National Historical Park.

If there is increased oil and gas development in the Chaco region there will be increased risk for disturbance of the structures and artifacts. Waste from oil and gas extraction can further contaminate the region. Increased truck traffic as well as gas powered machinery can also negatively impact air quality. Oil and gas development activities will also contribute to an increase in emissions such as particulate matter (PM), methane, VOCs and other greenhouse

gases. Over time, emissions can damage the sensitive structures and vulnerable cultural artifacts within the Chaco region.

Ambient air quality on the Navajo Nation is classified by the U.S. Environmental Protection Agency (U.S. EPA) as attainment/unclassifiable of all monitored air pollutants except for a portion of Coconino County, Arizona located within 50-km of Navajo Generating Station, which has been designated unclassifiable with the 2010 SO₂ National Ambient Air Quality Standards (NAAQS). The NAAQS consists of six (6) criteria pollutants for which the Navajo Nation currently monitors four (4) of these criteria pollutants: particulate matter 2.5 (PM_{2.5}, or airborne particles 2.5 microns in diameter and smaller), ozone (O₃), sulfur dioxide (SO₂), and nitrogen dioxide (NO₂). In the case of the designated non-attainment area, the applicable threshold for a proposed source or modification is determined based on the designation where the source is or would be located. If the source straddles the two areas, the more stringent thresholds apply.

The U.S. EPA regulates criteria pollutants using the NAAQS, which establish ambient levels for each criteria pollutant using health and welfare-based criteria. There are two series of standards. As per the CAA §109(b), the "primary" standards are designed to provide an adequate margin of safety that is essential to protecting public health. The "secondary" standards are intended to protect public welfare from any known or anticipated adverse effects associated with the presence of a criteria pollutant in the ambient air. The primary standards protect public health and secondary standards protect public welfare by preventing damage to property such as farm crops and buildings, visibility impairment in national parks and wilderness areas, and the protection of ecosystems (U.S.EPA NAAQS Table).

The Navajo Nation Environmental Protection Agency (NNEPA) has some of the most advanced tribal environmental programs in the country. The NNEPA holds primacy over air and water quality standards and conducts permitting for water programs. The Nation has received delegation approval for a Part 71 Operating Permit Program (also known as Title V) from U.S. Environmental Protection Agency (EPA) Region IX on October 13, 2004 and March 21, 2006. This authority allows the NNEPA to administer a Title V air program under the Clean Air Act. Under this delegation, fourteen (14) major sources with potential to emit pollutants over 100 tons per year, are regulated.

The Navajo Nation has proposed a rule to establish a minor source permitting program under the Navajo Nation Clean Air Act. Under the proposed *Navajo Nation Minor Source Permit Regulations*, the Nation will provide air pollution permits for minor sources to help reduce methane and volatile organic compounds (VOCs) emissions. As proposed, minor sources must not emit more than 5 tpy (tons per year) of VOCs in an attainment area. Also, under the proposed rule, if the Navajo Nation were to become designated as non-attainment, the applicable threshold for a proposed source or modification will be determined based on the designation where the source is or would be located. If the source straddles the two areas, the more stringent thresholds would apply.

Methane emissions not only have an economic impact but also can have an impact on the environment. Methane is a greenhouse gas that contributes to climate change by increasing the atmospheric temperature. The Navajo Nation's proposed minor source rule will help reduce methane emissions by identifying oil and gas facilities on the Navajo Nation through a permitting process. Tracking oil and gas emissions from wells, monitoring the types of oil and gas wells and retaining location information of oil and gas wells will provide a foundation for

future assessments and recommendations on reducing emissions, including planning for regulatory initiatives to further reduce emissions from applicable sources. The Navajo Nation then can provide recommendations to industrial sources such as oil and gas facilities, agriculture, and businesses and homes to lessen emissions.

The “Tribal Minor New Source Review Program for Indian Country”, (76 Fed. Reg. 38784 (July 1, 2011), 40 C.F.R. §§ 49.151-161), currently regulates minor sources on the Navajo Nation. After the Navajo Nation issues its own Minor Source Program regulations, NNAQCP will seek to implement this program in place of the federal government. The NNAQCP implementation will give the Navajo Nation greater control over its air resources, and will allow the Navajo Nation to regulate emissions of air pollution that may impact the environment, public health and welfare, and cultural and religious resources. The proposed rule also would impose fees to cover the costs of administering the minor source program, including permit application, revision and renewal fees, annual emissions fees, fees for coverage under general permits, and registration fees.

On September 28, 2018, finalized the DOI BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation rule for methane (83 Fed. Reg. 49184). The Navajo Nation provided comments on the proposed rule and requested tribal consultation.

The Navajo Nation also fears that there will be an increase in the already high number of oil spills from broken pipes, particularly during the winter when pipes freeze and break. Given our limited resources, remoteness of Chaco, and, in some cases, authority, the Navajo Nation is severely limited to responding to spills. If a spill were to occur, we would have to call upon US EPA who then notifies its On-Scene Coordinator (OSC), who then oversees the process and shares information with us. In the past our OSC representatives would come from California or

Nevada, further delaying response times. While a spill eventually gets addressed, we have issues and concerns with response time and oversight given the limiting factors.

With that said, I also want to address uranium mining and make clear that we do not support development of any uranium mining. Uranium mining has been detrimental to the Navajo people for many decades and I want to make sure that it does not harm any family again. Navajo law also supports a moratorium on uranium mining and processing activity in Navajo Indian Country.

In summary, the Navajo Nation is looking to diversify its energy portfolio to combat climate change and provide clean energy to the Navajo Nation and the Western United States. I appreciate the committee's invitation to testify at this hearing on oil and gas impacts. Thank you.