

**Testimony of the Honorable Mark Freeland**

**Council Delegate to the 24th Navajo Nation Council and Member of the Resources and Development Committee before the House Committee on Natural Resources Subcommittee on Oversight and Investigations Hearing Titled**

**“Justice, Equity, Diversity, and Inclusion in Environmental Organizations and Grantmaking Foundations”**

**February 8, 2022**

Thank you House Natural Resources Chairman Raul Grijalva and Ranking Member Bruce Westerman, and Subcommittee Members of the Natural Resources Subcommittee on Oversight and Investigation. My name is Mark Freeland and I am a Council Delegate on the 24th Navajo Nation Council – which is the Legislative Branch of the Navajo Nation Government. As a formal introduction by our Navajo custom, my Maternal Clan is Tótsohnii, Paternal Clan is Kinyaa’áanii, my Maternal Grandfather clan is Tsénjíkíni and my Paternal Grandfather clan is Tsenabahílnii. My clans define me as a Navajo and identify me to my ties to my people and to the Navajo Nation.

As a member of the 24th Navajo Nation Council, the governing body of the Navajo Nation, I am honored and privileged to be a Member of the Council’s Resources and Development Committee, which regulates oversight authority over all The Navajo Nation’s water, land, environmental protection, cultural resources, minerals, and economic development, among many other areas. The Navajo Nation is comprised of approximately 399,594 Navajo citizens on over 27,000 square miles of land covering Utah, Arizona, New Mexico and Colorado. This area is subdivided into 110 Chapter governments that represent the local voice of our people and work on the local level to see to the needs of our people.

As leaders of the Navajo Nation, we take great pride in our cultural connections to our land and our people. I am here to testify on behalf of the Navajo people who have lived and still do live in and around the greater Chaco area since time immemorial. Their voices have been lost in the public discussions about oil and gas development activities, and the discussions regarding a buffer zone around Chaco Culture National Historical Park. Collectively leadership from the Navajo Nation is equally concerned that environmental organizations have made a point to target Chaco Culture National Historical Park for political or financial gain without listening and taking into account the people that are from the region. Chaco Canyon is located on Navajo Nation lands. As leaders of the Navajo Nation we have come to understand that part of the impetus of Chaco Canyon protection came from the National Parks Conservation

Association (NPCA). They have been one of the primary environmental advocacy group for National Parks and for years have launched a campaign calling for buffers around parks called "Spoiled Parks: the 12 National Parks Most Threatened by Oil and Gas Development" (the "oil" is capitalized by them in the title). NPCA's website features Chaco at the top of their list: [www.npca.org/spoiledparks](http://www.npca.org/spoiledparks).

Consequently, Congress for the past 6 years have considered multiple proposals to create a buffer zone around the Chaco Culture National Historical Park, at the additional request of the All-Pueblo Council of Governors, but unfortunately, continue to ignore the desires of the Navajo people whose lands would actually be impacted by such a decision. This issue is important to the Navajo Nation; specifically, to our Navajo allotment owners. Again, I want to point out that none of these environmental organizations, tribes, State or Congressional leaders have taken the time to meet with our people on the Navajo Nation, despite repeated requests, letters, and teleconferences.

There are currently 53 Individual Indian Allotments (IIA allotments) leased in the 10-mile buffer zone around Chaco based on the latest map proposed in the legislation considered by Congress. These allotments generate an average of \$6.2 million a year in royalties for approximately 5,462 allottees. Many allottees, including Navajo elders, rely on this income to meet their daily needs. However, the gravity of this decision is much larger as there are 418 unleased allotments associated with approximately 16,615 allottees. So, this rule very well could impact over 22,000 allottees.

The White House has stated, as did Congress, that the rule would not apply to Individual Indian Allotments or to minerals within the area owned by private, state, and Tribal entities. However, in reality, the rule would have a devastating impact because the indirect effects would make the allottee land worthless from the standpoint of energy extraction. For example, the Mancos Shale reservoir lies south of Counselor, Huerfano and Nageezi Chapters and north of the Chaco Park. To maximize full extraction of the product, a horizontal lateral crossing of two to four miles of subsurface may be required. Due to the cross jurisdictional land status in Navajo Eastern Agency, a proposed horizontal lateral may need to cross federal land. But the Department of the Interior has already told us that any horizontal drilling that requires access through federal lands would be prohibited under the proposed rules.

In attempts to negotiate with our Congressional representatives, the Navajo Nation Council passed legislation that agreed to reduce the size of the 10-mile buffer zone to 5 miles to reduce the impact on Navajo allottees. We are willing to continue discussions with the federal government but announcing

this initiative at the White House Tribal Nations Summit, knowing that that Navajo Nation Council and Local Navajo Government entities have passed resolutions in opposition, was an unwarranted affront to the Navajo Nation.

We are also mystified by the fact that only one listening session with 10 allottees was held in July with Assistant Secretary of Indian Affairs Bryan Newland as a way to support “tribal engagement” in the U.S. Department of the Interior's press release issued November 11, 2021. Even more disturbing is hearing the Department of the Interior commit to "early, robust, interactive, pre-decisional, informative, and transparent" tribal consultation when essentially no tribal consultation has been held with critical stakeholders in this case. By simply bypassing true and inclusive tribal consultation with the Navajo Nation and our Individual Indian Allottees, the Biden-Harris Administration is markedly undermining its trust responsibility they owe to the Navajo Nation and the 22,000 Individual Indian Allottees impacted by this decision.

To evince respect to us as a sovereign government and people we insist Congressional leaders and the Administration not to move forward on this initiative without first reaching an agreement with the duly elected leaders of those affected by it. We ask that you engage in proper tribal consultation before finalizing the proposed BLM land withdrawal around Chaco Culture National Historical Park.

### **Navajo Cultural Ties to Chaco Culture National Historical Park**

Let me tell you a little about the Navajo people. We have deep connections, from pre-contact to the present, to the many places throughout the Chacoan area. Navajos have lived in the Southwest since time immemorial and as Navajo people, our clans, and oral ceremonial history is tied directly to Chaco Canyon and the landscape. Much of our life-ways begin in the greater Chaco Canyon region. Navajo people are concerned about their life-ways, ceremonial use areas, plant and mineral gathering areas, offering places, historic burials, as well as the archaeological sites throughout the region in which are all still in use today. Some of our Navajo Traditional Origins include the following:

- Navajo clans such as the Kinyaa'aanii (Towering House) originated from the Chacoan Great House, Kinyaa'a, near the present Navajo town of Crownpoint. Sub-clans include Tazhii Dine'e (Turkey people), Dootl'izhi Dine'e (Turquoise people), and Dzil T'anii Dine'e (Mountainside people). These subclans were important in the overall functioning of the “Chacoan system”. This is just one example.

- Many Navajo ceremonials reference or begin in the Chacoan region. For instance, the Navajo ceremonials, the Yoo'ee (Beadway) begins here. The ceremony is for healing both the individual and the community of personal and social ills. In addition, the eagle catching traditions of the Navajo people are deeply embedded in the Chacoan landscape. Both ceremonial traditions include the built environment (archaeological sites), and natural features in the greater Chacoan landscape.
- Many songs, prayers and oral narratives begin at, or incorporate Chacoan places. For instance, Tse diyilii (Fajada Butte), is a prominent place in the Ajilee (Excess Way), Tl'eeji (Nightway), Na'at'ooji (Shooting Way) ceremonials.

### **Federal Jurisdictional Maze Around Chaco Culture National Historical Park**

The Eastern Agency of the Navajo Nation is a complicated mixture of Federal, Navajo Nation, State, Individual Indian Allotments (IIA), and private lands. Navajo people who live here are forced to negotiate the complex web of jurisdictions in their daily lives, ceremonial practice, and development activity related to oil and gas leasing. As stated above, there are approximately 53 Individual Indian Allotments (IIA) in the proposed 10-mile buffer zone. Many of them have oil & gas leases that generate more than \$6 million annually for the Navajo allottees. Now, it is important to note that only Navajo people live in this area. No other tribe have lands here. We have stewards of the natural and cultural resources of the area for countless generations/time immemorial.

As part due-diligence to protect this area, the Navajo Nation is a participant in the EIS for the Farmington-Mancos-Gallup Resource Management Plan Amendment (RMPA) for the past few years. The local Navajo Chapters, particularly the Tri-Chapter Coalition (Naagizi, Ojo Encino, and Counselor Chapters) is active in voicing their concerns about the effect of the oil & gas development in their communities. The Navajo Nation is also participating in the development of a Programmatic Agreement (PA) for the Section 106 process of the NHPA for the RMPA process. The Record of Decision (ROD) for the EIS will not be signed until the PA is completed and signed. There are numerous interested and concurring parties for the EIS, including 24 Indian Tribes from across the Southwest.

Also, as a response to the activities of Congress for the last few years regarding Chaco Canyon, the Navajo Nation has been allocated funding to undertake an ethnographic project. The Navajo Ethnographic Study for the Chaco Region:

- In 2020, the BIA/DOI provided \$1 million for tribes to conduct ethnographic studies. The Navajo Nation received \$434,000 to conduct an ethnographic study to identify cultural resources of importance to the Navajo People in the Chaco area. The remaining funds went to other Tribes/Pueblos.
  - An additional \$600,000 was added to this BIA project. The additional funds went to other pueblo tribes (total allocation to Puebloan tribes is \$1,166,000)
  - The Navajo Nation requests additional funding to complete the study, which include popular publications for the public, and development of curriculum materials for local schools to teach Navajo youth about their heritage.
- The project area spans much of the Eastern Navajo Agency with particular emphasis on the planning area for the RMPA.
- The Navajo Nation contracted a Navajo-woman owned firm in Farmington, New Mexico to conduct the study-Dinetahdoo Cultural Resources Management, Inc. (DCRM). The contract is managed by the NNHHPD. DCRM has begun interviewing, and we expect a final report to be delivered before the end of the current federal fiscal year in September 2022.
  - local people living in the area will be interviewed, plus individuals whose families used to live in the area, and knowledgeable ceremonial practitioners to provide a more complete picture of the long and rich history of Navajos in the Chaco area.

The report will be delivered to the BIA's national headquarters and will also be shared with the BLM Farmington Field Office, and the BIA Navajo Regional Office. Hopefully these agencies will use the information for land management and resources management activities and decisions.

### **No Federal Tribal Consultation with Navajo Nation**

Recently, Secretary Haaland issued a proposed mineral withdrawal on federal lands from any development. The Bureau of Land Management published the Federal Register on January 6, 2022. The proposal will withdraw 351,479.97 acres of federal lands from development for a 20-year term. We have some very strong concerns:

- Secretary Haaland did not consult with the Navajo Nation before making the decision on this federal action. In the announcement for the administrative decision, Halaand is quoted stating that the decision was based on the cultural resources investigation studies that tribes were awarded to conduct within Chaco Canyon. The Navajo Nation has yet to complete the

ethnographic study to date. The Navajo Nation sent a letter to her and President Joe Biden in December of 2021 detailing our concerns regarding development activities in the Eastern Navajo Agency. As of today we have not gotten a response from President Biden or Secretary Haaland. Let me remind you, the greater Chacoan landscape is part of Navajo Nation lands, and Individual Indian Allotments. It's our front yard, our home. Secretary Haaland has completely ignored and disregarded the Executive Directives given by the Biden Administration requiring Tribal Consultations on Federal actions and decisions.

- Withdrawal may affect development on Navajo trust lands and Individual Indian Allotments, in particular, improving infrastructure to access minerals on these lands.
- The Department of Interior did not provide adequate notice or offer consultation with the Navajo Nation prior to make this administrative decision.

Most importantly we ask the Department of Interior, the BLM, the BIA, and the Biden-Harris administration RESPECT Navajo cultural connections to the Chacoan landscape. Navajo people have lived in the Chacoan region for innumerable generations, and must be consulted and in some regards, give consent regarding development of mineral resources, and the impact to their quality of life. Engage in meaningful government-to-government consultation with the Navajo Nation and also the Navajo people. Perhaps this committee could also ask environmental organizations like National Parks Conservation Association, what formal consultation and guidance they have received from the Navajo Nation to allow them to use our landscape and people for their financial and political gain.

In closing, myself and the 24<sup>th</sup> Navajo Nation Council respectfully and rightfully request with collaborative efforts, and extend an invitation to the House Natural Resources Committee to participate in a field hearing in the Navajo Eastern Agency. This hearing would assist in the ongoing collaborations of the Navajo Nation and your leadership in regards to hearing to Navajo Allottees positions and voices on these matters. In addition, the proposed cultural resource investigation ("study") that was commissioned by Congress and authorized congressional appropriation to the Navajo Nation and to the All-Indian Pueblo Council to be performed by cultural experts within the Chaco Canyon and Chaco Culture National Historic Park, is still ongoing. The cultural resources investigation being conducted by our own Navajo Nation Heritage & Historic Preservation Department is allowing the Navajo Nation to identify the culturally and historically significant areas to the Navajo Nation and we urge Congressional leaders to wait until study results are completed before requesting any administrative withdrawals by the Secretary of Interior.