

CHACO CULTURAL HERITAGE AREA PROTECTION ACT OF
2019

OCTOBER 4, 2019.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2181]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2181) to provide for the withdrawal and protection of certain Federal land in the State of New Mexico, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2181 is to provide for the withdrawal and protection of certain Federal land in the state of New Mexico.

BACKGROUND AND NEED FOR LEGISLATION

The Bureau of Land Management (BLM) oversees more than 247 million acres of U.S. land and 700 million acres of subsurface mineral estate and is the primary federal agency responsible for managing oil and gas resources on public land. Over the last decade, oil and gas production in New Mexico has increased dramatically as a result of hydraulic fracturing and the presence of abundant resources. New Mexico is 35 percent public land, and oil and gas production in New Mexico is disproportionately produced on these public lands—in 2017, 57 percent of New Mexico's oil and 65 percent of New Mexico's gas was produced from the federal mineral

estate. Two of the most active plays in the state are the Permian Basin in the southeast corner and the San Juan Basin in the northwest corner. Under the Trump administration, BLM has sold 217,424 acres of oil and gas leases and approved over 1,700 oil and gas drilling permits, bringing the total number of active wells in New Mexico to over 31,000, spread across 3.7 million producing acres.¹

Oil and gas resources in the western U.S. frequently overlap with and border Native American lands, presenting indigenous peoples with opportunities to develop these resources but leaving them to cope with the numerous health, environmental, and cultural impacts that accompany energy development. In northwest New Mexico, the Chaco Culture National Historical Park (CHCU or Chaco Canyon) and the greater Chaco landscape are a prime example of how sacred sites are under threat from encroaching oil and gas development.

The greater Chaco landscape was home to thousands of Ancestral Puebloans between 850 and 1250 AD, and Chaco Canyon was a central location for “ceremon[ies], trade and political activity for the prehistoric Four Corners area.”² This area includes hundreds of nationally and internationally significant cultural resources, including prehistoric roads, communities, shrines, and houses. Chaco Canyon consists of approximately 4,000 archeological sites covering a span of over 10,000 years, including a number of Great Houses and masonry structures such as Hongo Pavi, Chetro Ketl, and the 600-room Pueblo Bonito.³ Chaco Canyon was a special gathering place for the Ancestral Puebloans, and along with Mesa Verde and Bears Ears, these areas are considered the “footprints of ancestors” by modern Pueblo nations.⁴ Together, the archaeological and natural features create a “cultural landscape” that binds the Pueblo and Navajo people to Chaco Canyon.⁵ To this day, Chaco Canyon and the surrounding region is a sacred place for tribes throughout the southwest.

CHCU was first protected federally in 1907 when President Theodore Roosevelt established the Chaco Canyon National Monument. In 1980, Congress redesignated the monument Chaco Culture National Historical Park and added 13,000 acres to the Park.⁶ In 1987, it was designated a UNESCO World Heritage Site,⁷ and in 2013, it was certified as an International Dark Sky Park.⁸ On

¹See U.S. Dep’t of the Interior, Bureau of Land Mgmt., Oil and Gas Statistics (last visited Oct. 1, 2019), <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics>.

²*Chaco Culture*, UNESCO World Heritage Ctr., <https://whc.unesco.org/en/list/353/> (last visited Oct. 1, 2019).

³The Pew Charitable Trs., Chaco Culture National Historical Park (2017), https://www.pewtrusts.org/-/media/assets/2017/11/chacocasestudy_f.pdf.

⁴All Pueblo Council of Governors, Opinion, *We Traveled 2,000 Miles to Save Chaco Canyon*, High Country News, Oct. 4, 2018, <https://www.hcn.org/issues/50.18/opinion-tribal-affairs-we-traveled-2-000-miles-to-save-chaco-canyon>.

⁵*The Trump Administration’s Bias Towards the Oil and Gas Industry during the Government Shutdown: Democratic Issues Forum Before the H. Comm. on Nat. Res.*, 116th Cong. (2019) (testimony of Kurt Riley, former Governor, Pueblo of Acoma, N.M.), <https://naturalresources.house.gov/imo/media/doc/Testimony%20-%20Kurt%20Riley%20Acoma%20Pueblo.pdf>.

⁶U.S. Nat’l Park Serv., A Brief History of Chaco Culture National Historical Park (last modified Dec. 13, 2017), <https://www.nps.gov/chcu/learn/upload/Chaco-Brief-History.pdf>.

⁷*Id.*

⁸*Chaco Night Sky Program*, U.S. Nat’l Park Serv., <https://www.nps.gov/chcu/planyourvisit/nightsky.htm> (last updated Nov. 4, 2018).

average, 40,000 people visit CHCU each year, and it continues to be studied by archeologists and historians.⁹

The San Juan Basin in northwest New Mexico has been a very active region for oil and gas development for a significant period, but activity is declining due to low natural gas prices. There are currently tens of thousands of wells in the region spread across federal, state, and tribal land, and these wells are in close proximity to CHCU and other cultural and environmental resources that exist inside and outside the Park boundaries. BLM has already leased more than 90 percent of its managed landscape in the region for oil and gas development, and energy companies continue to have interest in development despite low prices. In 2013, the U.S. Geological Survey estimated the San Juan Basin holds roughly 19 million barrels of undiscovered oil, 50 trillion cubic feet of undiscovered gas, and 148 million barrels of undiscovered natural gas liquids.¹⁰

Oil and gas development in the Chaco Canyon region impacts tribal communities in multiple ways, including encroachment on cultural resources and sacred sites, fragmentation of the landscape by thousands of miles of roads, degradation of air and water quality, and proliferation of noise and light pollution. The National Park Night Sky Team has measured the conditions of Chaco and has identified its darkness as “one of the best in the park system.”¹¹ The increasing presence of oil and gas development north and east of CHCU produces smog and natural gas flares that impact the animals, vegetation, and people that live nearby, and undermines the Park’s pristine night skies that help attract thousands of visitors each year. Furthermore, noise and air pollution that comes from the heavy machinery and equipment that accompanies oil and gas development impacts the people and tribal communities that live near wells.

Around 2011, the San Juan Basin became the focus of renewed oil and gas development, which resulted in a proliferation of new wells and infrastructure in northwest New Mexico and near Chaco Canyon. The level of activity and the expansion of hydraulic fracturing technology had not been anticipated by BLM in their 2003 resource management plan (RMP) for the region, and a process to amend the RMP to account for the increased oil and gas activity was triggered. While the amendment process was underway, the Obama administration made an informal agreement not to lease parcels within ten miles of Chaco Canyon. The process to amend the RMP is still underway.

However, under the Trump administration, BLM has proposed to sell oil and gas leases for parcels near Chaco Canyon three different times. Fortunately, BLM withdrew the parcels in each instance. In March 2018, then-Secretary Zinke removed 4,434 acres of land from a lease sale, stating, “We’re going to defer those leases

⁹ *Chaco Canyon Cross-Cutting*, NASA: Develop Nat’l Program, <https://develop.larc.nasa.gov/2016/summer/ChacoCanyonCross.html> (last visited Oct. 1, 2019).

¹⁰ U.S. Geological Survey, Total Petroleum Systems and Geologic Assessment of Undiscovered Oil and Gas Resources in the San Juan Basin Province, Exclusive of Paleozoic Rocks, New Mexico and Colorado 2 (2013), https://pubs.usgs.gov/dds/dds-069/dds-069-f/REPORTS/DDS-69F_BOOK_508.pdf.

¹¹ G.B. Cornucopia, *Chaco’s Dark Skies*, in *Archaeology Sw., Recent Efforts to Research, Preserve, and Protect the Greater Chaco Landscape* 7 (2017), <https://www.archaeologysouthwest.org/wp-content/uploads/Recent-Efforts.pdf>.

until we do some cultural consultation.”¹² Although there were no further studies or tribal consultation, BLM once again planned to sell leases for land near CHCU in October 2018. At that time, BLM deferred the sale of 1,040 acres of land within the ten-mile proposed protection zone but continued the sale of additional parcels within the greater Chaco region.¹³ Most recently, in February 2019, BLM again withdrew from a scheduled lease sale approximately 1,500 acres within the proposed protection zone.¹⁴ These acres were removed after concerted push back from tribal communities, lawmakers, environmental groups, and other groups who utilize and appreciate the greater Chaco region. At the end of May 2019, Secretary Bernhardt visited Chaco Canyon, and on May 28, 2019, Secretary Bernhardt announced that there would be no leasing within the ten-mile buffer zone for one year while the RMP amendment process is completed with a protective alternative option.¹⁵ While this defers the threat to Chaco Canyon, H.R. 2181 is needed in order to provide permanent protection.

H.R. 2181 withdraws the minerals owned by the federal government located within the *Proposed Chaco Protection Zone* from future mining and oil and gas development. The Protection Zone is a 909,000-acre region that falls within a ten-mile radius of Chaco Canyon, of which 316,076 acres is owned by the federal government and would be withdrawn. The legislation is supported by the entire New Mexico congressional delegation, New Mexico Governor Michelle Lujan Grisham, the Navajo Nation, and the All Pueblo Council of Governors (APCG). Over the course of the two hearings to develop the bill, multiple Pueblo and Navajo leaders spoke in support of the mineral withdrawal. These supporters include the Chairman and the Vice-Chairman of the APCG, the Governor of the Pueblo of Acoma, the Governor of the Pueblo of Santa Ana, the Vice President of the Navajo Nation, and the Chairman of the Resources and Development Committee for the Navajo Nation Council.

The APCG, which represents the twenty Pueblo Governors in New Mexico and Texas, has repeatedly called on federal and state land managers to protect sacred sites in the greater Chaco Canyon region. In 2017, for the first time in the 400-year history of the APCG, the Navajo Nation joined the APCG in a “historic summit” to focus on “how all tribal nations in the Southwest can work together” to safeguard the landscape from oil and gas development.¹⁶ APCG and the Navajo held their third official summit in March 2019. Pueblos and the Navajo Nation have banded together multiple times to protest the inclusion of parcels in BLM oil and gas lease sales that are within ten miles of CHCU.

¹²Michael Coleman, *Zinke Cancels Chaco Canyon Lease Sale*, Albuquerque J., Mar. 1, 2018, <https://www.abqjournal.com/1140105/zinke-cancels-chaco-canyon-lease-sale.html>.

¹³Press Release, The Red Nation, Stop the Colonial Land Grab Shutdown BLM Leases! (Nov. 29, 2018), <https://therednation.org/2018/11/29/stop-the-colonial-land-grab-shutdown-blm-leases/>.

¹⁴Press Release, Bureau of Land Mgmt. New Mexico State Office, BLM New Mexico Defers Nine Parcels for March Lease Sale (Feb. 8, 2019), <https://www.blm.gov/press-release/blm-new-mexico-defers-nine-parcels-march-lease-sale>.

¹⁵Scott Turner, *Secretary Puts Leasing on Hold on Federal Lands Near Chaco Canyon*, Albuquerque J., May 29, 2019, <https://www.abqjournal.com/1321503/secretary-puts-leasing-on-hold-on-federal-lands-near-chaco-canyon.html>.

¹⁶Russell Begaye & Edward Paul Torres, Guest Column, *Tribal Nations Push Chaco Protection*, Albuquerque J., Aug. 14, 2017, <https://www.abqjournal.com/1047471/tribal-nations-push-chaco-protection.html>.

Opponents of the legislation have falsely suggested that H.R. 2181 would infringe on the rights of Navajo allottees to develop the oil and gas resources they own beneath their property. This is incorrect, as Section 6 of the bill explicitly says the withdrawal will not affect the mineral rights of an Indian Tribe or a member of an Indian Tribe, including Navajo allottees. The bill will only place land owned by the federal government off-limits for future development and will not affect existing allottee leases or existing oil and gas production within the ten-mile buffer.

For years, tribal leaders, local community members, archeological organizations, and a host of other stakeholders have called for federal action to protect the land and cultural resources surrounding Chaco Canyon from encroaching oil and gas development. H.R. 2181 would provide the permanent protection that this special place desperately needs.

COMMITTEE ACTION

H.R. 2181 was introduced on April 9, 2019 by Representative Ben Ray Luján (D–NM). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands and the Subcommittee on Energy and Mineral Resources. On June 5, 2019, the Subcommittee on National Parks, Forests, and Public Lands held a hearing on the bill. On July 17, 2019, the Natural Resources Committee met to consider the bill. The Subcommittees were discharged by unanimous consent. Representative Paul Gosar (R–AZ) offered an amendment designated Gosar #3. The amendment was not agreed to by a roll call vote of 14 yeas and 19 nays, as follows:

Date: July 17, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2181

Amendment: Mr. Gosar #3 amendment

Disposition: Not agreed to by a roll call vote of 14 yeas and 19 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO		X	
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO		X	
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ (Chair)		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV			
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL			
23	Mr. Van Drew, NJ		X	
24	Mr. Tonko, NY		X	
25	Ms. Velázquez, NY		X	
	REP. MEMBERS (19)	Y	N	P
1	Mr. Bishop, UT (Ranking)	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA			
10	Mr. Hem, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Webster, FL			
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	TOTALS	14	19	
	Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

Representative Gosar offered an amendment designated Gosar #5. The amendment was not agreed to by a roll call vote of 14 yeas and 19 nays, as follows:

Date: July 17, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2181

Amendment: Mr. Gosar #5 amendment

Disposition: Not agreed to by a roll call vote of 14 yeas and 19 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO		X	
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO		X	
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ (Chair)		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV			
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL			
23	Mr. Van Drew, NJ		X	
24	Mr. Tonko, NY		X	
25	Ms. Velázquez, NY		X	
	REP. MEMBERS (19)	Y	N	P
1	Mr. Bishop, UT (Ranking)	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA			
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Webster, FL			
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	TOTALS	14	19	
	Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

Representative Doug Lamborn (R-CO) offered an amendment designated Lamborn #2. The amendment was not agreed to by a roll call vote of 14 yeas and 19 nays, as follows:

Date: July 17, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2181

Amendment: Mr. Lamborn #2 amendment

Disposition: Not agreed to by a roll call vote of 14 yeas and 19 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO		X	
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO		X	
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ (Chair)		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV			
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL			
23	Mr. Van Drew, NJ		X	
24	Mr. Tonko, NY		X	
25	Ms. Velázquez, NY		X	
	REP. MEMBERS (19)	Y	N	P
1	Mr. Bishop, UT (Ranking)	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA			
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Webster, FL			
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	TOTALS	14	19	
	Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

The bill was ordered favorably reported to the House of Representatives by a roll call vote of 19 yeas and 14 nays, as follows:

Date: July 17, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2181

Amendment:

Disposition: Final Passage: H.R. 2181 was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 19 yeas and 14 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA	X		
3	Mr. Case, HI	X		
4	Mr. Clay, MO	X		
5	Mr. Costa, CA	X		
6	Mr. Cox, CA	X		
7	Mr. Cunningham, SC	X		
8	Ms. DeGette, CO	X		
9	Mrs. Dingell, MI	X		
10	Mr. Gallego, AZ	X		
11	Mr. Grijalva, AZ (Chair)	X		
12	Ms. Haaland, NM	X		
13	Mr. Horsford, NV			
14	Mr. Huffman, CA	X		
15	Mr. Levin, CA	X		
16	Mr. Lowenthal, CA	X		
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA	X		
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI	X		
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL			
23	Mr. Van Drew, NJ	X		
24	Mr. Tonko, NY	X		
25	Ms. Velázquez, NY	X		
	REP. MEMBERS (19)	Y	N	P
1	Mr. Bishop, UT (Ranking)		X	
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA		X	
4	Mr. Curtis, UT		X	
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX		X	
7	Ms. González-Colón, PR		X	
8	Mr. Gosar, AZ		X	
9	Mr. Graves, LA			
10	Mr. Hern, OK		X	
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO		X	
14	Mr. McClintock, CA		X	
15	Mrs. Radewagen, AS		X	
16	Mr. Webster, FL			
17	Mr. Westerman, AR		X	
18	Mr. Wittman, VA		X	
19	Mr. Young, AK			
	TOTALS	19	14	
	Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearings were used to develop or consider H.R. 2181: oversight hearing titled “Oil and Gas Development: Impacts on Air Pollution and Sacred Sites” held by the Subcommittee on Energy and Mineral Resources on April 15, 2019, in Santa Fe, New Mexico and legislative hearing on H.R. 1373 and H.R. 2181 held by the Subcommittee on National Parks, Forests, and Public Lands on June 5, 2019, in the Longworth House Office Building.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2019.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2181, the Chaco Cultural Heritage Area Protection Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 2181, Chaco Cultural Heritage Area Protection Act of 2019			
As ordered reported by the House Committee on Natural Resources on July 17, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	2	3
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	2	3
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs
* = between zero and \$500,000.			

The bill would

- Withdraw federal land within a 10-mile buffer of Chaco Culture National Historical Park in New Mexico from entry under hardrock mining laws and from mineral and geothermal leasing activities, subject to valid existing rights
- Terminate any existing leasing agreements in the withdrawal area that are not producing by the end of their initial terms

Estimated budgetary effects would primarily stem from

- Forgone government income resulting from prohibiting new mineral leasing on the affected land.

Bill summary: H.R. 2181 would withdraw federal lands within roughly a 10-mile buffer of Chaco Culture National Historical Park in New Mexico from entry under hardrock mining laws and from mineral and geothermal leasing activities, subject to valid existing rights. That is, the bill would not allow new hardrock mining claims or mineral and geothermal leases on land adjacent to the park. The bill also would terminate any existing leasing agreements on the affected land that have not commenced drilling operations or mineral production before the end of their initial terms.

Estimated Federal cost: The estimated budgetary effect of H.R. 2181 is shown in Table 1. The costs of the legislation fall within budget functions 300 (natural resources and environment) and 800 (general government).

TABLE 1.—ESTIMATED DIRECT SPENDING UNDER H.R. 2181 ^a

	By Fiscal Year, Millions of Dollars												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
Estimated Budget Authority	0	0	*	*	*	1	*	*	*	*	*	2	3
Estimated Outlays	0	0	*	*	*	1	*	*	*	*	*	2	3

^a Components may not sum to totals because of rounding; * = between zero and \$500,000.

^a CBO estimates that any administrative costs incurred by the Department of the Interior to implement the withdrawal would not be significant; any such spending would be subject to the availability of appropriated funds.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the start of 2020.

Background: The Bureau of Land Management (BLM) administers onshore mineral leasing on federal lands. For all leasing agreements that are executed, lessees pay the federal government a bonus bid (the amount that a company is willing to pay for the right to extract mineral resources), annual rent to retain the agreement, and royalties based on the value of any oil or gas produced. Those payments are recorded in the budget as offsetting receipts, or reductions in direct spending. Under the Mineral Leasing Act (MLA), states receive 49 percent of all royalties, rents, and bonus bids collected. (The federal government generally does not collect any bonus bids, royalties, or rents from hardrock mining activities on federal lands in New Mexico.)

Direct spending: CBO estimates that enacting H.R. 2181 would increase direct spending by \$3 million over the 2020–2029 period.

Potential for future leasing under current law: In recent years, the Department of the Interior (DOI) has deferred mineral lease sales on the affected land. Using information from BLM and the Energy Information Administration, CBO expects that the land has high potential for oil and gas resources and low-to-moderate potential for geothermal and coal resources.

Based on the number of parcels that have been deferred for oil and gas leasing, CBO estimates that roughly 18,000 acres will be leased in the near future, under current law. In recent years, lessees have paid about \$250 per acre in bonus bids to lease federal lands in northwest New Mexico. On that basis, CBO estimates that the federal government will collect roughly \$5 million in gross bonus bids over the 2020–2029 period to lease out the affected land. At \$1.50 per acre until production commences, annual rental payments will total less than \$500,000 over that same period.

Using information from DOI on mineral leasing in northwest New Mexico, CBO estimates that the agency could execute 20 new federal leasing agreements on the affected land in the near term. We estimate that each agreement will produce between 3,000 and 10,000 barrels of oil and between 40,000 and 50,000 thousand cubic feet of gas annually over the initial years. Using projections for oil and gas prices under CBO's May 2019 baseline, and applying the 12.5 percent royalty rate under the MLA, CBO estimates that gross royalties from oil and gas production could total \$8 million over the 2020–2029 period. In addition, CBO estimates that any bonus bids, rents, and royalties from coal and geothermal leasing will be insignificant over that same period.

However, CBO has no basis to estimate the specific probability of BLM conducting lease sales on the affected land. In the absence of specific information, CBO uses a 50 percent probability that the land will be leased under current law. On that basis, and accounting for payments to states under the MLA of 49 percent, we estimate that net federal receipts from mineral and geothermal leasing on the affected land will total \$3 million over the 2020–2029 period. Under the bill, the federal government would forgo those receipts. Thus, CBO estimates that the withdrawal required under the bill would increase net direct spending by \$3 million over the 2020–2029 period.

Termination of existing agreements: H.R. 2181 would terminate any leasing agreements on the affected land that have not commenced drilling operations or production before the end of their primary term, which is typically 10 years. Current law already authorizes DOI to terminate such leases. The bill also would prohibit reinstatement of terminated leases.

According to BLM, there are 32 nonproducing agreements on the affected land; roughly one-third will expire if they do not commence operations by 2024. CBO expects that under current law, a small portion of those agreements will expire and be reinstated and will commence production before 2029. Under the bill, we expect that some of those agreements would commence production earlier than they otherwise would, while others would be terminated without reinstatement. CBO estimates that the net increase in direct spending (from forgone royalties) would be insignificant over the 2020–2029 period.

Spending subject to appropriation: Based on the costs of similar tasks, CBO estimates that any administrative costs incurred by DOI to implement the withdrawal would be insignificant; any spending would be subject to the availability of appropriated funds.

Uncertainty: The amount the government will collect from bonus bids and royalties for mineral leases in the proposed withdrawal area is uncertain and could be higher or lower than CBO estimates. Specifically, CBO cannot forecast with certainty whether or when DOI will hold lease sales, and the amount of acreage that companies will lease. CBO also cannot foresee with certainty the volume or value of oil and gas production on the affected lands.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO’S ESTIMATE OF PAY-AS-YOU-GO EFFECTS OF H.R. 2181

	By Fiscal Year, Millions of Dollars												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
	Net Increase in the Deficit												
Statutory Pay-As-You-Go Effect ..	0	0	0	0	0	1	0	0	0	0	0	2	3

Increase in long-term deficits: CBO estimates that under H.R. 2181 the federal government would forgo royalties from oil and gas production after 2029 on the affected land. However, we estimate that enacting the bill would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates: H.R. 2181 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting DOI from extending or reinstating oil and gas leases that are terminated as a result of the bill. Under current law, DOI is authorized to reinstate or extend terminated leases in certain circumstances. The cost of the mandate would be revenue forgone by leaseholders that would be unable to reinstate their terminated leases. CBO estimates revenue from potential production of oil and gas from those leases would be less than \$1 million per year, well

below the private-sector threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

H.R. 2181 contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal costs: Janani Shankaran; Mandates: Lilia Ledezma.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill is to provide for the withdrawal and protection of certain Federal land in the state of New Mexico.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 2181 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting DOI from extending or reinstating oil and gas leases that are terminated as a result of the bill. Under current law, DOI is authorized to reinstate or extend terminated leases in certain circumstances. The cost of the mandate would be revenue forgone by leaseholders that would be unable to reinstate their terminated leases. CBO estimates revenue from potential production of oil and gas from those leases would be less than \$1 million per year, well below the private-sector threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

H.R. 2181 contains no intergovernmental mandates as defined in UMRA.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

DISSENTING VIEWS

If ideological purity was the test for legislation becoming law, H.R. 2181 wins a gold star. The bill fits nicely with the Committee Democrats’ pattern of partisan intransigence. Like so many of the Majority’s bills, H.R. 2181 is going nowhere fast.

The bill would permanently ban federal oil and natural gas leasing on roughly 316,000 acres of land in New Mexico. This would have a deeply negative long-term economic impacts on the State of New Mexico, eliminate key revenue sources for future public investments, and undermine a range of economic activities associated with responsible energy development. In fiscal year 2013 the combined revenues from oil and gas for the four counties that are near the proposed moratorium area was \$198.2 million.¹

This permanent ban would also jeopardize the financial future of thousands of Indian allottees by making it virtually impossible for them to develop the energy resources they own. The bill claims not to affect allottee mineral rights, but the reality is that many allottee lands are surrounded by federal lands that would be withdrawn by this legislation. This will create significant access and extraction complications for the Indian allottees along with any companies they partner with and will lead to a de facto extraction ban on their lands.²

At the June 5, 2019, hearing on H.R. 2181, the Natural Resources Committee heard testimony from Debora Hesuse, a citizen of the Navajo Nation, Nageezi chapter, and an Indian allottee who owns mineral resources in the proposed area. Ms. Hesuse testified that H.R. 2181 would “put many of our mineral rights off limits and stop a much-needed source of income to feed, shelter, clothe and protect our families.”³ Ms. Hesuse also submitted for the record a petition signed by 131 Navajo allottees opposing this legislation, as well as two resolutions from the Huerfano and Nageezi Navajo chapters, which are closest to this area, expressing support for the Navajo allotment landowners and recognizing their opposition to this bill. It is very concerning that the local people that live and own allotments in this area are being ignored by the proponents of this legislation.

During markup of H.R. 2181, several amendments offered by Republicans seeking to address flaws in the bill were rejected on largely party line votes. Among these was an amendment offered by Congressman Paul Gosar that would have delayed implementation of this legislation until the Department of the Interior is able

¹New Mexico—Energy, Minerals and Natural Resources Department, Oil Conservation Division Oil and Gas Education <http://www.emnrd.state.nm.us/OCD/education.html#OGProd2>.

²Sandoval, Michael Navajo Allottees Frustrated By Interior Delay On Leasing Near Chaco Canyon May 30, 2019. <http://westernwire.net/navajo-allottees-frustrated-by-interior-delay-on-leasing-near-chaco-canyon/>.

³Hesuse, Delore, Navajo Nation Citizen, Nageezi Chapter. Testimony for Legislative hearing on H.R. 2181. June 5th, 2019.

to properly confirm that this withdrawal will not adversely affect mineral rights held by Native Americans in the area. Also offered at the markup was an amendment from Congresswoman Liz Cheney that would have simply provided recognition for the Indian allottee opposition to the bill by adding one line to the bill's findings section. These amendments were rejected by Committee Democrats, and the legislation advanced without a single Republican vote.

ROB BISHOP.
PAUL A. GOSAR.
AUMUA AMATA COLEMAN
RADEWAGEN.
JODY B. HICE.
MIKE JOHNSON.

