

San Juan County (SJ County), New Mexico, the county in which Chaco Culture National Historical Park (NHP) is located, wants to pave County Road (CR) 7950, the primary 16-mile dirt road to the park. San Juan County was provided \$800,000 of federal funding secured through Congressman Tom Udall to evaluate and implement improvements to CR 7950. San Juan County would also be responsible for \$200,000 making the total earmarks \$1,000,000. San Juan County must comply with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and Clean Water Act (CWA) in evaluating alternatives for improvements to CR 7950. San Juan County has already chip-sealed the first four miles of CR 7950 which raises issues including lack of NHPA compliance, lack of New Mexico Cultural Resource law compliance, and the failure to consult with tribal entities. Despite San Juan County claims that they used no Federal money in the chip-sealing of the first four miles of CR 7950, it is becoming increasingly evident that Section 106 of NHPA should have been followed and that New Mexico Department of Transportation (NMDOT) failed to properly oversee the project.

San Juan County, FHWA (lead agency) and NMDOT have retained the URS Corporation and Taschek Environmental to prepare an Environmental Assessment (EA) under NEPA with a range of alternatives from leaving the road as is (No Action), to chip-sealing the road, to engineering changes to the road. As CR 7950 is currently unpaved, the number of visitors to Chaco Culture NHP remains moderate. Any legitimate NEPA analysis of CR 7950 would include the connected actions of impacts to Chaco Culture NHP, potential impacts to local citizens, and reasonably foreseeable energy development (natural gas, coal and uranium) of the area. In addition, the separate NHPA and NEPA processes require significant consulting party and cooperating agency input. Many groups have commented on SJ County's minimal maintenance of CR 7950 and that regular maintenance should be prioritized as an alternative to be studied in the EA (see attached Hopi letter detailing project history and their many concerns and questions).

In March of 2007, Cimarex Energy Company, a natural gas company out of Denver, Colorado, proposed two natural gas pads with 4 wells on the southern boundary of Chaco Culture NHP on state of New Mexico Trust land. The land surrounding Chaco Culture NHP is a checkerboard of federal, state of New Mexico and Navajo Nation surface ownership with leasable minerals. Following opposition from many groups and individuals,

and media oversight, Cimarex decided to postpone exploration and possible development of the well sites. In addition, Cimarex pledged to work with the State Land Office and the State Historic Preservation Office “to reach a mutual beneficial solution in order to obtain equal value for what we perceive to be the loss incurred by not being able to develop our Leases.”

In December of 2007, a meeting was held at Congressman Tom Udall's office in Santa Fe to discuss the concept of creating a buffer zone around Chaco Culture NHP that would prevent the re-occurrence of attempts to drill natural gas wells on the boundary of the park. The buffer zone concept would require cooperation from many entities including the State Land Office, the Bureau of Land Management, the Hopi Tribe, the Navajo Nation the National Park Service (NPS) and others in setting forth an administrative solution. This problem of leased natural gas sites on state lands adjacent to Chaco Culture NHP and the idea of a buffer zone around the park have not been resolved to date. However, the BLM continues to expedite natural gas seismic operations in areas surrounding Chaco Culture NHP which could reasonably predict impending significant natural gas development.

On September 9, 2008, the San Juan County Commission conducted a Special Meeting where the discussion of CR 7950 was agenda item #1. The meeting started with Dave Keck, SJ County Public Works Director, stating that since CR 7950 (Chaco Road) improvements utilize federal funding, an EA under NEPA was being prepared by the URS Corporation. Mr. Keck pointed to a flow chart of the NEPA process and said that SJ County was at **square one of the NEPA process**. Mr. Keck stated that **\$337,000 of the \$800,000 federal appropriation has been spent to date on studies (primarily a controversial Transportation Needs Analysis study conducted by URS Corporation, which SJ County certified before agency comments were incorporated and contradicts a NPS expert)**. Mr. Keck stated that there is an issue with the right-of-way (ROW) from Escavada Wash to Chaco Canyon NHP – this is Navajo Nation land and SJ County has no legal jurisdiction over the ROW. Mr. Keck stated that SJ County could acquire this ROW – it would cost approximately \$52,000 to survey and \$100,000 to acquire. Mr. Keck projects that chip-sealing the remaining approximate 13 miles of CR 7950 would cost \$3.5 million and that \$375,000 would be needed for a low water crossing of Escavada Wash. Mr. Keck then stated that he believes that it is highly unlikely that SJ County would get a Finding of No Significant Impact (FONSI) by the FHWA, lead agency on the EA being prepared with the preferred alternative of chip-

sealing. Mr. Keck discussed a revised approach to consider low-impact alternatives (including options such as an aggregate surface and signage) that could be analyzed in an EA that could perhaps lead to a FONSI from FHWA. Mr. Keck stated that he believed that the current approach of trying to pave (chip-seal) the road would result in an Environmental Impact Statement that would take at least 22-30 months to prepare and cost upward of \$400,000. Mr. Keck then asked the SJ County Commissioners for their recommendation as to how best to proceed.

San Juan County Commissioners agreed that the next step was to convene a meeting with Congressman Tom Udall with discussion including low-impact alternatives (signs, gravel) rather than chip-sealing and to discuss their frustration with the difficulties encountered thus far in the NEPA process. Mr. Keck noted that SJ County is currently trespassing on CR 7950 from Escavada Wash to Chaco Culture NHP and that SJ County abandonment of that section was a possibility.

SUMMARY

In summary, at least \$337,000 of the \$1,000,000 appropriated for CR 7950 has been spent by the URS Corporation and Taschek Environmental on third-party contracts without evidence of compliance with basic procedural steps of NEPA and NHPA. It appears that URS Corporation has spent considerable amounts of money on the Transportation Needs Analysis for CR 7950 which can be considered distinct from NEPA – thus more significant expenditures are expected to be incurred in the NEPA process. Additionally, this Transportation Needs Analysis for CR 7950 is now the subject of dispute as to its conclusions (see attached letter from New Mexico State Historic Preservation Office, September 18, 2008 and above mentioned letter from Hopi Tribe) and may need refinement. FHWA, NMDOT, and SJ County have not made significant progress in preparation of the EA and have not solicited proper input from cooperating agencies.

No further money should be spent or appropriated on the CR 7950 NEPA process until an audit result of money spent to date occurs and the responsible agencies (including FHWA, NMDOT and SJ County) account for compliance with federal laws and statutes for the project. The public is the real loser when lack of adequate oversight is allowed to continue on a complex project such as CR 7950.