

The Great Spirit created Man and Woman in his own image. In doing so, both were created as equals. Both depending on each other in order to survive. Great respect was shown for each other; in doing so, happiness and contentment was achieved then, as it should be now.

The connecting of the Hair makes them one person; for happiness or contentment cannot be achieved without each other.

The Canyons are represented by the purples in the middle ground, where the people were created. These canyons are Sacred, and should be so treated at all times.

The Reservation is pictured to represent the land that is ours, treat it well.



The Reservation is our heritage and the heritage of our children yet unborn. Be good to our land and it will continue to be good to us.

The Sun is the symbol of life, without it nothing is possible – plants don't grow – there will be no life – nothing. The Sun also represents the dawn of the Hualapai people. Through hard work, determination and education, everything is possible and we are assured bigger and brighter days ahead.

The Tracks in the middle represent the coyote and other animals which were here before us.

The Green around the symbol are pine trees, representing our name Hualapai - PEOPLE OF THE TALL PINES -

HUALAPAI TRIBE
OFFICE OF THE CHAIRPERSON

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Shelton "Scott" Crozier
Vice Chairman

June 10, 2021

Ms. Angelica Rose
Bureau of Land Management
Kingman Field Office
2755 Mission Blvd
Kingman, AZ 86401

Submitted via ePlanning Commenting Portal

Re: Comments on Sandy Valley Exploration Project (Phase 3) Environmental Assessment, NEPA Number DOI-BLM-AZ-C010-2021-0029-EA

Dear Ms. Rose:

The Hualapai Tribe submits the following comments on the Environmental Assessment (EA) for the Big Sandy, Inc., Sandy Valley Exploration Project (Phase 3). Under this EA, the Bureau of Land Management (BLM) is considering approving an exploration plan through which Hawkstone Mining Limited, d/b/a Big Sandy, Inc., (Hawkstone) would explore its mining claims on BLM-managed public lands for lithium and poly-metal minerals (Plan). According to the BLM, activities under the Plan would begin in the summer of 2021. We provide the below comments on the BLM's EA.

At the outset, we want to emphasize that this is not simply a situation where an Indian tribe has an interest in a federal undertaking on ancestral land—although those situations are also serious. Here, the Hualapai Tribe is the landowner immediately adjacent to this undertaking, and a Traditional Cultural Property (TCP) is located on the Tribe's land. Indeed, we are virtually surrounded on three sides by the past and proposed exploration activities. We view any further exploration or potential mining in this area to be an imminent threat to sovereign Hualapai tribal interests, which are protected under federal trust obligations and other federal laws.

We urge the BLM and Hawkstone to take a hard look at the implications of the exploratory drilling activities encompassed under the proposed Plan. The exploration and disturbance activities under the Plan will impact the Tribe's cultural resources and other tribal interests, and the Plan's reasonably foreseeable effects on these important interests have not been adequately examined under the EA.

Further, although the BLM may wish to limit its analysis strictly to this exploration phase under the Plan, Hawkstone's U.S. General Manager has been giving public presentations laying out detailed plans for an open pit mine and ore slurry, including to the Hualapai Tribal Council. Clearly, this exploration phase is simply a step in the process toward an open pit mine, and it would be disingenuous to imply otherwise. These presentations point to reasonably foreseeable future actions whose effects should also be considered under the EA. More robust National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) Section 106 review that coincides with any future approval of a mine will result in a finding of the potential of unacceptable harm to irreplaceable cultural resources and other protected tribal interests. It is in the best interests of all stakeholders to cease the investment of resources in this project now.

Additionally, we continue to assert that the BLM should have accepted the Hualapai Tribe's requests to become a cooperating agency for purpose of NEPA review and to provide ethnographic research assistance as part of NHPA Section 106 review. It is an affront that a domestic sovereign nation's request to represent its interests and provide valuable knowledge and expertise be rejected.

BACKGROUND

The Hualapai Tribe acknowledges and holds sacred a vast cultural landscape in northwestern Arizona that encompasses the area surrounding Wikieup, Arizona. This cultural landscape includes archaeological sites and other traditional cultural places, as well as plant, wildlife, and water resources. Ha'Kamwe (called Cofer Hot Spring in English), and the surrounding Big Sandy River Valley and adjacent mountains, hills, and deserts are part of the ancestral homelands of the Hualapai Tribe, as well as the Yavapai-Apache Nation, the Yavapai-Prescott Tribe, the Fort McDowell Yavapai Nation, the Fort Mojave Indian Tribe, the Chemehuevi Indian Tribe, the San Juan Southern Paiute Tribe, the Hopi Tribe, and the Colorado River Indian Tribes.

Cofer Hot Spring is a sacred medicinal spring where Native people have, since time immemorial, gone for healing, prayer, and to conduct ceremonies related to birth, young women's coming of age, and other important life transitions. The BLM and the Western Area Power Authority (WAPA) within the U.S. Department of Energy in 2002 determined Cofer Hot Spring to be a historic property eligible for the National Register of Historic Places as a TCP. See BUREAU OF LAND MGMT, *Big Sandy Energy Project: Supplement Analysis* (May 2002) at p. 2-10; see also *id.* at p. 3-9 (“[T]he Hualapai Nation considers the spring a traditional cultural resource and the spring is a National Register-eligible property to which Project impacts cannot be satisfactorily mitigated . . .”). The Hualapai-owned land on which Cofer Hot Spring is situated is known as Cholla Canyon Ranch, and it is located immediately adjacent to BLM-managed public lands to the north, east, and south.

Further, Cofer Hot Spring is part of a sacred cultural landscape that is recounted in what is known collectively as the Salt Song Trail, whose songs are practiced ceremonially by the Hualapai Tribe and other neighboring tribes. One of the Hualapai keepers of the Salt Song Trail cycle, now long deceased, specifically recounts Cofer Hot Spring (Ha’Kamwe) as part of the song cycle. This was further documented in oral history interviews obtained in the 1970s, as well as an audio recording of Salt Songs in the possession of the Tribe (although considered highly sensitive and not appropriate for public dissemination).

The interconnected landscape surrounding Cofer Hot Spring is an integral part of this sacred cultural landscape. This landscape has for centuries played an essential role in the religions, traditions, and cultures of the Hualapai, Yavapai, Fort Mojave, Chemehuevi, Southern Paiute, Hopi, and Colorado River Indian Tribes. Cofer Hot Spring is a holy site and TCP with deep religious, cultural, archaeological, historical, and environmental significance.

Hawkstone, an Australian mining company, conducted exploratory drilling for lithium clays on BLM-managed public lands immediately adjacent to the Hualapai land on which Cofer Hot Spring is located in 2018–2019, under the antiquated Mining Law of 1872, 30 U.S.C. §§ 21 *et seq.*

Hawkstone has submitted an exploration plan for additional, more expansive exploration (referred to as the “Big Sandy Inc., Sandy Valley Exploration Project, Phase 3” or the “Plan”) on mining claims located on BLM-managed public lands immediately adjacent to the Hualapai land on which Cofer Hot Spring is located. The Plan would create significant surface and subsurface disturbances resulting from the development of 145 drill pads, a bulk sample site, 12.5 linear miles of heavy equipment access, and other associated facilities and infrastructure and would otherwise affect the use and enjoyment of Cofer Hot Spring.

The BLM provided a letter to the Hualapai Tribe dated June 6, 2020, inviting the Tribe to participate in NHPA Section 106 tribal consultation. Letter from Amanda Dodson, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (June 6, 2020). The Tribe responded in a letter dated June 29, 2020, accepting the invitation to engage in NHPA Section 106 tribal consultation, requesting to aid the BLM in identifying places of cultural significance, and requesting to serve as a NEPA cooperating agency. Letter from Dr. Damon R. Clarke, Chairman, Hualapai Tribe, to Amanda Dodson, Field Manager, Bureau of Land Mgmt. (June 29, 2020). The Tribe also put the BLM on notice of the presence of a TCP and other tribal interests that may be affected by the Plan. *Id.* When the BLM did not respond, the Tribe sent an additional letter dated November 2, 2020, raising these concerns again and requesting a response. Letter from Dr. Damon R. Clarke, Chairman, Hualapai Tribe, to Amanda Dodson, Field Manager, Bureau of Land Mgmt. (Nov. 2, 2020). In a letter dated November 10, 2020, the BLM denied the Tribe’s request to participate as a cooperating agency on the basis of its assertion that the Plan would have limited impacts. Letter from James Bryan, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020). The Tribe thereafter sent a letter to Secretary Haaland putting her on notice of the concerns the Tribe had raised to the BLM. Letter from Shelton Scott Crozier, Vice Chairman, Hualapai Tribe, to Secretary Deb Haaland, Dep’t of Interior (May 6, 2021).

On April 12, 2021, the BLM released an EA for the Plan under NEPA. See BUREAU OF LAND MGMT., *Environmental Assessment, Big Sandy Inc. Sandy Valley Exploration Project (Phase 3) AZA-37913, DOI-BLM-AZ-C010-2021-0029-EA* (Mar. 2021) [hereinafter EA]. The EA's analysis of potentially affected tribal interests, rights, and resources is grossly insufficient. It does not adequately identify and consider effects on cultural resources—in large part due to its inadequate NHPA Section 106 review—and it dismisses the impacts of the Plan on religious concerns, traditional values and life ways, environmental justice, visual resources, water resources, water quality, and other tribal interests.

Additionally, the EA was not compiled with meaningful and proper input from the Hualapai Tribe, particularly in consideration of the Tribe's status as neighboring landowner and the presence of an important TCP associated with the Tribe. The BLM rejected the Hualapai Tribe's request to become a NEPA cooperating agency for the EA in November 2020, and the BLM has not otherwise sufficiently engaged in meaningful consultation under the NHPA Section 106 process with the Hualapai Tribe. Further, contributing to the inadequacy of its NHPA Section 106 review, the BLM has insufficiently defined the Plan's Area of Potential Effect (APE), and it has rejected the Hualapai Tribe's request to pursue ethnographic research as part of the BLM's obligations to identify historic properties.

The Hualapai Tribe has passed a resolution in opposition to this Plan, the Sandy Valley Exploration Project, and any further disturbance of the sacred cultural landscape and Cofer Hot Spring by mining activities (attached). The Inter Tribal Association of Arizona—which is an association of 21 tribal governments in Arizona that provides a forum for tribal governments to advocate for national, regional, and specific tribal concerns and to join in united action to address these issues—passed a similar resolution (attached).

ANALYSIS

The BLM's EA violates NEPA due to its failure to take a hard look at reasonably foreseeable effects on important tribal interests, including cultural resources. Its failed NEPA review is due in part to its failure to uphold its NHPA Section 106 obligations. If the BLM were to conduct sufficient NEPA and NHPA Section 106 reviews, it would become clear that exploration and any eventual mining activities are not feasible. Instead, these reviews would show that lithium exploration and any eventual mining is not the proper use of the public lands under the Federal Land Policy Management Act (FLPMA), 43 U.S.C. § 1701 *et seq.* The BLM therefore should disapprove or withhold approval of the Plan, as mitigation measures would not prevent unnecessary or undue degradation of public lands. See 43 U.S.C. § 1732(b); 43 C.F.R. §§ 3809.411(d)(3), 3809.5.

I. EA Does Not Properly Carry out NEPA Obligations

A. BLM Did Not Properly Consider All Reasonably Foreseeable Effects of Plan on Protected Tribal Interests

The purpose of NEPA, 42 U.S.C. §§ 4321 *et seq.*, is generally to require federal agencies to assess the environmental effects of proposed major federal actions prior to making decisions—creating a process for considering effects while balancing the possibility of development. *See* 42 U.S.C. § 4331; *see also* 40 C.F.R. § 1500.1(b) (“The regulations in this subchapter are intended to ensure that relevant environmental information is identified and considered early in the process in order to ensure informed decision making by Federal agencies.”).

NEPA requires that federal agencies take a “hard look” at the environmental consequences of a proposed major federal action before taking that action. *See, e.g., Morris v. United States Nuclear Regulatory Comm’n*, 598 F.3d 677, 690 (10th Cir. 2010). Effects must be analyzed at more than a general level. *Neighbors of Cuddy Mountain v. United States Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998) (“General statements about ‘possible’ effects and ‘some risk’ do not constitute the ‘hard look’ required by NEPA.”). Although environmental assessments are the first preliminary step in determining the need for an environmental impact statement (EIS) under NEPA review, they must still contain a complete and accurate assessment of environmental impacts of the proposed action. 40 C.F.R. § 1501.5.

When taking a hard look, federal agencies must consider effects “from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship.” 40 C.F.R. § 1508.1(g). Effects that should be analyzed include “effects that are later in time or farther removed in distance from the proposed action or alternatives.” 40 C.F.R. § 1508.1(g). Courts have said that “[r]easonable forecasting and speculation is . . . implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as a ‘crystal ball inquiry.’” *Scientists’ Inst. for Pub. Info., Inc. v. Atomic Energy Comm’n*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

Here, the BLM put blinders on when looking at the effects of the Plan—essentially limiting its analysis of the exploratory drilling activities under the Plan to direct effects felt physically where drilling and associated activities would occur. It did not look at the many reasonably foreseeable impacts the exploratory drilling activities under the Plan would have on tribal interests in the surrounding and adjacent area. This shrunken view infects all of the BLM’s so-called analyses of resource categories under the EA.

B. Inadequate Review of Effects on Cultural Resources

i. Inadequate Identification of Cultural Resources Affected

One specific enumerated purpose of NEPA is to “preserve important *historic, cultural*, and natural aspects of our *national heritage*, and maintain, wherever possible, an environment which supports diversity and variety of individual choice.” 42 U.S.C. § 4331(b)(4) (emphasis added). Courts have highlighted Congress’s declaration that “preserv[ing] important historic, cultural, and natural aspects of our national heritage” constitutes an important goal of the statute. *Nat’l*

Parks Conservation Ass'n v. Semonite, 916 F.3d 1075, 1082 (D.C. Cir.) (quoting 42 U.S.C. § 4331(b)(4)).

Courts have in turn recognized that protecting such resources is “an interest that NEPA’s procedural mandate was intended to vindicate.” *Id.* (quoting *Oglala Sioux Tribe v. U.S. Nuclear Regulatory Comm’n*, 896 F.3d 520, 529 (D.C. Cir. 2018)). During NEPA review, agencies must consider effects on cultural resources. 40 C.F.R. §§ 1502.16(a)(8), 1508.1(g)(1). During the NEPA process, federal agencies have an obligation to identify and evaluate potential impacts on cultural resources, which include TCPs and sacred sites. *See Pueblo of Sandia v. United States*, 50 F.3d 856, 859 (10th Cir. 1995); *Ely v. Velde*, 451 F.2d 1130, 1132 n.4 (4th Cir. 1971). The Department of the Interior has gone one step further, instituting additional procedures for ensuring consideration of sacred sites even when an action might otherwise fall into a NEPA categorical exclusion. 43 C.F.R. § 46.215(b), (i), (k) (including impacts on cultural resources and sacred sites and violations of tribal law as extraordinary circumstances); *see also* 43 C.F.R. § 46.435(c) (inviting comments from tribe when action could affect not only land to which tribe has title but also other trust resources or assets or tribal health and safety). Mitigation measures for protecting cultural resources must be considered. 40 C.F.R. § 1502.16(a)(8) (“Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.”).

When analyzing impacts, NEPA requires that an agency first establish “baseline” information about a particular resource. *Half Moon Bay Fishermans’ Mktg. Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988) (“[W]ithout establishing the baseline conditions which exist in the vicinity of [a project] before [an action] begins, there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA.”). With regard to obligations to identify cultural resources, “[d]etermining what constitutes a reasonable effort to identify traditional cultural properties depends in part on the likelihood that such properties may be present.” *Pueblo of Sandia*, 50 F.3d at 861 (internal citations and quotation marks omitted). When a tribe puts a federal agency on notice of the likelihood of the presence of cultural resources, that burden increases. *See id.* at 860 (“[The information the tribes did communicate to the agency was sufficient to require the [agency] to engage in further investigations . . .”).

The cultural resources section of the EA limits its consideration only to the Class III archaeological survey, as indicated in Table 2 of the EA. EA at p. 8. The BLM stated that additional identification, including through ethnographic research by the Tribe, is not necessary due to the scope and magnitude of the undertaking. *See* Letter from James C. Bryant, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020).

The BLM in its EA said that disturbances would be relocated to avoid cultural resources within the Plan’s project area. EA at p. 5. It further states that scientifically important archaeological or paleontological resources and historical or cultural sites, structures, buildings, and objects would not be knowingly disturbed, altered, injured, or destroyed. *Id.* With regard to cultural resources, the BLM’s EA acknowledges their presence but says they will not be affected—saying the

proposed drilling program is designed to avoid known resources identified by the BLM. *Id.* at p. 8.

The BLM's failure to adequately identify cultural resources present, including in consultation with the Hualapai Tribe, contributes to the EA's inadequate analysis of effects on cultural resources. The ethnographic research the Hualapai Tribe offered to conduct, which would identify TCPs, deserves the same standing as an archaeological survey in the identification of cultural resources. The BLM's position as indicated in the EA implies that academically based western science approaches to research take precedence over traditional Indigenous knowledge. This position is unacceptable and is not in keeping with the requirement to make a good faith effort to identify cultural resources. Additionally, the BLM's failure to properly carry out its Section 106 obligations—discussed below—including by giving proper weight to the Hualapai Tribe's voice in identification of cultural resources and historic properties, contributes to the BLM's cursory identification and analysis of cultural resources.

ii. Inadequate Identification of Physical Scope of Cultural Resources Effected

In addition to failure to identify cultural resources within the BLM's defined project area, the BLM has also failed to properly consider the full geographic area in which cultural resources may be affected by the drilling activities under the Plan. The BLM's blinders to reasonably foreseeable effects allow it to avoid identification and discussion of cultural resources located nearby, even on land adjacent to the drilling area. As discussed above, the BLM is required under NEPA to examine reasonably foreseeable effects of the drilling activities under the Plan.

Similarly, the BLM's narrowly drawn Section 106 APE—discussed below—aids the BLM in ignoring cultural resources falling outside the APE by removing them from the discussion. That drilling activities will harm the sacred cultural landscape in which they will take place and the TCP located directly adjacent to the activities must be considered.

The Hualapai Tribe considers the Big Sandy Valley to be an integral part of its aboriginal territory and an important traditional cultural landscape. Early ethnographic studies documented that Hualapai families occupied at least four villages in the Big Sandy River Valley during the 1880s. The Tribe asserts that the intrusion of the proposed Plan, and any resulting mine, would adversely affect the traditional cultural landscape that the area represents for the Tribe as well as TCPs and cultural resources. The Tribe has put the BLM on notice of the cultural significance of the area repeatedly—and thus the need to adequately identify cultural resources that would be impacted by the Plan and any resulting mine.

The BLM has not properly identified all cultural resources that would be affected by the Plan—either through proper NHPA Section 106 review or standalone cultural resource identification under NEPA.

iii. Inadequate Assessment of Effects on Known TCP Under NEPA

Additionally, as noted above, the BLM is well aware of a TCP, Cofer Hot Spring, located adjacent to the exploration activity to take place under the Plan. The BLM, being one of the agencies to determine Cofer Hot Spring eligible for inclusion on the National Register of Historic Places, has been aware of the TCP's significance for nearly 20 years, but the BLM completely omitted any documented analysis of it in the EA.

The draft EIS for the "Big Sandy Energy Project" from the early 2000s acknowledged the very real potential harm to the TCP, stating "the discharge from Cofer Hot Spring would be reduced, and possibly cease, as a result of groundwater withdrawal from the volcanic aquifer." BUREAU OF LAND MGMT., *Big Sandy Energy Project Draft Environmental Impact Statement*, DOE-AZ-010223-D (June 2001), <https://www.energy.gov/sites/default/files/2019/09/f66/draft-eis-0315-big-sandy-energy-2001-06.pdf>, at p. 3-86 [hereinafter Draft EIS]. The draft EIS documented that "the Hualapai Tribe also considers the Big Sandy River Valley to be part of a spiritual landscape that includes a segment of the Salt Song Trail, a spiritual path that runs through their aboriginal territory." *Id.* at p. 3-228.

Although the "Big Sandy Energy Project" was never completed, the same hydrogeological dynamics and concerns are obviously relevant to consider here. In fact, these concerns should be considered as potentially even more acute in these times of climate change, as the "Big Sandy Energy Project" was being analyzed at the very onset of a severe drought period that continues to this day with no sign of relief.

Although the BLM was one of the lead agencies for the draft EIS, there is no mention of this prior documentation in the EA for the Plan, either in the cultural resources section or in the Native American religious concerns/traditional values section. These omissions demonstrate that the BLM did not conduct adequate background research or meaningful consultation when preparing the current EA.

iv. Status as Fee Land or Public Lands Does Not Diminish Cultural Resource Review

NEPA and the NHPA require consideration of the effects of major federal actions and federal undertakings on cultural resources and historic properties regardless of the status of land on which those cultural resources and historic properties are located. *See* 40 C.F.R. § 1508.1(w); 36 C.F.R. § 800.2(c)(2)(ii)(D). In fact, the NEPA regulations were recently amended to clarify that effects on tribal interests should be considered even when felt off-reservation. *See* 85 Fed. Reg. 43304, 43315 (July 16, 2020). That the Hualapai Tribe owns the land adjacent to the exploration activities to take place under the Plan in fee does not diminish these obligations.

C. Inadequate Review of Effects on Environmental Justice

NEPA review must take into account environmental justice concerns. Executive Order 12898 provides that each "[f]ederal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human

health or environmental effects of its programs, policies, and activities on minority populations and low-income populations,” and Native people are covered within its mandate. Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994). NEPA review incorporates this presidential mandate to consider environmental justice. COUNCIL ON ENV'T'L QUALITY, *Environmental Justice: Guidance under the National Environmental Policy Act* (Dec. 10, 1997), available at <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf>.

When an agency determines that a disproportionately high and adverse human health or environmental impact on an Indian tribe may exist, it must elicit the views of that tribe on possible alternatives and mitigation measures and then consider those views as well as the disproportional impacts when choosing an alternative or mitigation measures. *Id.* at 15, 16. In this way, an agency is required to provide “heightened attention” to the alternatives, mitigation strategies, monitoring needs, and preferences expressed by the tribe. *Id.* at 10. In assessing impacts, agencies must consider impacts on social and community structure. *Id.* at 9 (mandating consideration of “the effect of any disruption on the community structure associated with the proposed action; and the nature and degree of impact on the physical and social structure of the community”).

Further, the BLM Land Use Planning Handbook provides guidance that the BLM should identify and assess environmental justice impacts of proposed actions in conjunction with the NEPA compliance process, and that identification and documentation of environmental justice concerns should proceed in coordination with the impacted environmental justice populations of concern. *Land Use Planning Handbook*, App’x D at p. 11. The Handbook states: “An explanation of how any Environmental Justice issues have been considered and, where possible, mitigated should be included in the description and rationale for the preferred alternative.” *Id.* at p. 13.

Courts have recognized that “[t]he purpose of an environmental justice analysis is to determine whether a project will have a disproportionately adverse effect on minority and low income populations.” *Allen v. Nat’l Institutes of Health*, 974 F.Supp.2d 18, 47 (D. Mass. 2013) (quoting *Mid States Coal. for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 541 (8th Cir. 2003)). In conducting NEPA review, agencies must “consider alternatives to avoid or minimize disproportionately high adverse impacts on minority populations.” *Latin Americans for Soc. & Econ. Dev. v. Adm’r of Fed. Highway Admin.*, 756 F.3d 447, 476 (6th Cir. 2014).

Environmental assessments that are “silent . . . on the distinct cultural practices of [a] [t]ribe and the social and economic factors that might amplify its experience of the environmental effects of [a project] . . . could seriously and disproportionately harm those individuals relative to those in nearby non-tribal communities.” *Standing Rock Sioux Tribe v. U.S. Army Corps of Engrs.*, 255 F. Supp. 3d 101, 140 (D.D.C. 2017). And an EA that does not offer more than a “cursory” or “bare-bones conclusion that [a tribe] would not be disproportionately harmed by a [project]” does not “properly consider the environmental-justice implications of the project [and fails] to take a hard look at its environmental consequences.” *Id.*

The BLM’s EA states there are no environmental justice issues present—claiming that minority and low-income populations are present but not at levels that warrant their classification as such for purposes of environmental justice concerns. EA at p. 8. The EA states the Plan would not

cause any disproportionately high or adverse effects on minority or low income populations either individually or collectively. *Id.*

The EA essentially dismisses environmental justice concerns as a resource category analyzed in the EA. This is a serious deficiency for multiple reasons. It is also reflective of the BLM's insistence on ignoring reasonably foreseeable effects of the drilling activities covered by the Plan—where the BLM's blinders set the stage for its conclusion that the drilling activities will not raise environmental justice concerns.

First, maintenance of the Hualapai Tribe's cultural resources is closely tied to the social and community structure of the Tribe. Harm to the Tribe's cultural resources therefore raises environmental justice concerns. The activities covered by the Plan have the very real potential to harm the Tribe's cultural resources.

Additionally, mining and mining exploration activities adjacent to the Hualapai Tribe's land will severely diminish the Tribe's ability to develop this land for any economic pursuits, such as agriculture or recreation. And the operation of a mine in this area would all but destroy the market value of this land, itself, as it is still held in fee and thus the Tribe could conceivably sell it (although an application to transfer the land into trust was submitted in 2014). In this respect, the exploration activities at issue in the Plan are a prime example of a federal agency disregarding the interests of an underserved minority community.

The BLM should have considered the Hualapai Tribe an environmental justice population of concern under Executive Order 12898, and it should have taken into account effects on the Tribe's cultural resources as well as the economic value of the Tribe's land in this analysis. As indicated in our positions outlined in our letters to the BLM on June 29, 2020, and November 2, 2020, we have identified tribal concerns that should have been assessed by the BLM during early planning and in the EA in compliance with the BLM's environmental justice obligations.

D. Inadequate Review of Effects on Native American Religious Concerns/Traditional Values

The BLM must consider effects on tribal cultural practices—an impact category intertwined with cultural resource and environmental justice considerations. The BLM has significant obligations to consider impacts on tribes' ability to access and protect their sacred places, and these obligations should be considered during NEPA review.

Executive Order 13007, entitled Indian Sacred Sites, directs agencies to manage federal lands to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sacred sites. Exec. Order No. 13007, 61 Fed. Reg. 26771 (May 24, 1996).

Additionally, the American Indian Religious Freedom Act states that “it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred

objects, and the freedom to worship through ceremonials and traditional rites.” 42 U.S.C. § 1996; *see also* 42 U.S.C. § 1996a.

Further, protections for the rights of Native Americans to maintain their cultural traditions, practice their own religion, and strengthen their ties to their traditional homelands is clearly defined in the United Nations Declaration on the Rights of Indigenous Peoples, arts. 11–12, 25–26, Oct. 2, 2007, A/RES/61/295, which was endorsed by the United States in 2010. Relevant excerpts are included below:

Article 11

Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

Article 12

Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

The BLM’s EA states that “Native American Religious Concerns/ Traditional Values” may be a concern, but it labels their presence and affects as “To Be Determined,” stating that consultation is ongoing to determine any concerns. EA at p. 10.

This deficiently again is facilitated by the BLM’s refusal to consider reasonably foreseeable effects of the Plan’s drilling activities. As discussed above, the Hualapai Tribe has repeatedly put the BLM on notice of the cultural significance of the area in which the Plan is set to take place. In addition to permanent harm done to the landscape itself, the Hualapai Tribe’s traditional practices will be disrupted. Tribal members frequently conduct ceremonies and other spiritual activities at Cofer Hot Spring. During previous drilling phases in 2018–2019, it was reported that the noise and vibration caused by the drilling activity was a very disruptive presence. Considering that the proposed drilling and other work involving heavy equipment will be three times more expansive than the previous exploratory drilling, even “temporary”

disturbances will have a very disruptive effect on tribal members' ability to perform these activities over periods of several months.

The potential for the disruptive consequences of exploratory drilling and the associated disturbances caused by heavy equipment, and the AIRFA and other obligations to protect against such disturbances, was not addressed in any form in the BLM's EA. The Hualapai Tribe asserts that the presence of these activities will be an infringement on religious and spiritual practices, not to mention what might come in the future should an open pit mine become operational. Such disruptions must be considered in a NEPA review.

E. Inadequate Review of Effects on Visual Resources

The BLM's EA states that any visual impacts "should not attract the attention of the casual observer." EA at p. 12. The EA claims that surface disturbances will be "temporary," and that ground disturbances will be reclaimed by Hawkstone. *Id.* at p. 12. Again, this inadequate analysis is facilitated by the BLM's refusal to consider reasonably foreseeable effects. The Hualapai Tribe maintains that the desert environment surrounding Cofer Hot Spring is part of the sacred cultural landscape connected to the spring and the Salt Song Trail. In any case, the EA does not define what "temporary" means. In the fragile Sonoran Desert environment encompassed by the proposed action, reclamation will likely take many years, perhaps generations before the landscape is healed back to a semblance of its former condition. Such effects must be considered in a NEPA review.

F. Inadequate Review of Effects on Water Resources and Water Quality

Hawkstone proposes to pump water from an existing inactive well located on BLM land approximately 600 feet from Cofer Hot Spring. *See* EA at p. 16. Alternatively, purchased water from Wikieup may be trucked in to the project area should the well not be viable or otherwise available to them. *Id.* Regarding the well, and in keeping with the comment that the EA must consider reasonably foreseeable effects, there should be an analysis of potential impacts to local aquifers, including the potential for perched aquifers.

The EA states that exploratory drilling will not exceed 360 feet below the ground surface, and it claims this drilling will not reach the known groundwater table. EA at p. 3. However, "recent field measurements of this well in May 2021 indicate current groundwater level is about 69 feet below land surface (bls) and a total depth of the well is 306 feet bls. This places groundwater clearly within the exploration depths of past and proposed future exploration drilling activities." Montgomery and Associates summary report at p. 5 (attached). The EA fails to thoroughly present or analyze data that could affect water resources or water quality. Should an incident occur that affects groundwater conditions, we have serious concerns as to how this might affect Cofer Hot Spring discharge or water quality, or other water resources in the area.

The earlier-prepared draft EIS for the "Big Sandy Energy Project" contained considerable discussion about the potential water use that project would entail. Draft EIS at p. 3-57-3-93. The lower Big Sandy River valley aquifer is primarily recharged through precipitation runoff and springs from the Aquarius Mountains east of the project area. *Id.* at p. 3-57. Cofer Hot Spring

“emanates from the same volcanic formation that makes up the aquifer proposed for development, and is hydraulically connected to the volcanic aquifer by faulting.” *Id.* at 3-79.

Keeping in mind that the previously-prepared draft EIS was prepared 20 years ago, just as our current long-term severe drought was beginning, substantial aquifer drawdown was predicted. The draft EIS said: “The Proposed Action likely would have a significant impact on the volume of water discharged from Cofer Hot Spring” and that “the available information indicates that the source of Cofer Hot Spring is connected to the lower aquifer and its flow would be reduced, or possibly eliminated, by the pumping of groundwater for the Project from the lower aquifer.” *Id.* at p. 3-77. Now that we have an extraordinary abundance of accumulated long-term data that has provided a clearer picture of climate change, we should expect that any such water use will have even greater consequences.

Of particular concern regarding the presently-proposed Plan is effects on the volcanic fault that supplies water to Cofer Hot Spring, which passes through the proposed drilling area in a northwest-southeast orientation. Effects on Cofer Hot Spring’s water supply inherently also raise cultural resource and traditional cultural practices concerns. We refer to the geohydrological summary by Montgomery and Associates for a more detailed discussion of potential risks (attached). The summary notes that drilling could result in impacts to thermal artesian flow to Cofer Hot Spring should uncontrolled artesian flow occur from drill holes—a possibility the summary acknowledges as real. The lack of analysis or any consideration of this risk to a National Register eligible TCP is a serious deficiency in the EA. .

Further, if Cofer Hot Spring is impacted, there is no consideration of whether there are endangered or endemic species that inhabit or depend on these waters. An important water resource that was considered in the previously-prepared draft EIS was the marsh habitat in the lower Big Sandy River Basin. *Id.* at p. 3-210–3-211. This wetland is critical habitat for willow flycatcher and yellow-billed cuckoo, and is one of the few remaining wetlands in all of Arizona. Similarly, considering that the spring creates a desert oasis surrounded by an extremely dry desert, and that aquatic species in particular may be found only in the Cofer Hot Spring environment and nowhere else, these effects should be investigated in the EA. In addition, the microenvironment created by Cofer Hot Spring is also a potential habitat for the willow flycatcher, yellow-billed cuckoo, and the recently listed Northern Mexican Gartersnake—the ranges of which all fall within or very close to the vicinity of the Plan’s proposed project area. The EA fails to consider any of these outcomes in the analysis of either water resources or endangered species, again due in large part to its failure to consider reasonably foreseeable effects of the Plan’s drilling activities.

In the face of extreme drought, we believe the water-related impacts noted in the previously-prepared draft EIS will only be exacerbated to an even greater scale, and planning for these contingencies should occur now rather than during a later NEPA review.

G. Inadequate Review of Effects on Surface Water Rights

The previously-prepared draft EIS noted potential impacts on surface water rights, stating: “The surface water rights that potentially could be impacted are those pertaining to Cofer Hot Spring

and the Big Sandy River downstream of Granite Gorge. . . . It has been demonstrated through aquifer testing and numerical groundwater modeling that discharge from Cofer Hot Spring would be reduced, and possibly cease, as a result of groundwater withdrawal from the volcanic aquifer.” Draft EIS at p. 2-51, 3-86. At the time of the draft EIS, it was noted that: “Cofer Hot Spring is located on privately owned land. Discharges from the spring are used on site and do not flow off site. Caithness [the proponent] has agreed in concept with the landowner to provide compensation for impacts on the spring.” *Id.*

Effects on surface water rights should have been considered in the EA for the Plan. Given that the concerns about Cofer Hot Spring are not related to water for livestock, but rather for religious and spiritual purposes, such compensation would now be irrelevant. The EA must consider the reasonably foreseeable effects on surface water, including as it relates to the Hualapai Tribe’s religious and spiritual purposes.

H. Inadequate Review of Effects on Indian Trust Assets

Federally recognized Indian tribes are domestic dependent nations, and the federal government is obligated to protect tribal interests, a duty that is referred to as the trust responsibility. *See* COHEN’S HANDBOOK OF FEDERAL INDIAN LAW § 5.04[3][a] (2012) (“Nearly every piece of modern legislation dealing with Indian tribes contains a statement reaffirming the trust relationship between tribes and the federal government.”). This trust doctrine is defined through treaties, laws, executive orders, judicial decisions, and agreements. *See United States v. Mitchell*, 463 U.S. 206, 225 (1983). Protection of trust land, assets, and resources is one area in which the trust responsibility is particularly enforceable. *See id.* at 227–28.

The BLM has failed to uphold its obligations to consider reasonably foreseeable effects on the Tribe’s trust assets and other tribal interests. Additionally, when the Hualapai Tribe was first notified of Hawkstone’s application to conduct further exploration, we responded affirmatively to the BLM’s NHPA Section 106 consultation request, and we further requested that we become a NEPA cooperating agency. We did this in the belief that we could provide specialized knowledge and expertise with various resource categories, but also so that we could stay apprised of the proposed actions during early planning states, rather than after the EA was completed. Our request for cooperating agency status was denied, based on the argument that it would not be commensurate with the proposed undertaking. Considering that the Hualapai Tribe is the landowner immediately adjacent to the proposed action, which literally surrounds Hualapai land on three sides, how could it be suggested that our involvement would not be “commensurate” with the proposed action?

The BLM’s dismissal of the Tribe’s request to become a cooperating agency exhibited willful disregard for tribal sovereignty and an abrogation of federal trust obligations.

I. Inadequate Review of Effects on Grazing Lease

The Hualapai Tribe is the current grazing leaseholder for much of the area subsumed by the Plan’s project area adjacent to Hualapai land. There is no discussion of how the proposed

exploration activity under the Plan may affect the Hualapai Tribe's ability to utilize this lease, either during or after the proposed action. EA at p. 10.

J. BLM Must Conduct Sufficient Studies Prior to Any Steps Towards Development, Including Exploration

Courts have found that NEPA review is sometimes necessary at the lease sale stage of oil and gas development, where the BLM took the position that such review was not necessary until later, at the application for permit to drill stage. In *New Mexico ex rel. Richardson*, the court said "assessment of all 'reasonably foreseeable' impacts must occur at the earliest practicable point, and must take place before an 'irretrievable commitment of resources' is made." *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 718 (10th Cir. 2009) (internal citations omitted). In that case, the court concluded that environmental impacts were reasonably foreseeable because considerable exploration had already occurred on adjacent land, a natural gas supply was known to exist beneath the parcels, and concrete plans and approvals for oil and gas projects were in place. *Id.*

Here, the BLM told the Hualapai Tribe additional identification of cultural resources and historic properties, including through ethnographic research by the Tribe, is not necessary due to the scope and magnitude of the undertaking—which it said is not on the magnitude of disturbance of a mining plan of operations. Letter from James Bryant, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020). It said it would evaluate and consider ethnographic research as it pertains to the appropriate level of effort to identify historic properties as part of the environmental review conducted for any future mining plan of operations within the exploration area. *Id.*

This is not appropriate. That execution of the Plan will result in a mine is reasonably foreseeable—where two phases of exploration have already taken place, allowing Hawkstone to hone in on the location of lithium, and where Hawkstone has provided presentations detailing its mining plans. Further, on a practical level, allowing additional commitments of resources by Hawkstone, the Hualapai Tribe, the BLM, and others in pursuing or objecting to this development is an inefficient waste of resources.

K. Hualapai Tribe Should Have Been Granted Cooperating Agency Status

During the NEPA process, tribes are to be consulted, *see* 40 C.F.R. §§ 1505(e), 1501.2(b)(4)(ii), 1506.6(b)(3)(ii), and they may serve as cooperating agencies, 40 C.F.R. §§ 1508.1(e), 1501.8.

As part of the NEPA scoping process, a lead agency is directed to invite the participation of likely affected tribal governments, including as cooperating agencies. 40 C.F.R. § 1501.9(b); *see also* 40 C.F.R. § 1501.8(a). The BLM's Tribal Relations Handbook states:

The BLM's land use planning process under FLPMA and the NEPA analysis that accompanies it provides an early opportunity for tribes to help inform BLM decisions with the potential to affect their interests through both formal consultation and *servicing as cooperating agencies*. For example[,] tribal concerns with regard to places of traditional use or environmental justice issues are most

effectively identified and considered over the extended period of time afforded by the land use planning process and associated environmental review.

BUREAU OF LAND MGMT., *Improving and Sustaining BLM-Tribal Relations* (H-1780-1), at IV-2 (Dec. 15, 2016) (emphasis added).

Cooperating agency status “provides a formal framework for . . . Tribal [governments] to engage in active collaboration with a lead Federal agency to implement the requirements of NEPA.” BUREAU OF LAND MGMT., *Land Use Planning Handbook* (H-1601-1), at p.6 (Mar. 11, 2005). Among other participation opportunities, cooperating agencies are allowed a seat at the table during the NEPA scoping process, 40 C.F.R. § 1501.8(b)(2), and they may help in preparing portions of the environmental assessment or environmental impact statement on which they have special expertise, 40 C.F.R. § 1501.8(b)(3).

The Hualapai Tribe, owning land directly adjacent to the exploration activities considered under the Plan and on which a TCP is located, should have been granted cooperating agency status.

II. BLM Failed to Comply with NHPA

A. Section 106 Review Must Be Allowed to Progress

The NHPA Section 106 review process places a burden on federal agencies considering a federal undertaking to identify historic properties, assess adverse effects on them, and resolve such adverse effects where possible. *See* 54 U.S.C. § 306108, 36 C.F.R. Part 800; *see generally* 54 U.S.C. § 300101 *et seq.*

NHPA Section 106 review should be interwoven with NEPA review, where they inform one another. Agencies preparing a NEPA review must do so concurrently and integrated with review under the NHPA. 40 C.F.R. § 1502.24(a); *see also* 36 C.F.R. § 800.8 (mandating coordination between NHPA review and NEPA review). Therefore, the scope and sufficiency of the NHPA Section 106 review directly effects the sufficiency of the NEPA cultural resource review.¹ Further, an agency must complete the NHPA Section 106 process “prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license.” 36 C.F.R. § 800.1(c).

The Plan’s NHPA Section 106 review has not moved forward enough to properly inform NEPA review. Although the BLM on June 6, 2020, invited the Hualapai Tribe to engage in NHPA Section 106 consultation, and the Tribe responded on June 29, 2020, and again November 2, 2020, accepting the invitation, the BLM did not respond until November 10, 2020. The BLM has not engaged in sufficient dialogue with the Tribe around the Plan’s potential effects on the Tribe’s historic properties—instead claiming based on its narrowly drawn APE that the BLM will ensure that operations avoid the historic property identified, for a finding of no historic properties affected.

¹ However, it is important to note that effects on cultural resources to be considered under NEPA cover a wider range of resources than historic properties considered under the NHPA. 40 C.F.R. §§ 1508.1(g), 1502.16(a)(8).

B. Section 106 Tribal Consultation Not Properly Carried Out

Tribes must be consulted throughout the Section 106 process, including “any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking.” *See, e.g.*, 36 C.F.R. § 800.2. They must also be consulted when identifying historic properties. *See* 36 C.F.R. § 800.4. Established case law requires that “[w]hen an undertaking may affect properties of historic value to an Indian tribe on non-Indian lands, the consulting parties shall afford such tribe the opportunity to participate as interested persons.” *Pit River Tribe v. U.S. Forest Serv.*, 469 F.3d 768, 787 (9th Cir. 2006) (citing *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 806 (9th Cir. 1999)). Further, “tribes known to have used the area should [be] consulted to determine whether they ha[ve] a different view of potential adverse effects.” *Montana Wilderness Ass’n v. Fry*, 310 F. Supp. 2d 1127, 1153 (D. Mont. 2004).

The NHPA was amended in 2014 to specifically provide for identification of TCPs as historic properties in consultation with Indian tribes—stating “[p]roperty of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.” 54 U.S.C. § 302706(a); *see also* National Park Service, National Register Bulletin 38 (1992). The NHPA provides that, when an agency carries out its Section 106 obligations, it “shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to” such a TCP. 54 U.S.C. § 302706(b).

The BLM says it conducted a Class I inventory within a one-mile buffer of the APE and a Class III archaeological survey of the APE. Letter from James Bryant, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020). It claims these studies are sufficient and turned down the Tribe’s request to provide ethnographic data through studies specific to the proposed undertaking. *Id.* The BLM is not complying with its Section 106 tribal consultation obligations.

C. Area of Potential Effect Too Narrowly Defined

An NHPA Section 106 review process must include “appropriate scoping, identification of historic properties, assessment of effects upon them, and consultation leading to resolution of any adverse effects.” 36 C.F.R. § 800.8(a)(3). The NHPA requires federal agencies to define the APE, which is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist.” 36 C.F.R. § 800.16(d). The BLM must consider all adverse effects including “reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” 36 C.F.R. § 800.5; *see also Coal. of Concerned Citizens To Make Art Smart v. Fed. Transit Admin. of U.S. Dep’t of Transportation*, 843 F.3d 886, 907 (10th Cir. 2016) (discussing NHPA indirect effects). Failure to do so renders Section 106 review insufficient.

The APE was drawn too narrowly, *see* Letter from James Bryant, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020), resulting in the exclusion of the Hualapai Tribe’s land—despite the fact that reasonably foreseeable effects, which must be analyzed under the NHPA and NEPA, will be felt on the Tribe’s land and other tribal interests. The Tribe was not consulted in determining the APE or the breadth of the cultural resources that might be impacted by the drilling activities under the Plan.

Also excluded from the APE is Cofer Hot Spring (Ha’Kamwe), a TCP of which the BLM had prior notice. The BLM in a letter to the Tribe dated November 10, 2020, said the Hualapai Tribe “considers” Cofer Hot Spring to be a TCP, and it said the TCP is located outside the APE. Letter from James Bryant, Field Manager, Bureau of Land Mgmt., to Dr. Damon R. Clarke, Chairman, Hualapai Tribe (Nov. 10, 2020). However, the previously-prepared draft EIS for the “Big Sandy Energy Project” said “Western (Western Area Power Authority) and BLM have concluded, in consultation with the State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP), that Cofer Hot Spring is eligible for the National Register of Historic Places. *See* Draft EIS at p. 2-10; *see also id.* at p. 3-9. Thus, the BLM should have been on notice that Cofer Hot Spring is a TCP located adjacent to the drilling activities under the Plan, and it should have included this TCP in its NHPA Section 106 review as well as its NEPA review.

We request that the APE be expanded to encompass effects on the Tribe’s land and cultural resources and historic properties, including the Cofer Hot Spring TCP, and the interconnected sacred cultural landscape. With an inadequate APE informing the Section 106 review, this information cannot be integrated into NEPA review—making both the NHPA and NEPA review inadequate.

III. BLM Failed to Properly Balance Land Use Under FLPMA

The BLM in the EA states the need for the Plan is established by the BLM’s responsibility under FLPMA, 43 U.S.C. § 1701 *et seq.*, as well as the Mining Law of 1872, 30 U.S.C. § 21 *et seq.*, and the BLM surface management regulations and use and occupancy regulations, 43 C.F.R. Subparts 3715 and 3809. EA at p. 1–2.

The purpose of FLPMA is generally to ensure that public lands in federal ownership are utilized in ways that serve the national interest, that management is undertaken on the basis of multiple use, and that use is determined through a land use planning process that involves the public. *See* 43 U.S.C. § 1701. One particular enumerated purpose of FLPMA is that “the 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; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and *human occupancy and use.*” *Id.* (emphasis added). In determining appropriate multiple use, historical values must be considered in the balance. 43 U.S.C. § 1702(c). Special attention is given to protecting “areas of critical environmental concern,” 43 U.S.C. §§ 1712(c)(3), 1701(a)(11), which includes areas requiring special management attention to protect historic, cultural, or scenic values, 43 U.S.C. § 1702(a); *see also* 43 U.S.C. § 1711(a)

(prioritizing areas of critical environmental concern in the inventory of public lands). Courts have emphasized that “[t]he principle of multiple use does not require BLM to prioritize development over other uses.” *Richardson*, 565 F.3d at 710. And agencies must comply with the tribal consultation and collaboration requirements set forth in FLPMA. *See* 43 U.S.C. § 1712(c)(9); 43 C.F.R. § 1610.3-1(a)(4).

Additionally, FLPMA obligates the BLM to maintain a current inventory of cultural resources. *See* 43 U.S.C. § 1711(a) (“The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values. . . . This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.”); *see also* 54 U.S.C. § 306102(b)(1) (directing federal agencies to ensure that “historic property under the jurisdiction or control of the agency is identified, evaluated, and nominated to the National Register”). Instead, the BLM has allowed exploratory drilling activities to take place repeatedly throughout the sacred landscape without a reasonably thorough understanding of the location, significance, and condition of cultural resources in the area.

Thus, if the BLM seeks to comply with its obligations under FLPMA, the BLM must properly prioritize the land’s status as sacred to multiple tribes and its ongoing use for traditional purposes. The BLM therefore should disapprove or withhold approval of the plan of operations, as mitigation measures would not prevent unnecessary or undue degradation of public lands. 43 C.F.R. § 3809.411(d)(3)(iii).

CONCLUSION

The Hualapai Tribe has a wide range of concerns that have not been adequately addressed in the EA. We cannot emphasize enough the threat we anticipate by the proposed exploratory drilling activities under the Plan and what may come in the future, should an open pit mine become operational.

The BLM’s EA violates NEPA due to its failure to take a hard look at potential effects on important tribal interests, including cultural resources. Its failed NEPA review is due in part to its failure to uphold its NHPA Section 106 obligations. If the BLM were to conduct sufficient NEPA and NHPA Section 106 reviews, it would become clear that exploration and mining activities in this area are not feasible—and that lithium exploration and mining is not the proper use of the public lands under FLPMA. The BLM therefore should disapprove or withhold approval of the plan of operations, as mitigation measures would not prevent unnecessary or undue degradation of public lands.

REQUESTED ACTION

We hereby respectfully request that the BLM halt any further consideration or review of the legally inadequate EA and instead conduct NEPA review that properly considers impacts on the Hualapai Tribe’s and other tribes’ interests, rights, and resources—including cultural resources. The Hualapai Tribe and other tribes must be properly consulted, including through a meaningful implementation of NHPA Section 106 review.

We urge you not to issue a “Finding of No Significant Impact” based on the legally insufficient EA, and we ask that you halt the permitting of additional mining exploration at this time pending sufficient NEPA and NHPA Section 106 review. Although we appreciate and generally support efforts to develop renewable clean energy resources, we also believe it can be done in the spirit of responsible stewardship that honors tribal sovereignty and respects trust obligations toward Indian tribes.

With regard to the NHPA Section 106 review, the Hualapai Tribe requests:

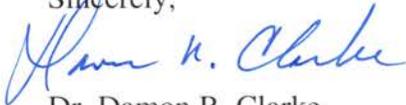
- (1) Expansion of the APE to properly consider all potential effects of the Plan;
- (2) Additional identification of cultural resources and historic properties, including with the help of the Hualapai Tribe, both within the existing APE and in the expanded APE;
- (3) Consideration of effects on the Cofer Hot Spring TCP, where the APE should include the TCP; and
- (4) Proper consideration of effects on all identified historic properties in the expanded APE and mitigation measures for them.

With regard to the NEPA review, the Hualapai Tribe requests:

- (1) The NHPA Section 106 process be allowed to proceed properly so that it may inform the NEPA review;
- (2) The BLM not issue a “Finding of No Significant Impact” but instead conduct proper NEPA review; and
- (3) The NEPA review properly consider all reasonably foreseeable effects on the rights and interests of the Hualapai Tribe and other tribes, including related to cultural resources.

Thank you for your consideration. We hope to move forward in mutual cooperation to ensure that proper NEPA and NHPA Section 106 review take place.

Sincerely,



Dr. Damon R. Clarke
Chairman
Hualapai Tribe

CC:

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Gertrude Smith, Director, Yavapai-Apache Nation Cultural Center, yavapaiculture@yan-tribe.org

Deb Haaland, U.S. Secretary of the Interior

Bryan Newland, Principal Deputy Assistant Secretary, Office of the Assistant Secretary – Indian Affairs

Laura Daniel-Davis, Principal Deputy Assistant Secretary, Office of the Assistant Secretary – Land and Mineral Management

Darryl LaCounte, Director, Bureau of Indian Affairs

Nada Wolff Culver, Acting Director, Bureau of Land Management

ATTACHMENTS:

Technical Comments to Environmental Assessment, Montgomery & Associates

Resolution 24-2021, Hualapai Tribe Objection to the Sandy Valley Lithium Project

ITAA Resolution 0212 - Objection to the Sandy Valley Lithium Project



June 1, 2021

Dr. Damon R. Clarke
Chairman, Hualapai Tribe
P.O. Box 179/941 Hualapai Way
Peach Springs, Arizona 86434

**SUBJECT: TECHNICAL COMMENTS TO ENVIRONMENTAL ASSESSMENT, BIG
SANDY INC. SANDY VALLEY EXPLORATION PROJECT (PHASE 3)
AZA-37913 [DOI-BLM-AZ-C010-2021-0029-EA]**

Dear Chairman Clarke:

On behalf of the Hualapai Tribe, Montgomery & Associates (M&A) has prepared technical comments to the Bureau of Land Management (BLM) Environmental Assessment (EA) for the proposed Phase 3 Big Sandy Inc. Sandy Valley Exploration Project (BLM, 2021). Big Sandy Inc. has conducted two phases of mineral exploration drilling to date, and is proposing a third phase of exploration drilling, part of which will be focused to the north, east, and south of Hualapai tribal land and Cofer Hot Spring, a thermal artesian spring of special significance to the Tribe. The Hualapai Tribe is concerned about the potential for impact to flows from Cofer Hot Spring from proposed Phase 3 exploration drilling operations in the near-term, and proposed mining operations in the long-term. As the Tribe's hydrogeologic consultants, M&A prepared comments related to this proposed action and potential impacts on Cofer Hot Springs.

The confined aquifer that feeds Cofer Hot Spring was first studied in detail in 1999-2002 as part of an EIS process initiated by Caithness Big Sandy, LLC to support development of a gas-fired power plant southeast of Wikieup (BLM & WAPA, 2001, 2002; Manera, 2000). Numerous exploration holes and wells were completed at that time in multiple aquifers and over a broad area to support the EIS process with BLM. A confined volcanic aquifer was delineated during this study, and a series of pumping tests was conducted for a pilot production well located about 2.5 miles south-southeast of Cofer Hot Spring. Results of the pumping tests confirmed that the confined volcanic aquifer was of limited regional extent, and short-term pumping resulted in a direct and measurable impact to Cofer Hot Spring (BLM and WAPA, 2001, 2002).

Cofer Hot Spring occurs along a geologic fault that likely serves as the conduit for thermal artesian flow from the confined volcanic aquifer to the surface. This fault was first mapped by Davidson (1973) and is shown on Figure 1. The pattern of drillholes for the proposed Phase 3 exploration program straddles the fault in the area immediately to the north and south of Cofer Hot Spring (Figure 2). Drillholes that intersect this fault, or ancillary geologic structures related to this fault, may create new conduits for artesian flow from the confined aquifer, which may result in artesian flow from drillholes. In particular, the collar elevations for proposed drillholes to the south of Cofer Hot Spring in the Bitter Creek area will be 30 to 50 feet lower than the outlet of Cofer Hot Spring. This could result in impacts to flow at Cofer Hot Spring should

uncontrolled artesian flow occur from drillholes. From review of the EA, it does not appear that the BLM/Big Sandy Inc. project team has considered these potential hydrogeologic impacts.

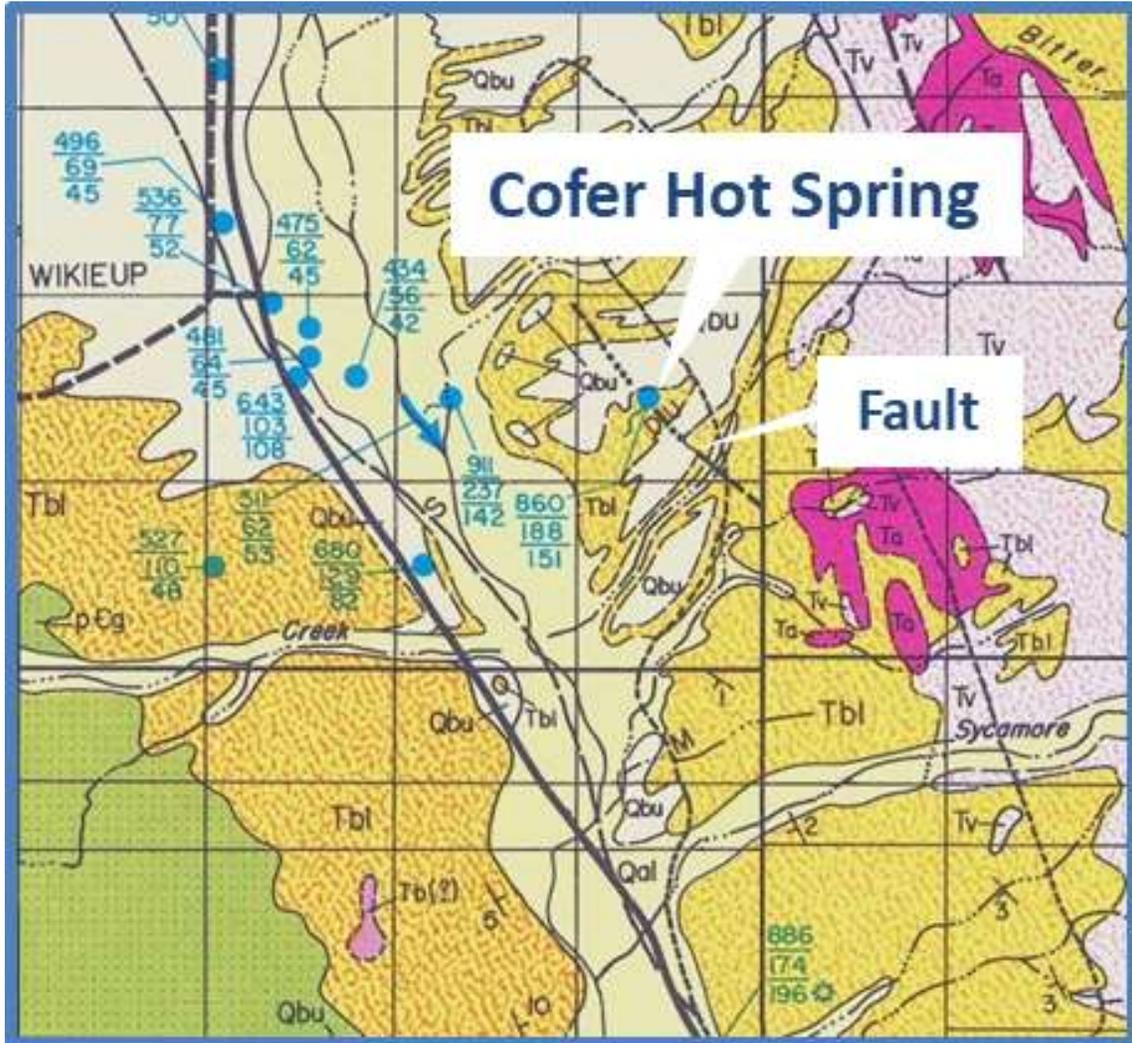


Figure 1. Excerpt of geologic map from Davidson (1973) showing Cofer Hot Spring and associated fault (labels added).

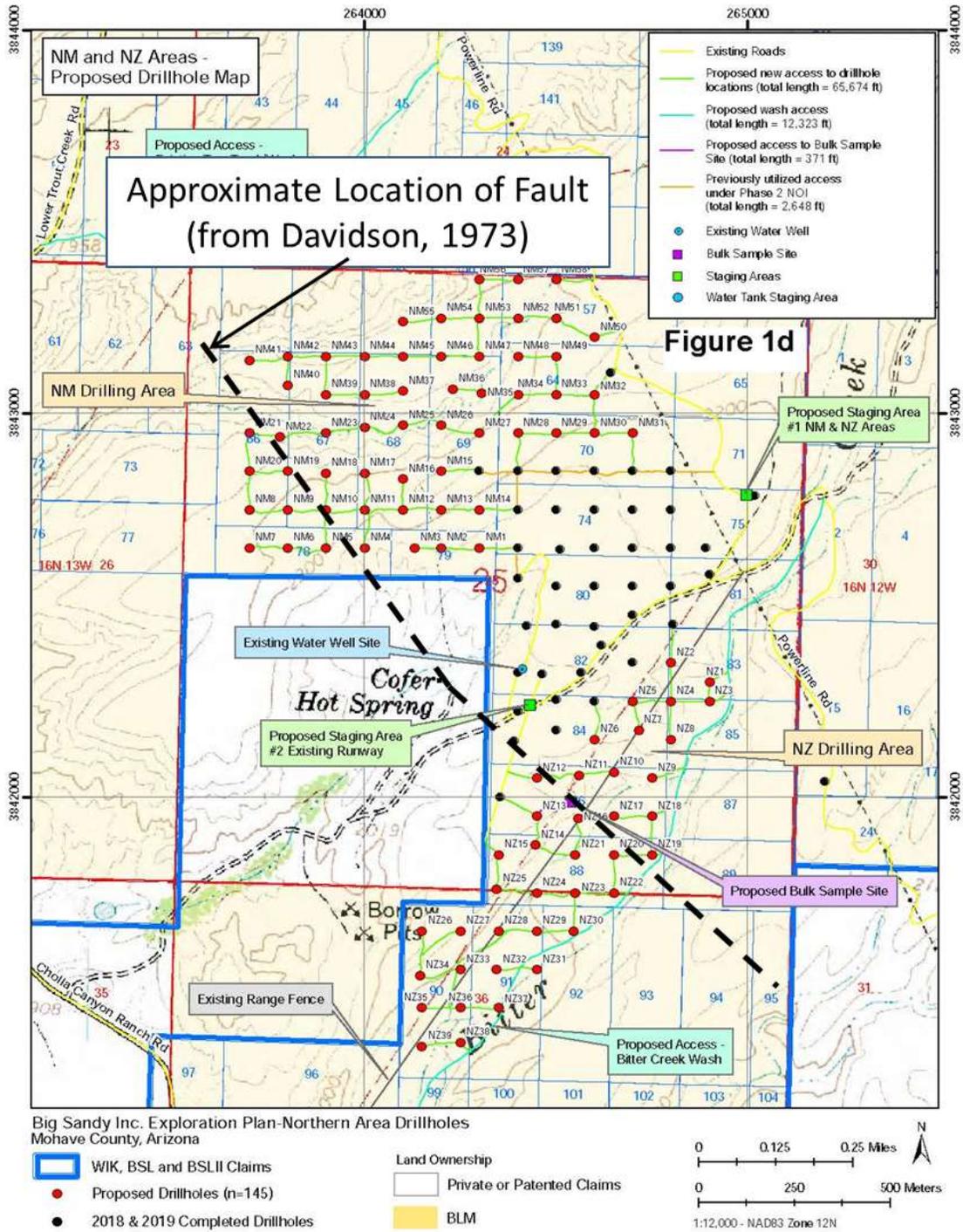


Figure 2. Proposed Drillhole Map – NM and NZ Areas (from BLM, 2021, Appendix D); fault and label added



SPECIFIC COMMENTS REGARDING PHASE 3 DRILLING PROGRAM

M&A has prepared the following specific comments and recommendations regarding the proposed Phase 3 drilling program.

Comment 1 - Data Collection:

The EA provides little detail regarding planned data collection from drillholes during the Phase 3 drilling program other than sampling of cores to assess economic mineral content. The Phase 3 program needs more robust data collection and reporting protocols to assess the risk of impact to artesian flow at Cofer Hot Spring and adjacent shallow aquifers, as well as potential operational/ geotechnical risks to proposed mining operations in the future.

Additional data collection is needed to assess the potential for impacts to Cofer Hot Spring and adjacent shallow aquifers from the Phase 3 drilling program and potential future mining operations. These data would also help to assess operational/ geotechnical risk posed by potential flooding of proposed future mining operations should additional conduits from the confined aquifer be encountered during mining operations. The EA provides no detail as to what information would be collected from each drillhole other than sampling ‘to determine quantity and quality and lithium and other poly metals’. The following data collection activities should be part of the exploration drilling program:

1. Daily activity logs should be maintained documenting the location and nature of exploration drilling operations including: start and stop date/time for drilling at each drillhole, quantities of water used, type and quantity of drilling fluid additives used, nature of abandonment activities and quantity of materials used;
2. Detailed lithologic logs should be prepared by a qualified geologist describing textural changes, rock type changes, color and degree of induration, observations of veining and vein filling, and evidence of hydrothermal alteration;
3. Viscosity of drilling fluids should be monitored at regular intervals to evaluate potential inflows of groundwater into each drillhole;
4. Observations of any naturally occurring faults, fractures and partings in core should be thoroughly described, including angle of intercept, any evidence of displacement, and presence and nature of any fill materials or coatings;
5. Oriented Acoustic Borehole Imaging (ABI) or Optical Borehole Imaging (OBI) logs should be run for any drillhole where fractures are encountered;
6. A continuous photographic record of all core removed from the drillholes should be made prior to disturbance and sampling of core, with drillhole identifier and depth ranges clearly indicated.

In summary, a more robust plan for data collection and reporting is needed prior to initiation of a drilling program. These data, and any similar data collected from the previous Phase 1 and 2 drilling programs, should be shared with BLM and stakeholders to permit a more thorough assessment of hydrogeologic risk.



Comment 2 – Drillhole Abandonment and Contingency Planning

The EA provides little detail and offers conflicting information regarding proposed drillhole abandonment procedures, and does not include a contingency plan for mitigating uncontrolled artesian flow should that be encountered at exploration drillholes.

Proper abandonment of exploration drillholes is an essential part of any exploration drilling plan, especially in the event groundwater is encountered. Due to the presence of geologic structures that may be intersected by planned drillholes and the potential for encountering conduits from the confined aquifer system, a more robust drillhole abandonment plan should be in place. The EA for the Phase 3 drilling program provides conflicting information on protocols to be followed for drillhole abandonment. In the Appendix D - Plan of Operations (POO), there is reference to backfilling of “coreholes” if dry conditions are encountered, but no specification of materials. The plan indicates that bentonite chips would be used if groundwater is encountered. On Figure 3 of the POO, the drillhole diagram indicates that bentonite chips would be used in dry holes and concrete grout in ‘wet’ holes. In addition to the items listed above for data collection, the following protocol is recommended for abandonment of drillholes for the Phase 3 program:

1. If no groundwater is encountered, and no faulting, fracturing, or partings are observed in core, the drillhole should be backfilled with bentonite chips to 20 feet below land surface, and the remaining portion of the drillhole should be filled with cement grout.
2. If any groundwater is encountered, the drillhole should be filled with cement grout from total depth to the surface. Grout should be pumped to the bottom of the hole via the drill pipe and emplaced in ‘lifts’ as the drill pipe is being removed. This will ensure that the entire drillhole is grouted and sealed.

A contingency plan should be provided to describe what actions will be taken should groundwater under pressure begin to flow from drillholes. Weighted drilling muds or grouts may need to be deployed to stop uncontrolled artesian flow.

Comment 3 – Water Supply for Drilling Program

Water supply for the Phase 3 drilling program should be procured from previously used sources in the town of Wikieup. The water well identified for possible use near Cofer Hot Spring should be used only for groundwater level monitoring during the drilling program.

Big Sandy Inc. is proposing possible use of a water well in Section 25, Township 16 North, Range 13 West (ADWR # 55-509509). This well is located about 600 feet east of Cofer Hot Spring. Recent field measurements of this well in May 2021 indicate current groundwater level is about 69 feet below land surface (bls) and a total depth of the well is 306 feet bls. This places groundwater clearly within the exploration depths of past and proposed future exploration drilling activities. Monitoring of groundwater levels at this well is important for evaluating potential impacts to the groundwater system from proposed Phase 3 drilling activities and to improve understanding of hydrogeologic conditions within and adjacent to proposed mining activities. This well should not be used for water production for Phase 3 drilling program. A



**MONTGOMERY
& ASSOCIATES**

pressure transducer and datalogger should be installed for continuous water level measurement prior to commencement of any drilling activities.

We appreciate the opportunity to provide comments to this EA. If you have any questions or need additional information, please contact us.

Sincerely,
MONTGOMERY & ASSOCIATES

Todd Keay, P.G.
Principal Hydrogeologist

Juliet McKenna, P.G.
Principal Hydrogeologist

CC:

Peter Bungart, Hualapai Tribe
Philip Wisely, Hualapai Tribe
Don Simon, Sonosky, Chambers, Sachse, Endreson & Perry, LLP
BLM, submitted via <https://eplanning.blm.gov/eplanning-ui/project/2012598/510>



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- Bureau of Land Management and Western Area Power Administration, 2002, Big Sandy Energy Project Supplement Analysis: Document prepared by Bureau of Land Management [BLM/AZ/PL-01/004-S1] and Western Area Power Administration [DOE/EIS-0315-SA-01], May 2002, 30 p.
- Bureau of Land Management, 2021, Big Sandy Inc. Sandy Valley Exploration Project (Phase 3) AZA-39913: Document prepared by Bureau of Land Management [DOI-BLM-AZ-C010-2021-0029-EA], March 2021, 19 p.
- Davidson, E.S., 1973, Water resources appraisal of the Big Sandy area, Mohave County, Arizona: Arizona Water Commission Bulletin 6, 40 p., 2 plates, scale 1:10,560.
- Manera, P.A., 2000, Water resources of the southern portion of the Big Sandy Valley, Wikieup, Mohave County, Arizona: Report prepared for Caithness Big Sandy, LLC, October 2000, 39 p.

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 24-2021
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI INDIAN RESERVATION**

(Hualapai Tribe Objection to the Sandy Valley Lithium Project)

WHEREAS, the Hualapai Indian Tribe is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in northwestern Arizona with authority vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and

WHEREAS, the Hualapai Tribe acknowledges and holds sacred a vast cultural landscape in northwestern Arizona that encompasses the area surrounding Wikieup, Arizona, including ancestral archaeological sites and other traditional cultural places, as well as plant, wildlife, and water resources; and

WHEREAS, the Hualapai Tribe owns 360 acres of land encompassing Cholla Canyon Ranch, within which Ha’Kamwe’ (Cofer Hot Springs) is located; and

WHEREAS, Cofer Hot Springs was determined by the Bureau of Land Management (BLM) to be a Traditional Cultural Property eligible for the National Register of Historic Places as a result of an Environmental Impact Statement (EIS) and Supplemental Analysis for the Big Sandy Energy Project (cancelled) in 2001-2002; and

WHEREAS, an Australian mining company, Hawkstone Mining Limited, dba Big Sandy, Inc., has conducted exploratory drilling for lithium clays on BLM land immediately adjacent to Hualapai land (Cholla Canyon Ranch) in 2018-2019, permitted by the BLM; and

WHEREAS, Hawkstone has applied for additional, more expansive, exploration (referred to as the Sandy Valley Lithium Project) on mining claims located on BLM land immediately adjacent Hualapai land, which would create surface and subsurface disturbances resulting from a proposed 145 drill pads, a bulk sample site, heavy equipment access roads to drill pads totaling approximately 12.5 miles, potential development of an existing inactive water well, and other associated facilities; and

WHEREAS, the current proposed action requires NEPA analysis and review, for which a draft Environmental Assessment (EA) has been prepared and was released on April 12, 2021, with comments requested by May 11, 2021; and

WHEREAS, a number of serious deficiencies exist, including disregard for several sensitive resource categories that were analyzed insufficiently or not all, including Cultural Resources, Environmental Justice, Native American Religious Concerns/ Traditional Values, Visual Resources, Water Resources, and Water Quality; and

WHEREAS, the Hualapai Tribe requested Cooperating Agency status in response to a request for tribal consultation by the BLM regarding the preparation of the EA for the proposed action, including an initial request from the Hualapai Tribe submitted July 2, 2020, and an additional follow up request on November 2, 2020 when we did not receive a response to our earlier submittal. Our request for Cooperating Agency status was based on our ability to provide expertise and specialized knowledge that could have contributed to the draft EA, but was denied by the BLM in a letter dated November 10, 2020; and

WHEREAS, Ha’Kamwe’ (Cofer Hot Springs) and the surrounding cultural landscape in which it is located are considered ancestral to the Hualapai people and continue to be revered as patrimony and integral to the identity of the Hualapai people; and

WHEREAS, should any further destruction or disturbance be permitted by the BLM, this cultural landscape and the fragile desert resources within it will be irreparably harmed; and

WHEREAS, should any further destruction or disturbance be approved, including the proposed action or future mining activity as described in the April 22, 2021, presentation made by Hawkstone Mining, Ltd. to tribal council, the Tribe’s ability to operate Cholla Canyon Ranch for beneficial purposes, including ceremonial purposes, or for economic pursuits such as horticulture for tribal use or recreation such as secular activities will be irreparably harmed; and

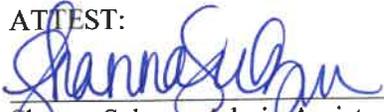
WHEREAS, the permitting of extractive mining activities adjacent to Hualapai land (Cholla Canyon Ranch), including exploration that would lead to full-scale open-pit mining, would constitute a serious abrogation of Federal Trust obligations by the BLM, as well as an affront to tribal sovereignty.

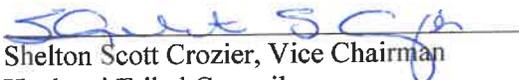
NOW THEREFORE BE IT RESOLVED, the Hualapai Tribal Council strongly objects to any further permitting of surface or subsurface disturbances within the Sandy Valley Lithium mining claim area, which will result in devastating impacts to significant cultural and spiritual resources; will threaten long term tribal water rights and quality; will cause irreparable harm to the Tribe’s ability to continue cultural activities and to pursue economic development of Cholla Canyon Ranch, and will result in long term ecological destruction of a fragile desert environment, including plant and animal species with cultural significance. Further, should an open pit mine ever be permitted, it would create enormous public health issues caused by pollution, dust, noise, and overall safety concerns caused by having such a mine immediately adjacent to Hualapai land, as well as severe visual impacts.

C E R T I F I C A T I O N

I, the undersigned as Vice-Chairman of the Hualapai Tribal Council, hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom **eight (8)** constituting a quorum were present at a **Special Council Meeting** held this **22nd day of April, 2021**; and that the foregoing resolution was duly adopted by a vote of **(7) approve, (0) opposed, (2) excused**; pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:


Shanna Salazar, Admin Assistant
Hualapai Tribal Council


Shelton Scott Crozier, Vice Chairman
Hualapai Tribal Council



Inter Tribal Association of Arizona

21 TRIBAL NATIONS

Resolution No. 0221

Objection to the Sandy Valley Lithium Project

- Ak-Chin Indian Community
Cocopah Tribe
Colorado River Indian Tribes
Fort McDowell Yavapai Nation
Fort Mojave Indian Tribe
Gila River Indian Community
Havasupai Tribe
Hopi Tribe
Hualapai Tribe
Kaibab Band of Paiute Indians
Pascua Yaqui Tribe
Pueblo of Zuni
Quechan Tribe
Salt River Pima-Maricopa Indian Community
San Carlos Apache Tribe
San Juan Southern Paiute Tribe
Tohono O'odham Nation
Tonto Apache Tribe
White Mountain Apache Tribe
Yavapai-Apache Nation
Yavapai-Prescott Indian Tribe
- WHEREAS,** the Inter Tribal Association of Arizona, Inc., an association of 21 tribal governments in Arizona, provides a forum for tribal governments to advocate for national, regional, and specific tribal concerns and to join in united action to address these concerns; and
- WHEREAS,** the Member Tribes of the Inter Tribal Association of Arizona have the authority to act to further their collective interests as sovereign tribal governments; and
- WHEREAS,** the Inter Tribal Association of Arizona has the charge to support and represent particular Member Tribes on matters directly affecting them upon their request; and
- WHEREAS,** the ancestral lands the Member Tribes of the Inter Tribal Association of Arizona span the entire State of Arizona and these lands contain sacred sites and culturally and historically important places and landscapes; and
- WHEREAS,** the Hualapai Tribe acknowledges and holds sacred a vast cultural landscape in northwestern Arizona that encompasses the area surrounding Wikieup, Arizona, including archaeological sites and other traditional cultural places, as well as plant, wildlife, and water resources; and
- WHEREAS,** the Hualapai Tribe owns 360 acres of land encompassing Cholla Canyon Ranch, where Ha'Kamwe' (Cofer Hot Springs) is located; and
- WHEREAS,** Ha'Kamwe' (Cofer Hot Springs) and the surrounding cultural landscape in which it is located is considered ancestral to the Hualapai people and it continues to be revered as patrimony and integral to the identity of the Hualapai people; and
- WHEREAS,** Cofer Hot Springs was determined by the Bureau of Land Management (BLM) to be a Traditional Cultural Property eligible for the National Register of Historic Places; and
- WHEREAS,** an Australian mining company, Hawkstone Mining Limited, dba Big Sandy, Inc., conducted exploratory drilling for lithium clays on BLM land immediately adjacent to Hualapai land (Cholla Canyon Ranch) in 2018-2019; and
- WHEREAS,** Hawkstone has recently applied for additional, more expansive, exploration (referred to as the Sandy Valley Lithium Project) on mining claims located on BLM land immediately adjacent Hualapai land, which would create significant surface and subsurface disturbances resulting from the development of 145 drill pads, a bulk sample site, 12.5 miles of heavy equipment access roads, and other associated facilities and infrastructure; and

- WHEREAS,** on November 10, 2020, the BLM denied the Hualapai Tribe's request to participate in the BLM's environmental review of the Sandy Valley Lithium Project, despite the expertise and specialized knowledge that the Hualapai Tribe could have provided to the BLM's review of the Project under the National Environmental Policy Act (NEPA) and related laws; and
- WHEREAS,** on April 12, 2021, the BLM released its environmental analysis of the Project without meaningful and proper input from the Hualapai Tribe, which was grossly insufficient and disregarded the impacts of the Project on cultural resources, religious concerns, traditional values and life ways, environmental justice, visual resources, water resources and water quality; and
- WHEREAS,** should any further destruction or disturbance be permitted by the BLM, this cultural landscape and the fragile desert resources within it will be irreparably harmed; and
- WHEREAS,** should future mining activity at this place be approved under the current proposal, the Tribe's ability to operate Cholla Canyon Ranch for beneficial purposes, including ceremonial purposes, or for economic pursuits, such as tribal horticulture uses or other uses, will be irreparably harmed; and
- WHEREAS,** the permitting of extractive mining activities adjacent to Hualapai land (Cholla Canyon Ranch), including exploration that would lead to full-scale open-pit mining, would constitute a serious abrogation of Federal Trust obligations of the United States, as well as an affront to tribal sovereignty and principles of environmental justice.

NOW THEREFORE BE IT RESOLVED, the Inter Tribal Association of Arizona hereby objects to the development of the Sandy Valley Lithium Project within the Hualapai Tribe's ancestral lands, which will result in devastating impacts to significant cultural and spiritual resources; threaten long term tribal water rights and quality; cause irreparable harm to the Tribe's ability to continue cultural activities and to pursue economic development of Cholla Canyon Ranch; and result in long term ecological destruction of a fragile desert environment, including plant and animal species with cultural significance.

BE IT FINALLY RESOLVED, the Inter Tribal Association of Arizona stands with the Hualapai Tribe in its opposition to the Sandy Valley Lithium Project and any future development of an open pit mine at this place of cultural importance, and urges the BLM to properly consult with and carefully listen to the expertise and concerns of the Hualapai Tribe regarding this harmful project and take all necessary actions to protect this special place from harm and to fulfill its trust responsibility to the Hualapai Tribe on the Project.

CERTIFICATION

The foregoing resolution was presented and duly adopted at a meeting of the Inter Tribal Association of Arizona, where a quorum was present on **Friday, April 30, 2021.**



Shan Lewis,
President, Inter Tribal Association of Arizona
Vice-Chairman, Fort Mojave Indian Tribe