



Temporary Prohibition on Excavation of Paleontological Resources – Administrative Action

January 2025

Rio Puerco Field Office – Categorical Exclusion

IDENTIFYING INFORMATION

Proposed Action Title: Temporary Prohibition on Excavation of Paleontological Resources – Administrative Action.

Location of Proposed Action/Legal Description: See Attachment 1: Shu'tu'ba'/Espinosa Ridge ACEC Map.

Applicant (if any): N/A

PROPOSED ACTION¹

The Shu'tu'ba'/Espinosa Ridge Area of Critical Environmental Concern (ACEC) is home to paleontological resources that are valuable to the Bureau of Land Management's Río Puerco Field Office (RPFO), the Pueblo of San Felipe, and other associated Pueblos and Tribes. RPFO staff is responsible for protecting these resources. To that end, the new management régime for the ACEC calls for, according to RPFO's new resource management plan, closing the area to "casual collection of paleontological resources by the public" (Table 2-36; page 2-62).

Recent discussions originating in the government-to-government relationship between the Pueblo of San Felipe and the RPFO have highlighted the need for additional protections for paleontological resources from threats to their disturbance even from permitted excavation activities. As outlined in the recently completed Rio Puerco RMP, the BLM will also prepare an implementation plan for the ACEC and work toward co-stewardship agreements with the Pueblo of San Felipe and other interested Tribes. Following these discussions and given this heightened awareness of risks to these non-renewable resources, the BLM determined that these public lands need a more protective approach; therefore, RPFO staff proposes a temporary change in management at Shu'tu'ba'/Espinosa Ridge ACEC. RPFO proposes implementing an immediate prohibition on excavation activities related to paleontological research in the ACEC. This administrative change will forbid intensive surface-disturbing activities related to paleontological research, especially excavation, that could impair these resources.

The BLM determined that this temporary restriction, while an undertaking (defined at 54 U.S.C § 300320), is not the type of undertaking that would have an adverse effect in properties included on or eligible for inclusion

¹ The BLM is aware of the November 12, 2024, decision in *Marin Audubon Society v. Federal Aviation Administration*, No. 23-1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that the Council on Environmental Quality (CEQ) regulations implementing NEPA are not judicially enforceable or binding on this agency action, the BLM has nonetheless elected to follow those regulations at 40 C.F.R. Parts 1500– 1508, in addition to the DOI's procedures/regulations implementing NEPA at 43 CFR Part 46, to meet the agency's obligations under NEPA, 42 U.S.C. §§ 4321 et seq.

on the National Register of Historic Places. In addition, as the proposed closure does not incorporate any surface-disturbing activities, the BLM has determined that a closure such as the one proposed is the type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties are present. 36 C.F.R. § 800.3(a)(1). In addition, the proposed temporary restriction does not incorporate any surface-disturbing activities; therefore, the BLM anticipates that the proposed temporary restriction would have no effect on any candidate, threatened, or endangered species listed under the Endangered Species Act.

BLM's Instruction Memorandum No. 2025-001 requires that temporary restriction orders like the one proposed for Shu'tu'ba'/Espinosa Ridge must "specify the date and time that a closure or restriction becomes effective and terminates and makes the penalties for violating temporary closure and restriction orders consistent with current statutory authority" (Permanent Instruction Memorandum No. 2025-001; October 2024). In compliance with IM No. 2025-001, the proposed restriction becomes effective when the Authorized Official signs the decision record supported by this categorical exclusion. The prohibition will remain effective for twenty-four (24) months the Decision Record sign date or until RPFO publishes an approved amendment to the Rio Puerco Field Office Approved Resource Management Plan (2024) related to the BLM's management of paleontological resources. Penalties for violating the prohibition shall correspond to those published in Title 43 Code of Federal Regulations (CFR), (43 CFR 8364.1(e)).

LAND USE PLAN CONFORMANCE

In accordance with Federal Land Policy and Management Act, and with 43 CFR, §1610.5-3, this Proposed Action has been reviewed for conformance with the Rio Puerco Field Office Approved Resource Management Plan (2024). The action conforms with §2.2.16.1.19 (page 2-60 through 2-64).

The Proposed Action specifically aligns with the approved ACEC management goal: "Protect geologic and paleontological resources from human- and natural-caused deterioration or potential conflict with other resource uses, while also ensuring consistency with the cultural importance of these resources" and "Manage the relevant and important resources of the ACEC as culturally significant, including paleontological resources, petrified wood, and special status plants" (page 2-61).

CATEGORICAL EXCLUSION REVIEW

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 Departmental Manual (DM), Chapter 11.11 (H)(1) National Park Service, 516 DM 12.5(D)(2), as adopted by BLM in [90 FR 3908](#) on January 15, 2025: Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

BLM reliance on this categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed according to the Department of the Interior extraordinary circumstances review protocol at 43 CFR §§46.205 and 46.215, and none of the extraordinary circumstances listed at 43 CFR §46.215 apply. See Table 1 for listing of the extraordinary circumstances that appear at 43 CFR 46.215.

Table 1. Extraordinary Circumstances Review

	Extraordinary Circumstance
1.	Have significant impacts on public health or safety.
	No, this project will not have significant impacts on public health and safety; the temporary closure limits certain activities.
2.	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
	No, this project will not have significant impacts on natural resource and unique geographic characteristics of any type; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
3.	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].
	No, there are no highly controversial environmental effects of the proposed action; the temporary closure limits certain activities, it does not authorize surface-disturbing activities. There are no unresolved conflicts concerning alternative uses of available resources.
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
	No, the proposed action would not have uncertain, unique, or unknown environmental effects or environmental risks; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
	No, the proposed action doesn't establish such a precedent or represent a decision in principle about future actions with potentially significant environmental effects; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
6.	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects
	No, the implementation of this proposed action doesn't have a direct relationship with other actions with individually insignificant but cumulatively significant environmental effects; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
7.	Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.
	No, the proposed action would not have significant impacts on properties listed, or properties eligible for listing, on the National Register of Historic Places; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
8.	Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
	No, this project's actions won't have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species; the temporary closure limits certain activities, it does not authorize surface-disturbing activities.
9.	Violate a federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.
	No federal law, State, local or tribal laws or requirements would be violated because of the proposed actions; the temporary closure limits certain activities, it does not authorize surface-disturbing activities, and the BLM has the discretion to impose these limits.
10.	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
	No, this project's actions won't have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898); the temporary closure limits certain activities, it does not authorize surface-disturbing activities, and it does not implicate adverse economic or environmental consequences.
11.	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
	No, this project won't limit access to and ceremonial use of known sacred Indian sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007); the temporary closure limits certain activities, it does not authorize surface-disturbing activities.

Extraordinary Circumstance	
12.	Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).
	This project won't contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112); the temporary closure limits certain activities, it does not authorize surface-disturbing activities.

CONTACT PERSON

For additional information regarding this categorical exclusion, please contact the Rio Puerco Field Office Planning and Environmental Coordinator, Matthew Caire via email at mcaire@blm.gov.

SIGNATURE OF RESPONSIBLE OFFICIAL

 Nada Wolff Culver, Principal Deputy Director
 Bureau of Land Management

 Date

ENCLOSURES

- CX Decision Record (3 pages)
- Attachment 1: Shu'tu'ba'/Espinosa Ridge ACEC Map (1 page)
- Attachment 2: Appeal Form: Form 1842-1 (2 pages)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Albuquerque District
Rio Puerco Field Office
100 Sun Avenue NE, Suite 330
Albuquerque, New Mexico 87109



DECISION RECORD

PROJECT TITLE: Temporary Prohibition on Excavation of Paleontological Resources – Administrative Action

DECISION RATIONALE AND NEPA COMPLIANCE

Bureau of Land Management staff reviewed this proposed administrative change at Shu'tu'ba'/Espinosa Ridge Area of Critical Environmental Concern (ACEC). Among the most substantive considerations that staff discussed in the review was ensuring that the prohibition on intensive excavation activities would protect paleontological resources consistent with discussions arising out of the government-to-government relationship with the Pueblo of San Felipe. Paleontological resources are non-renewable resources, and their protection warrants heightened attention.

In addition, the BLM concluded that as a temporary restriction on excavation of paleontological resources limited, but did not authorize any surface-disturbing activities, the proposed action is fundamentally protective and no significant impacts will result from the restriction at the area; therefore, reliance on the categorical exclusion specified and incorporated herein by reference is appropriate.² The BLM also reviewed the proposed temporary restriction according to the Department of the Interior (DOI) extraordinary circumstances review protocol at 43 CFR §§46.205 and 46.215, and determined as incorporated herein that none of the extraordinary circumstances listed at 43 CFR §46.215, applied, and that, therefore, reliance on the categorical exclusion was not precluded. Therefore, it is my decision to temporarily close the Shu'tu'ba'/Espinosa Ridge ACEC to paleontological excavation for twenty-four (24) months or until RPFO publishes an approved amendment to the Rio Puerco Field Office Approved Resource Management Plan (2024) related to the BLM's management of paleontological resources.

² The BLM is aware of the November 12, 2024, decision in *Marin Audubon Society v. Federal Aviation Administration*, No. 23-1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that the Council on Environmental Quality (CEQ) regulations implementing NEPA are not judicially enforceable or binding on this agency action, the BLM has nonetheless elected to follow those regulations at 40 C.F.R. Parts 1500–1508, in addition to the DOI's procedures/regulations implementing NEPA at 43 CFR Part 46, to meet the agency's obligations under NEPA, 42 U.S.C. §§ 4321 et seq.

LAND USE PLAN CONFORMANCE AND COMPLIANCE WITH MAJOR LAWS

This decision complies with the Federal Land Policy and Management Act of 1976 and with 43 CFR, §1610.5-3. The decision also conforms with the Rio Puerco Field Office Approved Resource Management Plan (2024) (Plan). Although the Plan identifies the ACEC as open to permitting of research into paleontological resources as allowable under the Paleontological Resources Preservation Act, including excavation activities related to such research, the BLM determined that the heightened protection provided by a temporary closure of the area to this activity is warranted and that effects of the proposed change on visitor use of the ACEC will be minor because it is merely temporary. Accordingly, RPFO is aware that the office must prioritize consideration of an amendment to the Plan that would close the ACEC to this activity for a longer period.

PUBLIC INVOLVEMENT

If approved, this Decision Record and documentation of the BLM's reliance on the adopted categorical exclusion will be listed on the Bureau of Land Management National NEPA Register (ePlanning): <https://eplanning.blm.gov/eplanning-ui/home>.

COORDINATION AND CONSULTATION

These heightened concerns came out of discussions originating in the government-to-government relationship between the Pueblo of San Felipe and the BLM. Large-scale interdisciplinary review of the proposed action by BLM staff was not necessary and did not occur. The Bureau also determined additional Tribal consultation was not necessary.

ADMINISTRATIVE REMEDIES

If you are adversely affected by this decision, you have the right to appeal to the Interior Board of Land Appeals in accordance with the regulations at 43 CFR 4.413 and following the information provided in Form 1842-1 (enclosed).

Within 30 days of this decision, you must file your appeal written on paper and delivered to the office of the authorized officer during regular business hours by mail or personal delivery. BLM will not accept documentation by any other means or in any other format.

Submit appeals to:

Adam Lujan, Field Manager Bureau of Land Management - Rio Puerco Field Office
100 Sun Ave. NE, suite 330
Albuquerque, NM. 87109

Copies must be sent to:

Regional Solicitor, Southwest Region
505 Marquette Ave. NW, suite 1800
Albuquerque, NM. 87102

Department of the Interior, Office of Hearings and Appeals
Board of Land Appeals
801 North Quincy St.
MS300-QC, Arlington, VA., 22203

SIGNATURE OF AUTHORIZED OFFICIAL

Nada Wolff Culver, Principal Deputy Director
Bureau of Land Management

Date