



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation

Tex "Red Tipped Arrow" Hall
Office of the Chairman

Testimony of Chairman Tex Hall Mandan, Hidatsa and Arikara Nation

**Before the
U.S. House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment and Related Agencies**

Testimony on American Indian/Alaska Native Programs

April 7, 2014

My name is Tex Hall and I am the Chairman of the Mandan, Hidatsa and Arikara Nation (MHA Nation) of the Fort Berthold Indian Reservation. Thank you for the invitation to testify.

As most of you are aware, the MHA Nation and our Fort Berthold Reservation sit in the middle of the Bakken Formation. The Bakken is the largest continuous oil deposit in the lower 48 states. In a few short years, our region has become the second highest oil and gas producing area in the United States. We produce more oil than Alaska. Only Texas produces more. Today, there are more than 1,000 oil and gas wells on our Reservation producing in excess of 180,000 barrels of oil and gas per day. With your help we can increase this production substantially over the next few years.

As I have noted in past testimony, one of the biggest challenges that the MHA Nation and other oil and gas producing tribes face in sustaining and expanding our energy production is working with the cumbersome and bureaucratic federal permitting system. A single oil and gas well on our Reservation must be reviewed and overseen by 7 different understaffed federal agencies, at 7 different locations, all of which often fail to work cooperatively.

Former Senator Dorgan estimated that each individual oil and gas well had to make its way through 4 agencies and a 49-step process. We count 7 agencies and 100 or more steps. This not only hurts the MHA Nation and the other oil and gas producing tribes, but it is a waste of taxpayer dollars and a barrier to the creation of jobs and, to the enhancement of the United States economy.

Last year, Congressman Cole and this Subcommittee challenged the MHA Nation and other energy producing tribes to come up with a solution to this problem. In response we proposed legislative solutions to increase tribal authority over energy development. To solve the problem with federal permitting delays, we do not need more federal regulation of our activities. We also do not need state authority or more state encroachment on Indian reservations. Instead, we need Congress and the federal government to support tribal authority—including taxing authority—and remove the layers of federal regulation that burden our energy development opportunities.

Congressman Young's Native American Energy Act, which passed the House as Title V of the Federal Lands Jobs and Energy Security Act of 2013 (H.R.1965) is a good start and we ask that the House take even further action to increase tribal authority over energy development. While we continue to work on these long term solutions, we ask that this Subcommittee take immediate action to improve things in the short term.

One of our long term solutions is to provide Indian Energy Permitting and Technical Assistance One Stop Shops for major energy producing Indian tribes. Each of these One Stop Shops should house federal staff from all of the federal agencies who play a regular role in a tribe's energy permitting and production. Those staff would then all be reporting to a single One Stop Shop Director who reports directly to the Deputy Secretary of the Interior. Congress has already provided a federal lands model for these One Stop Shops in Section 365 of the Energy Policy Act of 2005. We will be working with our Congressional delegation to amend this law to provide similar One Stop Shops for Indian lands.

Until Congress passes Indian energy legislation providing for the One Stop Shops, we ask for your immediate help in converting the Office of Indian Energy and Economic Development's (OIEED) Division of Energy and Minerals Development (DEMD) Office in Lakewood, Colorado, into a national Indian Energy Permitting and Technical Assistance Center. This One Center should house staff from all 7 federal agencies needed to permit and oversee oil and gas operations on Indian lands. This can be done through some simple steps in your FY 2015 appropriations bill. These simple steps will allow us to improve and centralize the federal energy expertise that is required. This would speed up permitting on Indian lands, and will better coordinate the efforts of the 7 agencies involved. More importantly, they will do so at the lowest cost to the taxpayer.

To start this process we request that you to take the following steps:

First, we need language authorizing and directing the Secretary of the Interior and the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM), the Office of Natural Resource Revenue (ONRR), the United States Fish and Wildlife Service, and the Environmental Protection Agency (EPA) to co-locate sufficient staff at the DEMD Office in Lakewood, Colorado. We also need language directing these federal employees to work cooperatively with energy producing tribes to develop an Indian energy permitting process and technical assistance program which meets all federal requirements in the shortest time possible. We also ask that you provide language to the Secretary directing that this re-location should be accomplished within 6 months of enactment.

Second, because we know that this co-location will require the expenditure of federal funds from a variety of agencies we ask that you authorize the Secretary of Interior and the BIA, ONRR, EPA and BLM to reprogram the funds necessary to accomplish these goals.

Third, we ask that you include language in your report making it clear to the Secretary of the Interior and EPA Administrator that you see this effort as a priority, and that you want the Secretary and the Administrator to report back to the Subcommittee on the progress of this effort within 6 months of enactment of your bill.

Fourth, we ask you to work with your colleagues on the full Appropriations Committee to encourage the inclusion of similar language in both the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Bill, and the Energy and Water Development and Related Agencies Appropriations Bill, allowing the co-location and participation of the appropriate staff from the those two Department in the new endeavor.

Fifth, we ask for language directing that when our amendment to Section 365 of the Energy Policy Act of 2005, or other legislation establishing this Indian Energy Center is enacted, that the Secretary is pre-authorized to reprogram and expend such previously appropriated funds as are necessary to fully implement that amendment.

With these simple actions, the Subcommittee will help us improve the federal permitting process and advance tribal oil and gas development.

Meanwhile, we will continue working toward a permanent Indian Energy Permitting and Technical Assistance One Stop Shop in Lakewood, Colorado which reports directly to Mike Connor, the Deputy Secretary of the Interior. My goal is for this One Stop Shop to handle all aspects of Indian energy permitting other than local real estate transactions like right-of-ways and easements. The DEMD Office in Lakewood, Colorado is the logical and most cost effective location for this office since: (1) many of the named agencies already have staff in the immediate area, (2) housing is readily available for new employees, (3) office space is available for federal rental in the area, and (4) it is an easy and relatively inexpensive location for federal employees to travel from when their federal expertise is needed at the tribal level.

With the creation of this office, the BIA can remove all non-realty related energy permitting decisions from its various Regional Offices. These BIA Regional Offices lack the expertise to perform this highly technical energy work, and they lack the budgets required to hire people with that level of expertise. By co-locating the various federal staff to one place, we can build up federal capabilities, speed up the permitting process, and ensure better cooperation and coordination between the 7 federal agencies involved- all in the most cost effective manner possible.

One way of funding the BLM's portion of this effort is for the Subcommittee to redirect the fees that BLM collects from Applications for Permits to Drill (APD). Today, companies who want to drill on Indian land pay a \$6,500 fee to the federal government. Not only is this APD fee substantially higher than the few hundred dollars charged by most states; but neither those companies nor the tribe involved see any benefit from their collection. To fix this problem, we need appropriations language directing the BLM "to prioritize permits and inspections on Indian trust and fee lands," and language directing "that any fees collected for processing Applications for Permits to Drill (APD) on Indian lands shall be included in the budget of and expended by the BLM staff located at the Indian Energy Permitting and Technical Assistance One Stop Shop or the BLM Field Office where an APD is being processed."

On a more general, but equally important note, the President's proposed FY 2015 budget for Indian energy development is a major disappointment. Just like last year, energy development on federal lands is prioritized over energy development on Indian lands and the

President proposes no increase for BIA at all. You can help rectify this problem by inserting report language which ensures that a sizable percentage of the additional funds proposed for those other Interior agencies is redirected to help us fund an Indian Energy Permitting and Technical Assistance Center in Lakewood.

Let me close by making a few comments about infrastructure and public safety on our Fort Berthold Reservation. Our tribal and federal buildings, roads, courts and law enforcement programs were already stretched to their maximum capacity before we began developing our oil and gas resources. Today, with our tremendous oil and gas development we have experienced, the situation is far worse.

Because of the influx of people who now work and live on my reservation, our law enforcement calls have quadrupled, and our tribal court is now backed up with 8,000 new cases. We are now encountering heroin, methamphetamine, human trafficking and prostitution all of which are things my community had never seen ten years ago. Vehicle traffic, which was never a problem when I was growing up, is now one of my biggest concerns. We have roughly 20,000 semi-trucks operating on our Reservation. Every day, accidents are leading to serious injuries and costing lives, yet the BIA law enforcement program has no budget, and no flexibility to address any of these new concerns.

It is time to find a real solution to Indian energy funding problems. It is time for Congress to free tribes from unfair state taxation of tribal energy resources so that tribes can raise our own tax revenues to support energy and economic development.

Currently, outdated Supreme Court precedent allows states to place a double tax on the energy development on Indian reservations. Under current law, the State of North Dakota is still taking a sizable percentage of our oil and gas tax revenue- in our case over \$300 million. If Congress will not provide the authority for tribes to keep all of these tax revenues on our reservations, then the federal government must keep up with its obligations to fund infrastructure and services on our Reservation. We are already doing our part, and it is now time for the federal government to start doing its own.

Similarly, the cost of living has literally sky rocketed over the last five years. In our area, two bedroom homes are now renting for \$2,700 per month. As a result, we are having a terrible time recruiting the nurses, teachers, police officers and other federally funded professionals necessary to serve our community because of the limitations on government salaries that can be offered to them. For that reason, I am calling upon this Subcommittee to help us obtain a fair cost of living allowance (COLA) for those federal and federally funded employees who work and live at on the Fort Berthold Reservation. The federal government has fair COLA allowances for Alaska and Hawaii and D.C. and we now need the same at Fort Berthold.

Thank you for your consideration of these important issues. I am available to answer any questions you may have.