



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation

Mark N. Fox
Office of the Chairman

U.S. House of Representatives Committee on Appropriations Subcommittee on Interior, Environment and Related Agencies Testimony on American Indian/Alaska Native Programs

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Good morning Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to testify on the appropriations priorities for the Mandan Hidatsa and Arikara Nation (MHA Nation).

Full Funding Needed for BIA's Indian Energy Service Center

The MHA Nation and our Fort Berthold Reservation sit in the middle of the Bakken Formation—the largest continuous oil deposit in the lower 48 states. As you know, oil production in the Bakken Formation thrust North Dakota to the forefront as the second highest producing state in the Nation. Even with low oil prices production on the Fort Berthold Reservation remains high. In 2015, production on the Fort Berthold Reservation increased to 74 million barrels of oil and 78 billion cubic feet of gas. Staying on top of and even getting ahead of the oil and gas activity on our Reservation remains a top priority of the MHA Nation.

Since former Senator Dorgan worked to create a one-stop shop to improve oil and gas permitting at Fort Berthold in 2008, the MHA Nation has been working closely with Congress and the Administration to build the staff and expertise we need at Fort Berthold and across Indian Country to bring Indian energy development into the 21st Century. We take an active role in the management and development of our energy resources, but BIA, BLM and other federal agencies have a role as well, and our degree of success depends on the BIA having the resources, staff and expertise to keep up with the demands of the energy industry and its trust responsibilities to the MHA Nation.

The Fort Berthold one-stop shop improved energy permitting on our Reservation, but could never overcome a shortage of BIA staffing and expertise. Working with the Administration we hope to move past those issues by creating an Indian Energy Service Center in Denver, Colorado that will support permitting at local BIA Agency Offices. In Denver, the Service Center will be able to rely on existing federal employees and recruit talented staff.

For FY 2016, this Subcommittee approved the Administration's \$4.5 million funding request to establish the Indian Energy Service Center. The MHA Nation and other energy producing tribes strongly supported this funding. Since the funding was provided, BIA has begun developing plans for establishing the Service Center, hiring staff and assigning responsibilities. Energy producing tribes have been meeting regularly with BIA to discuss and plan for the establishment of the Service Center.

Given the strong support for the Service Center, we were very disturbed to learn that BIA did not request the second phase of funding needed to hire remaining staff and complete the initial set up. The establishment and implementation of the Service Center will require a multi-year funding effort. The success or failure of the Service Center will rest squarely on its ability to hire the full complement of staff laid out in its operating plan and on its ability to fund the efforts of those staff.

The MHA Nation respectfully requests that the Subcommittee provide the funding needed complete this important effort and to support Indian energy development throughout Indian Country. Despite the tremendous benefits from Indian energy development, BIA's energy budget is a tiny fraction of the budget provided to the Bureau of Land Management (BLM) for energy development on federal public lands. In the President's FY 2017 request, BIA's conventional energy budget of \$5.9 million is only 3% of the amount requested for BLM. BIA and Fish and Wildlife Service have almost the same energy budget, and BIA's renewable energy budget, which is far less permit intensive, is almost twice this amount at \$9 million.

This is unacceptable! The benefits from Indian energy development far outweigh the benefits of energy development on federal public lands. Energy development in Indian Country provides badly needed jobs and government revenues, supports development of tribal infrastructure, and provides waves of economic development that benefit Indians and non-Indians alike. Not to mention the Federal government's trust responsibility to oversee and provide for the development of these resources.

The decision to limit BIA's energy funding has consequences that affect every level of tribal governance including our ability to exercise self-determination. Because of BIA's inadequate staffing and limited resources, the MHA Nation lost tens of millions of dollars in royalties from oil and gas wells that were not approved during the heart of the boom when oil prices were over \$100 a barrel. Action is needed to build up the staff and expertise needed to oversee the tremendous oil and gas activity on our Fort Berthold Reservation and many reservations across the Nation.

We respectfully request that you fully fund the next two years of work at the Service Center by providing \$13 million in FY 2017. Forward thinking funding is needed to cover the efforts of BIA's Service Center in the near term and future hiring and planning. As you know, it can take the BIA six months to hire new personnel after receiving funding. Providing forward thinking funding will allow BIA to plan for the future and provide the stable funding needed to establish and begin implementing a new office. In this economy, the energy industry on our Reservation needs to know that the services provided by the Federal government will be stable and predictable. Providing forward thinking funding will provide the stability we all need.

Promises to Fund a Fort Berthold Irrigation Project are Long Overdue

Your support is also needed for a Fort Berthold Reservation Irrigation Project that was promised to the MHA Nation more than 60 years ago when much of our reservation was flooded as a part of the construction of the Garrison Dam and Reservoir. Prior to that flood, the MHA Nation had a long established agriculture based economy that was lost when the Tribe was

steam-rolled into signing away our prime river bottom lands to make way for the Garrison Dam. Other sites were available, but the site that would flood the most Indian lands and have the least impact on non-Indian towns was selected.

The Garrison Dam construction flooded more than 156,000 acres, the heart of our Reservation. It destroyed 84 percent of our roads network, more than 400 homes, our Hospital, schools and churches. In fact, a full 90 percent of our tribal membership was forced to relocate to higher, less hospitable semi-arid ground.

The compensation that the Tribe received was far too little to make up for what was lost and it was clearly not adequate to compensate the Tribe for the many monetary and non-monetary benefits the federal government has obtained. Projects, which were designed to make the MHA Nation whole, were promised but not fulfilled. One of those unfulfilled promises was the installation of a federally funded irrigation project designed to rebuild our once thriving agricultural economy.

We are here today to ask this Subcommittee to live up to that commitment by providing the funding for a Fort Berthold Irrigation Project. The engineering firm of Bartlett and West, has performed a feasibility study on our proposal and has determined that the construction of this system will increase the diversity of crops that can be grown on our tribal lands, increase our yield per acre, and increase the profits that we can generate from these parcels. Bartlett and West also found that in North Dakota: “(1) Irrigated agriculture produces a household income advantage of approximately 1600% over non-irrigated agriculture; (2) Irrigated agriculture results in an 800% business sector advantage over non-irrigated agriculture; (3) Irrigated farming (on average) realizes an annual income increase of over \$500 per acre to the general area; and (4) In general, irrigated agriculture stabilizes area crop yields, taking this variable out of the farming equation.”

A Fort Berthold Irrigation Project will generate new jobs, both during and after construction, and it will make more effective use of our natural resources. Since the Tribe was forced to give up its land for the Garrison Dam and Reservoir, we believe it is only fair that Congress direct \$60 million of Western Area Power Administration’s (WAPA) revenues from the sale of hydropower generated by the Garrison Dam. We have waited over 68 years for the Federal Government to live up to its commitment to restore our agricultural economy, and we believe that 68 years is long enough.

State Taxation of Indian Trust Energy Resources Must End

To help address the lack of appropriations for Indian energy development, the MHA Nations asks the Subcommittee to support elimination of intrusive state taxation of tribal energy and economic development on Indian trust land. Our trust resources and economic development on our reservations are not meant to benefit state governments. The intrusion of state taxation prevents development of our resources and takes the very tax revenues that we need to provide for our communities, support economic growth and develop our infrastructure.

In North Dakota, the State is approaching \$1 billion in taxes from energy development on Indian trust lands, but spends very little which benefits our Indian communities. In the next five years, the State will take another \$1 billion more in taxes from our tribal trust resources. The State takes these taxes based on a wrongly decided Supreme Court case from a bygone era of federal Indian law allowing state dual taxation. This case forced the MHA Nation into a Tax Agreement with the State and provided the State a majority of the tax revenues from energy development on our Reservation.

There is no comparison between the revenue the State gets from our trust resources and the amount the State spends on projects on the Reservation. The State has never reported its on-reservation expenditures and the reasons are obvious. Consider for example the fact that in 2011 the State took about \$82 million in taxes from our trust resources, but spent less than \$2 million on state roads on the Reservation and \$0 on tribal and BIA roads. Meanwhile, the MHA Nation bears the cost of spills, increased waste, law enforcement, and regulating activity to protect our members and homelands. I ask you, is that fair?

At the current level of federal appropriations, we cannot fund government oversight of oil and gas development on our Reservation. To do that, we need the same tax revenues that every other government relies on. Oil and gas development has brought a multitude of new problems: drugs, human trafficking, fires, traffic accidents and child abuse. Revenues are needed to combat all of these things, and the State is not using the money it is generating to help out.

The current system is also seriously unfair to the American Tax Payer who paid for the federal roads and bridges that energy development is destroying, and the ambulances and school busses that are being damaged. It is also the American Taxpayer who is currently being asked to fund the tribal courts that are being overloaded, the drug enforcement that is now required and the law enforcement officers who are forced to work overtime.

The MHA Nation asks that members of the Subcommittee seek amendments to the Indian mineral leasing laws to make clear its intention to provide tribes with the full value of our energy resources. This proposal has broad support. In June 2015, the General Accountability Office recognized state dual taxation as hindering Indian energy development. In 2013, Former Interior Secretary Salazar sent a letter criticizing the windfall North Dakota is getting from trust minerals. Also in 2013, the producers on our Reservation sent a letter asking that the MHA Nation receive the taxes we deserve.

As Congress seeks to increase tribal self-determination over energy resources, Congress must also prevent state dual taxation of our resources. Without the full value of our resources and the tax revenues that every other government relies on, tribes cannot achieve self-determination and we will remain increasingly dependent upon federal appropriations.

Thank you for the opportunity to testify. The MHA Nation is ready to work with the Subcommittee in support of these requests.