# SOUTHERN UTE INDIAN TRIBE

**United States House of Representatives**
**Select Committee on the Climate Crisis**

**Hearing on November 18, 2021**
**"Tribal Voices, Tribal Wisdom: Strategies for the Climate Crisis"**

**Questions for the Record**

**The Honorable Melvin J. Baker**
**Chairman**
**Southern Ute Indian Tribe**

**The Honorable A. Donald McEachin**

1. **When drafting the Environmental Justice for All Act, it was critical that Chairman Grijalva and I get feedback from a variety of stakeholders on the legislation, including from Tribal and Indigenous leaders.**

   **As new policies are created, and grants are distributed from the Infrastructure Investment and Jobs Act can you please clarify how you feel the federal government can best ensure meaningful stakeholder engagement, including the types of engagement that would be most helpful?**

Representative McEachin. Thank you for your comments and your work with Chairman Grijalva on behalf of Indian country. The Environmental Justice for All Act, H.R. 2021, is important in ensuring that minority communities do not suffer a disparate impact from environmental hazards. Indian country has historically been a depository by the federal government and others for toxic waste, which has had a devastating impact on Native communities.

At the same time, many Indian tribes --- including the Southern Ute Indian Tribe (the Tribe) --- rely on prudent natural resource development, including renewable and traditional energy, to fund their government programs and services.

The Infrastructure Investment and Jobs Act, H.R. 3684, is lengthy and complex. Thoroughly engaging with Tribes can be difficult due to a number of factors, including poor or non-existent internet, delays in postal deliveries, and remote locations. In addition, the substance of the legislation can change quickly as it moves through the legislative process, making it hard for Tribes to keep up with critical modifications.

However, as we saw in the recent Supreme Court case of *Yellen v. Confederated Tribes of the Chehalis Reservation,* sloppy drafting can lead to differences in legislative text that can have a

major impact on those Native communities that are entitled to federal relief and those that are not. This can cause unnecessary division among Tribes and other Native communities. That is why Tribal engagement at every stage of the legislative process is important. After legislation has passed, we find that Tribes are often unfamiliar with the nature of the programs offered due to the complexity of the legislation, itself.

The following are some suggestions the Tribe feels would be helpful in consulting with Indian country during the legislative process and after the legislation has passed:

The Tribe finds it is helpful to have frank and direct communications with the Committees while legislation is being considered. This has included:

a. Setting up remote meetings between representatives of the Committees and Tribes to discuss legislation.
b. Forwarding the legislation to Tribal representatives by email and regular mail to ensure they are aware of the legislation and have an opportunity to provide comments.
c. Encouraging the Tribe's local representatives to communicate with them on key legislative initiatives that might directly affect them. The Colorado delegation is excellent at communicating with the two Tribes located within the state's borders.

Once the legislation has passed, government agencies vary in their tribal engagement. Some are very proactive. Others less so. Here are some thoughts on what we believe works best:

a. The White House does a good job of holding meetings with Tribes on legislation that has passed. This is a starting point.
b. Often governmental agencies will hold a national webinar on legislation that affects Tribes. Again, this is a good starting point. But given the difficulties in communication with Indian communities, it is not enough. Moreover, there is limited opportunity on these calls for questions or comments.
c. Local engagement is best. Reach out to the Tribes by region or state. Make sure they are aware of the meetings by multiple methods - email, phone and letter. Keep in mind that delivery by mail in Indian country is slower than much of the rest of the country. Add at least a week on the expected delivery date.
d. Engage with tribal organizations. This includes the National Congress of American Indians but also other groups such as the Tribal In House Counsel Association (TICA).
e. We often find that with important legislation such as the Infrastructure Investment and Jobs Act, there are so many provisions affecting Indian Country that there can be a degree of "information overload." Notices of funding opportunities come from multiple agencies with consultations at different times. In some cases, applying for one grant at one agency will result in being considered ineligible for another grant at a different agency. There is little or no coordination among government agencies. Having a single meeting discussing all funding opportunities coming out of a single piece of legislation would be helpful.

**The Honorable Garret Graves**

1. **Chairman Baker, the hearing covered quite a bit of ground and there was limited time to respond to all that was covered. Are there any additional comments that you would like to share with the committee?**

Thank you, Representative Graves, for the opportunity to provide additional comments. We appreciate the opportunity to participate in the hearing "Tribal Voices, Tribal Wisdom: Strategies for the Climate Crisis." We encourage the committee members, participants and other stakeholders to be open to new ideas and technologies that can be part of a potential solution to provide reliable, affordable, and carbon neutral energy to meet our country's needs, irrespective of the source. Due to history, many tribes in the United States and indigenous persons around the world have had to adapt in order to preserve their communities and cultures. The quicker we can open our minds to all possibilities and embrace working together with those who have different views, the quicker we can iterate potential solutions reducing the carbon footprint of human activity in the atmosphere.

America's example is illustrative: in terms of fuel for our homes and industry we have progressed from wood to whale oil, then on to coal, oil and gas. We are in the transition from these traditional energy sources to renewable and other fuel sources.

The support from Congress through renewable tax credits over the past two decades has allowed renewable technology to improve rapidly and for renewable energy supply to grow in the marketplace, becoming an instrumental part of the solution to a carbon neutral energy future. However, it is important for policy makers to acknowledge that all energy sources have an environmental impact and renewables alone will not solve all the energy challenges of the future due to their intermittency. We encourage all stakeholders and decision makers to not take a one-size-fits-all approach to energy sources and to be more open about deployment of new technology associated with all energy types. Different regions in the United States have their own unique characteristics and natural resources, so where solar power may be a good source of energy in one part of the country, it is not practical in other parts. Our energy policy needs to focus on utilizing the natural resources specific to each region in a responsible and carbon neutral way to meet the energy demands of the future. Fossil fuels have been mined and used for a century to greatly improve socioeconomic conditions for billions of people around the world. If we are open to new technologies, such as NET Power's Allam-Fetvedt power cycle, to generate baseload power to the grid in a carbon neutral way, a critical solution to providing affordable and reliable energy to the grid could be within reach in the next few years.

In considering these options, it is always important to keep tribal sovereignty in mind. Too often we see the federal government imposing requirements on Tribes as it pertains to the energy sector that are actually detrimental to tribal economic growth. Since at least 1970, the Executive Branch and Congress have encouraged self-determination by Indian Tribes with the understanding that Tribes know best how to expand their economic base while controlling the environmental impact. We ask that this Committee keep this in mind while looking at the issue of climate change

2. **The United States has been the undisputed leader in carbon sequestration innovation. It is vital to look at the science and the facts regarding its viability and the huge global emissions reduction opportunities with successful deployment both here in the U.S. and worldwide. According to the experts, based on the science and the facts, carbon sequestration is safe, proven, and been widely used for decades. The referenced Department of Energy report[1] makes several key points:**

   ***"The U.S. Department of Energy (DOE) has invested more than $1 billion during the past two decades through its Carbon Storage Research and Development (R&D) Program to develop the technologies and capabilities for widespread commercial deployment of geologic storage. This investment has made DOE a leader in this worldwide effort."[2]***

   ***"CCUS projects supported by DOE and other organizations around the world, which in 2019 injected more than 25 million metric tons of CO2, have shown no adverse impacts to human health or the environment. And no DOE supported project has observed migration of CO2 outside of the intended storage reservoir or confining cap rock."[3]***

   ***"The assurances we can make today about the secure storage of CO2 in deep geologic reservoirs are based on: (1) a foundation of nearly five decades of oil and gas industry experience injecting CO2 into oil- and gas-filled formations; (2) the 20 years of technology advancements made from R&D programs like DOE's Carbon Storage Program; (3) field-testing campaigns, such as the Regional Carbon Sequestration partnerships (RCSPs) that have validated monitoring tools and strategies and developed best practices; (4) improved understanding of the physics, chemistry, and mechanics involved throughout the life of a CCUS project."[4]***

   **Given that the United States Department of Energy has worked on energy technologies for decades, spanning multiple administrations of both political parties, do you view them as a qualified expert when it comes carbon capture and sequestration?**

The United States is the leader and should be considered the expert in carbon capture, utilization and storage (CCUS) as the U.S. DOE and industry have been working together for decades to understand reservoirs and technology associated with CCUS. CCUS will play a critical role in reducing carbon emissions associated with human activity in the earth's atmosphere through either direct air capture or through deployment of capturing carbon from industrial sources. Regarding sequestration, there are many known geologic sources of high-purity carbon dioxide

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[1] Safe Geologic Storage of Captured Carbon Dioxide: Two Decades of Doe's Carbon Storage R&D Program in Review, April 13, 2020 report. https://www.netl.doe.gov/sites/default/files/Safe%20Geologic%20Storage%20of%20Captured%20Carbon%20Dioxide_April%2015%202020_FINAL.pdf

[2] Ibid.

[3] Ibid.

[4] Ibid.

still producing high-purity carbon dioxide for industrial use today[5] which have stored this gas for millions of years and could be used to store anthropogenic sources of carbon dioxide in the future. Furthermore, injection of carbon dioxide in underground reservoirs[6] is a process for which industry has a high level of competency, given the decades of experience in enhanced oil recovery. Hydrocarbons have been removed from the earth for over a century and carbon has been emitted to the atmosphere as a result. Today, we have a better understanding of the impacts of carbon emissions, and we should work together to make every effort possible to minimize carbon emissions associated with human activity including placing the carbon back into the earth where it originally came from.

Finally, I would like to reiterate that solving our future energy challenges in a carbon neutral way is complex and we encourage everyone to keep an open mind and embrace new technology. The United States has consistently been the land of innovation and technological advancements for centuries and I am very optimistic that the U.S. will continue to lead on solving the future energy challenges here and be part of the solution around the world. We look forward to continuing to progress projects and ideas forward with industry, academia, and Congress. Thank you again for the opportunity to testify on this very important and complex subject. Committee members are welcome to visit our Reservation if you are ever in the Four Corners Region.

Respectfully submitted,

Melvin J. Baker, Chairman

Southern Ute Indian Tribe

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[5] Supply, Underground Injection, and Geologic Sequestration of Carbon Dioxide, as of August 7, 2021 published by the U.S. Environmental Protection Agency, located at https://www.epa.gov/ghgreporting/supply-underground-injection-and-geologic-sequestration-carbon-dioxide

[6] Carbon Dioxide Enhanced Oil Recovery: Untapped Domestic Energy Supply and Long-Term Carbon Storage Solution, March 2010 report published by National Energy Technology Laboratory U.S. Department of Energy, located at https://www.netl.doe.gov/sites/default/files/netl-file/co2_eor_primer.pdf