

Committee on Natural Resources

Rob Bishop, Chairman
Opening Statement

October 5, 2016

Oversight Hearing

Tribal Prosperity and Self-Determination through Energy Development.

I first want to thank the Legislature of New Mexico for their kindness and cooperation in allowing this Committee to borrow their State Capitol facilities for this hearing, particularly during a busy time for them.

We have gathered here to review an important topic. The issue at its core deals with human dignity, self-determination and opportunity. These concepts underlie the relationship between government and people. In this particular relationship, it's different.

Why? The relationship between Tribes and the federal government is between sovereigns. A failure to understand this fundamental difference on the part of federal agencies is one reason why we are here today.

Increasingly, the federal government has treated tribal lands like they are federal. Rather than work with tribes to promote self-governance, federal agencies have imposed a cumbersome web of blanket mandates and policies where consultation is a mere afterthought. In many cases, this is taking place despite Congressional policy to devolve control over trust lands to their Indian owners.

For Native communities, the decision to develop their energy resources can provide a multitude of economic, educational, infrastructural benefits. Some tribes have stated that revenues from energy development fund up to ninety percent of their government operations.

Unfortunately, nearly every aspect of energy development on tribal lands is influenced or controlled by the federal government, a policy stemming from old notions that Natives are incapable of or unwilling to manage their resources. Many

of the laws and regulations that apply to Indian country are complex and cumbersome, increasing development costs and causing delays and uncertainty to the development of energy resources on tribal land.

When a tribe wants to lease its trust lands to drill an oil well, the lease is not valid until it is approved – *if it is approved* – by the Interior Department, which imposes an array of regulatory obstacles and investor uncertainty.

Further, if any tribe wishes to enter into agreements with a private company, the parties must go through an onerous 49 step process which involves more than fifteen federal agencies and offices—unelected bureaucrats, to acquire a permit for energy development projects.

Many tribal representatives have testified before Congress that it is not uncommon for several years to pass before any determination is made by the Interior on whether energy development project may be able to move forward. This often leads to less development on Indian lands than adjacent federal and private lands.

Many tribes rich in land and natural resources suffer unemployment rates of 50 percent and higher and live in the most impoverished conditions known in America today. The bipartisan federal policy of promoting tribal self-determination launched in President Nixon's 1970 "Special Message on Indian Affairs" cannot be fully realized as long as paternalistic federal laws and policies remain on the books, or, as we've seen, federal agencies act beyond their authorities.

Today's hearing is intended to let a number of Native leaders, as well as an economist, tell us about the impacts of energy development on Indian lands. I want this to be both a positive discussion about how tribes are managing resources for the benefit of their communities, and a critical analysis of what more needs to be done with the federal obstacles that stand in their way.