



**THE TOHONO O'ODHAM NATION OF ARIZONA
TESTIMONY OF THE HONORABLE EDWARD D. MANUEL, CHAIRMAN**

**U.S. HOUSE OF REPRESENTATIVES HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES**

May 9, 2019

INTRODUCTION

Good morning Chairman Grijalva, Chairman Lowenthal, Ranking Member Gosar, and distinguished Members of the Subcommittee. My name is Edward Manuel and I am the Chairman of the Tohono O'odham Nation, a federally recognized tribe with more than 34,000 members located in southern and central Arizona. Our traditional lands span across the United States/Mexico border from Sonora to Phoenix, West to the Gulf of California and East to the San Pedro River. As the Subcommittee is likely aware, mining has caused much turmoil throughout Indian Country. Mining has generated untold amounts pollution, destroyed sacred sites and caused untold amounts of sickness. These problems have been aided by the 1872 Mining Law. It is time for reform.

The 1872 Mining Law has adversely affected the Tohono O'odham Nation in many ways, I would like to address three today. First, our Mineral Resources Program administers operations at a Freeport McMoran mine in the Northern part of our Reservation, as well as an ASARCO mine located on our Reservation near Tucson. These operations were permitted under an old system, where mining companies could claim minerals underneath our lands without our consent. The 1872 Mining Law has no environmental standards and so these mines were allowed to generate pollution that impacts our lands and waters. The Freeport McMoran mine has generated pollution that has infiltrated the underground aquifer. The pollution is such that the US Environmental Protection Agency has designated it an Alternate Superfund Site. The ASARCO mine was able to operate from 1957-2001 without a Mine Plan of Operation. It took years of legal wrangling for the Nation to be able to better assure environmental protections in and around the ASARCO mine. If the proposed reforms were in place when the mines started, we could have alleviated much of this heartache.

Second, the current system has divided mineral rights throughout our reservation lands in the United States among a patchwork of patented, unpatented, public, and allotted lands. The patented mining claims in particular are great source of pain for the Nation. There are dozens of patented mining claims throughout the Nation. Since owners of patented mining claims can put the land to ANY use, this makes pockets of land throughout the Nation that we do not have control of. As a result, we still devote some of our financial and administrative resources to buying back mineral

rights privatized under this antiquated statute. If the proposed reforms were in place, it is likely the Nation would not have lost control to so much of its land.

Finally, the 1872 Mining Law is currently causing issues with sacred sites near the Reservation. Hudbay is seeking to open the Rosemont Mine in the Santa Rita Mountains outside of Tucson. The Nation is currently in litigation with the US Forrest Service over the proposed mine. The litigation is centered around the fact the Forrest Service, with no meaningful tribal consultation, assumed away its authority to protect cultural resources on public lands where there was no discovery of a valuable mineral deposit. Again, if the proposed reform were in place, we would have a seat at the table to allow our concerns to be meaningfully considered.

Reform of the 1872 Mining Law will help prevent the pollution of our lands and waters by providing an independent dedicated funding source for the cleanup of abandoned mines. Revenue from this reclamation fee could be distributed to our Mineral Resources Program and potentially used to employ our Nation's people, not just in mining operations, but also in reclamation projects.

It will also permanently end patenting. This privatization of minerals underneath our reservation provides just another way to take our lands from us. Most importantly, this reform respects tribal sovereignty with a consultation process where Federal agencies receive input from tribes. But I must make clear that this will be for naught if the Federal agencies do not take into meaningful consideration this input received by tribes and proactively take steps to avoid and minimize impacts to cultural resources. Finally, this reform clarifies the authority of both tribal governments and the Federal Government to balance mining with other competing land uses.

Thank you again for the opportunity to testify before you. For the above reasons, I respectfully ask for your support of this important mining reform legislation.