

**Testimony of Chairman Timothy Nuvangyaoma
Hopi Tribe
House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
Oversight Hearing on “Environmental Justice for Coal Country: Supporting Communities
Through the Energy Transition”
June 15, 2021**

Introduction

Greetings Chairman Lowenthal, Ranking Member Stauber, and Honorable Members of the Subcommittee. My name is Timothy Nuvangyaoma and I have the honor of serving as Chairman of the Hopi Tribe (“Tribe”). Thank you for the opportunity to provide testimony for the record of the Subcommittee hearing on “Environmental Justice for Coal Country: Supporting Communities Through the Energy Transition.” My testimony will focus on the negative impact that the closure of the Navajo Generating Station (“NGS”) is having on the Tribe, as well as the urgent need for the federal government to live up to its trust responsibility by assisting the Tribe in its recovery efforts.

Hopi Overview

The Hopi Reservation, located in the Northeast corner of Arizona, is approximately 2,500-square-miles. The Tribe has more than 14,000 enrolled tribal members, over half of whom reside in one of the Reservation’s 12 villages. Unfortunately, the residents of the Reservation suffer from a 60% unemployment rate due, in large part, to the lack of economic development opportunities caused by the remote and landlocked nature of the Reservation. The Hopi Reservation is the only reservation in the United States to be completely surrounded by another reservation. This makes it even harder to access markets and opportunities outside of the Reservation.

Background on NGS

NGS as constructed to help provide a reliable power source to the growing Arizona population and help provide a power source to pump water to the Central Arizona Project (“CAP”), which delivers water from the Colorado River to southern Arizona. The plant, which began operating in 1974, generated power for major cities, including Phoenix, AZ; Tucson, AZ; Las Vegas, NV; and Los Angeles, CA.

NGS was powered by coal from the Kayenta Mine Complex through lease agreements with the Hopi Tribe and the Navajo Nation. NGS procured all of its coal from the Kayenta Mine Complex, taking advantage of the available direct rail delivery. The federal government owned a 24% stake in NGS through the Bureau of Reclamation due to its interest in the delivery of water through the CAP.

Revenue generated from on Reservation coal production provided more than 80% of the Tribe’s general fund budget. Those funds were used to supplement the insufficient federal funding we receive, thereby affording the Tribe the ability to provide essential government services to our

members. Due to our strong reliance on these funds, the Hopi Tribe's economy has been devastated by coal-related curtailments. The Tribe has attempted to mitigate the sudden, drastic loss of revenue, but to no avail. Furthermore, the federal government has not provided the Tribe with any meaningful assistance as a substitute.

Impact of Coal-tied Closure

The Hopi Tribe's loss of more than 80% of its total annual revenue due to the closure of NGS and the Black Mesa Mine/Kayenta Mine Complex will continue to impact the entirety of Hopi communities as this revenue flowed to Tribal programs that employ and indirectly benefit Hopi communities. Considering that the funds also supported the budgets of the communities (Hopi Villages) themselves through direct Tribal appropriations, the lack of those funds will ultimately impact the entire Hopi Tribe and all our members.

Transition Planning Involvement

There have been several troubling situations surrounding the closure of the NGS and the ongoing recovery efforts. Hopi was not included in either the NGS closure process or any other related closure discussions. Moreover, Hopi's efforts to participate after such discussions began were specifically curtailed by other parties involved, including federal interests. As a result, the Tribe was robbed of a critical opportunity to advocate for our future economic needs that must evolve with the loss of mining revenues.

Employment Sector Assistance

The Tribe currently has no alternate employment pathway for any Tribal members that worked at or in conjunction with former coal-powered generation activities. The coal mining operation on-Reservation that offered local employment has also not provided any such opportunities as that company has now been in bankruptcy proceedings since 2016. Additionally, Hopi does not consider the mining company as a resource for any future retraining priorities.

Hopi Economic Development Efforts

Hopi is pursuing all viable economic opportunities that can replace the revenue lost from the coal-tied closures. Hopi performs this through its programs, departments, elected body and Tribal Economic Development Corporation. To date, no opportunities identified present any revenue scale projections that will notably substitute for total lost coal revenue, even collectively.

Other Efforts

The Tribe has intervened in the Arizona Public Service and Tucson Electric Power rate filings as well as the Arizona Corporation Commission's coal transition "generic docket" proceeding that branched from the original Tucson Electric Power filing. The Tribe was an active intervenor throughout the APS hearing and has met with the utility to attempt to capture an appropriate position as a coal-transition assistance recipient; to date no specific resolution with the company has resulted or is pending and the case otherwise waits on a decision from the assigned Administrative Law Judge and then review and action by the elected Commissioners.

The Tribe considers these processes as potentially critical elements of its recovery from the closure impacts, especially as no other assistance opportunities have yet been identified. The Tribe also considers its contribution to the electric power generated as rightly warranting some measure of transition support.

Peabody Bankruptcy

The Tribe has participated in the bankruptcy proceeding for the on-reservation coal mining operation, Peabody Western Coal. That process has excluded, and accordingly preserved, certain claims relating to water quantity and quality impacts, and has otherwise resulted in only a minimal settled dollar total for Hopi. The Tribe continues to track this matter due to its concerns about site remediation and current management and monitoring responsibilities still vested with the coal company. In that context, Hopi recently met with the EPA to discuss its concerns about discharge permitting terms (NPDES) proposed by the agency for application to Peabody as a renewal of its prior permit authorization.

Local Assistance and Tribal Consistency Fund

While the Tribe has yet to receive any funding in conjunction with coal-tied closures, we are encouraged by the establishment of the Local Assistance and Tribal Consistency Fund (“Fund”), which was established by Section 9001 of the American Rescue Plan. The Fund was established to help stabilize the budgets and economies of those entities in our current situation. The Tribe looks forward to working with the Treasury Department to determine a formula that will ensure an equitable distribution of the \$500 million allocated for tribal governments in the Fund. In May 2021, we wrote to Treasury Secretary Yellen requesting that the Department of the Treasury consult with the Tribe as it develops the funding formula for the Local Assistance and Tribal Consistency fund. We encourage the Subcommittee to help ensure that Treasury structures the Fund in a fair and equitable manner.

Conclusion

With coal-tied curtailments still placing great hardship on the Hopi Tribe’s economy, we look forward to working with the Subcommittee on the recovery efforts, as well as the transition to a renewable energy economy. We urge this Subcommittee to ensure that Indian Country is not left behind in this process.