

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



Submitted via email to nrdems@mail.house.gov

June 29, 2021

The Honorable Alan Lowenthal
Chair
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

The Honorable Paul Gosar
Ranking Member
House Natural Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

RE: Hearing on “Environmental Justice for Coal Country: Supporting Communities Through the Energy Transition”

Dear Chairman Lowenthal and Ranking Member Gosar,

For many decades, the coal industry provided the Navajo Nation with high-paying jobs and financial support through royalties for our many programs and initiatives. Now, the mines are closed, the Navajo Generating Station (NGS) is shuttered, and all we’re left with is an ecologically devastating and socially unhealthy mess that no one is stepping up to fix.

Coal mining on the Navajo Nation began with the opening of the Black Mesa Mine in 1968 by the Peabody Western Coal Company.¹ In 1973, the Kayenta Mine was opened nearby to supply the NGS in Page, Arizona with 8 million tons of coal a year.² This economic boom and the promise to restore the land ended in 2019 with the closure of both the Kayenta Mine and the NGS in 2019. The Black Mesa Mine had closed 14 years earlier.³

What Peabody and the multiple entities operating the NGS have left behind is a landscape ravaged by mining. The Navajo-Hopi aquifer is irreparably depleted by the 9 billion gallons of water pumped by the NGS annually while it was in operation, and an additional 391 million gallons used each year for the Kayenta Mine alone.⁴ Despite our agreement with the coal company that the land would be returned to us in the same condition as it was when we leased it, 28 square miles of the old mine sites on the Navajo and Hopi Nations are still unusable with no concrete or timely plans to remediate them.⁵

¹ Horseherder, N., Nuvamsa, B. (June 15, 2021). Joint testimony of Nicole Horseherder and Ben Nuvamsa. Pg. 2. Retrieved from <https://naturalresources.house.gov/imo/media/doc/Testimony%20-%20Ms.%20Nicole%20Horseherder%20&%20Mr.%20Ben%20Nuvamsa%20-%20EMR%20Ov%20Hrg%2006.15.21.pdf> on June 28, 2021.

² Ibid.

³ Ibid.

⁴ Kahn, Brian. (November 27, 2019). Closure of Navajo Generating Station tests green new deal. *Institute for Energy Economics and Financial Analysis*. Retrieved from <https://ieefa.org/closure-of-navajo-generation-station-tests-green-new-deal/> on June 28, 2021.

⁵ Horseherder, N., Nuvamsa, B. Pg. 6.

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Not only did the closure of the mines and the NGS ravage our landscapes, but it also left our already impoverished community even more destitute. The Kayenta Mine provided the Navajo Nation with \$37 million in revenue per year⁶ and paid 400 of our tribal members a total of \$46.8 million a year.⁷ The NGS provided an additional 450 jobs to primarily Navajo workers, compensating them with a total of \$52 million.⁸ After making us dependent on this steady stream of wealth for nearly 50 years, the Peabody and the Arizona Salt River Project, the main purchaser of power at NGS, suddenly divested from Indian Country and left all those people without alternate employment opportunities to make up for the loss of their previously high-paying occupations.

Several barriers stand in the way of replacing these jobs. First, there are insufficient funds for remediation of the mine sites due to Peabody's near-bankruptcy status, which leaves us and the Office of Surface Mining Reclamation and Enforcement (OSMRE) unable to employ former miners for that role. Second, the lack of sufficient transmission lines and connections with the surrounding power grid makes large-scale renewable energy projects unfeasible for most of the Navajo Nation, reducing opportunities to provide jobs and revenue. Third but not least, renewable energy jobs pay considerably less, and they mainly provide short-term construction-based jobs rather than the long-term utility-based jobs of coal mines and the NGS, meaning that they will not adequately replace the sustained high-paying employment we've lost due to the closure of these facilities.

Combating the Economic Impacts

As has been noted above, the loss of the Navajo Generating Station and associated mines has had an enormous economic impact on the Navajo Nation. The Nation is committed to securing an environmentally sustainable economic future, but this will require a large-scale investment in new industries. Clean energy investment on the Navajo Nation is increasing, but the economic benefit of this investment falls far short of the benefit conferred by NGS both in terms of the number of jobs and the compensation for individual workers. New development of our natural resources such as helium and rare earth minerals may begin to make up some of the loss over time, but the transition so far has been slow and painful. We need true sovereignty over our land which would allow us to develop our resources as we best see fit, rather than relying on permission from the Federal Government. Furthermore, we do not wish to become dependent on any one industry as has happened to our communities in the past. By reducing regulations and putting us on an equal footing with states, the Nation can further develop basic infrastructure

⁶ Halbrutt, D.J., Haase, S., Brinkman, G., et al. (March 2012). Navajo Generating Station and air visibility regulations: Alternatives and impacts. *National Renewable Energy Laboratory*. Pg. 100. Retrieved from <https://www.nrel.gov/docs/fy12osti/53024.pdf>

⁷ Nez, R. (June 15, 2021). Testimony of the honorable Rickie Nez, deligate and chair of the 24th Navajo Nation Council Resources and Development Committee. Pg. 2. Retrieved from <https://naturalresources.house.gov/imo/media/doc/Testimony%20-%20Chairman%20Rickie%20Nez,%20Navajo%20Nation%20-%20EMR%20Ov%20Hrg%2006.15.21.pdf> on June 28, 2021.

⁸ Ibid.

such as paving roads, that will allow for greater economic development and diversification.

Dealing with the Environmental Impacts

We generally agree with the witnesses in the hearing that the bonding system for mines is essentially broken, allowing mine operators to do great harm to mining communities with little or no consequences. We are also impressed at how Wyoming successfully regulates mining and consistently brings land back into productive agricultural use. While we do not know if that system can be successfully scaled to apply to the whole nation, it seems like a model we can learn from. Too many mine operators self-bond and later shirk their remediation obligations through bankruptcy proceedings. We would encourage Congress to require 100% bonding for every mine, and like most of the witnesses we are generally opposed to self-bonding as it creates an incentive for mine operators to divest themselves of their most costly assets by spinning off subsidiaries that are designed to fail. Ideally remediation responsibilities would be at the front of the line among creditors for bankruptcy proceedings, but even then, there is no guarantee of recovery if the company has no assets to collect. Adequate bonding is therefore essential.

While the above suggestions could help prevent future harm, the Navajo Nation is currently experiencing the effects of not having had an adequate system in place. Without proper remediation, the land devastated by the Black Mesa and Kayenta mines may never fully recover. On that point, we believe OSMRE has been negligent in duties to hold Peabody accountable for the damage they have done to our land and our people. Peabody did not hold to their end of the bargain in our lease, and they should be denied the opportunity to renew leases or obtain new permits until a plan is put in place to begin the remediation process now. We have already waited more than 2 years since all operations in the area ceased. We shouldn't have to wait any longer.

Conclusion

For over 25 years the Federal Government has talked about the importance of Environmental Justice. And while there has been progress, too often all we do is talk. The Black Mesa mine has been dormant for 14 years, but nothing has been done to restore the communities affected. We are now seeing the same occur with the Kayenta mine and the Navajo Generating Station. Environmental Justice “means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.”⁹ But that is exactly what happens in coal country. As we move forward as a society, we ask that the Navajo Nation no longer be left behind.

The Navajo Nation looks forward to working with your office on this and many other important issues. Should you or your staff have any questions, please contact Santee Lewis, Executive Director of the Navajo Nation Washington Office, at (202) 682-7390 or by email at slewis@nwo.org. Ahéhee' and thank you.

⁹ <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>

Sincerely,



Jonathan Nez, *President*
THE NAVAJO NATION



Myron Lizer, *Vice President*
THE NAVAJO NATION