

**Testimony of the Honorable Rickie Nez, Delegate and Chair of the
24th Navajo Nation Council Resources and Development Committee before the House Committee on
Natural Resources Subcommittee on Energy
and Mineral Resources’ Hearing Titled
“Environmental Justice for Coal Country: Supporting Communities Through the Energy Transition”**

June 15, 2021

Thank you Chair Alan Lowenthal, Ranking Member Pete Stauber, and Subcommittee Members of the Natural Resources Subcommittee on Energy and Mineral Resources. My name is Rickie Nez and I am a Council Delegate on the 24th Navajo Nation Council – which is the Legislative Branch of the Navajo Nation Government. As a formal introduction by our Navajo custom, I am Hooghanʼání, born for Ozeii Táchii'nii, my cheiis, or maternal grandfathers are Tsenabahiʼnii, and my nalis, or paternal grandfathers are Kinyaa'áanii.

As a member of the 24th Navajo Nation Council, the governing body of the Navajo Nation, I am honored and privileged to Chair the Council’s Resources and Development Committee, which possesses oversight authority over the Navajo Nation’s water, land, environmental protection, cultural resources, minerals, and economic development, among many other areas. The Navajo Nation is comprised of approximately 399,594 Navajo citizens on over 27,000 square miles of land covering Utah, Arizona, New Mexico and Colorado. This area is subdivided into 110 Chapter governments that represent the local voice of our people and work on the local level to see to the needs of our people.

As leaders of the Navajo Nation we have to consider the impacts our natural resources have on providing jobs and revenue to the Navajo Nation today and well into our future. We also recognize as elected leaders of the Navajo Nation the need to actively plan and prepare for a new energy future. Recognizing the Navajo Nation is blessed with a wealth of natural resources, including the critical minerals and rare earth elements necessary for achieving a renewable energy transition, we believe we have the right and responsibility to develop and manage these resources.

Thank you for inviting me today to provide perspective of our “energy story,” guided by the Navajo Nation Energy Policy Act of 2013, and the Navajo Nation’s efforts to “responsibly” transition from a coal based economy to a new energy future and offer recommendations on how Members of Congress can assist the Navajo Nation and other natural resource rich Tribes across the United States in this energy transition. To that point, Chairman Lowenthal, Ranking Member Stauber and Members of the Natural Resources Subcommittee on Energy and Mineral Resource – I cannot stress this point enough - Indian Country and the Navajo Nation need to be at the table when discussing the energy future and transition of the United States.

Today, across the United States, 1 in 3 Native Americans are living in poverty, with a median income of \$23,000 a year. These numbers from the American Community Survey highlight the stark income inequality the nation’s first peoples face¹. On the Navajo Nation our median household income is \$20,005 a year, with unemployment at 42% and 43% to many of our Navajo people live below the poverty line. ² This is terribly unfair considering that our Indian reservations, like the Navajo Nation, hold tremendous energy resources. Unfortunately, an estimated 86 percent of Indian lands that have this

¹ American Community Survey, <https://www.census.gov/topics/income-poverty/poverty.html>

² <http://navajobusiness.com/fastFacts/Overview.htm>

mineral wealth potential remain underdeveloped because of the federal government's often heavy-handed regulation of Indian property. As it stands today, bureaucrats at the Bureau of Indian Affairs in Washington have more say than individual Indians or a tribal governments when it comes to managing Indian lands. Indian Country retains more than \$1.5 trillion³ of the natural resource wealth of the United States, and yet many places in Indian Country, where that wealth exists, remain some of the poorest areas in America. Simply put, the complex bureaucracy in our federal government often stalls progress and raises the cost of energy development on Indian lands making it less competitive for investment and new energy regulations are making it even more problematic for tribes themselves to tap into their resources. Despite these hurdles, the Navajo Nation is succeeding in some areas of developing energy resources for the benefit of tribal members.

Navajo Coal Based Economy - Past and the Future

Before I provide perspective on "Supporting Communities Through the Energy Transition," I feel it is important, as a matter of reflection, to give some insight on our Navajo Nation coal based economy. As many members of this subcommittee know, in 2018 the 24th Navajo Nation Council voted to close and decommission the Navajo Generating Station, a coal-fired power plant near Page, Arizona and the Kayenta coal mine that supplied coal for the power plant. For many decades, NGS was an important source of affordable power for electricity and water distribution across arid Arizona, and a vital economic engine for the Navajo Nation, the Hopi Tribe, the City of Page, and the entire Northern Arizona region. No doubt has the closure already had a profound impact on local and state economies and a disproportionate impact on the Navajo Nation. For reference the following impacts have already been felt:

- Arizona stands to lose approximately \$18 billion in gross state product between 2017 and 2044- including up to 3,400 jobs.⁴
- An Economic Impact Study, the closure of NGS - combined with the potential impact on nearby Kayenta Mine, the plant's coal supplier- could result in an annual loss of more than \$602 million in adjusted state tax revenues for a period measured from 2017 to 2044. ⁵
- Wages and benefits paid to Native American employees at the Navajo Generating Station amount to \$52 million per year. The average hourly wage paid at the power plant is \$35 per hour- twice the average wage paid in Coconino County, according to the Bureau of Labor Statistics. The report notes that 83 percent of the NGS workforce, about 450 employees, is Navajo. Total wages and benefits paid to Kayenta Mine employees amount to \$46.8 million per year. Average annual wages and benefits paid to mine workers are \$117,000 a year. Some 93 percent of the Kayenta Mine workforce, about 400 employees, is Navajo, according to Peabody Coal.

Our Navajo Nation leadership were told by NGS owners that closure was necessary due to low natural-gas prices that undercut the economics of the plant. Since the decision to decommission NGS was made, there has been no shortage of articles in widely read publications that the shutdown of the Navajo

³ United States Senate. 2009. Energy and Energy Efficiency: Hearing before the Committee on Indian Affairs. 111th Cong. (October 22) (statement of Hon. Marcus Levings, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation, Secretary, Council of Energy Resource Tribes).

⁴ Patrick O'Grady, "Closure of NGS could cost Arizona \$18 billion," Phoenix Business Journal, <http://www.bizjournals.com/phoenix/news/2017/02/14/navajo-generating-station-to-close-by-2019-plant.html>

⁵ Dr. Matt Croucher, Dr. Anthony Evans and Dr. Tim James, W.P. Carey School of Business, "Navajo Generating Station and Kayenta Mine: An Economic Impact Analysis for the Navajo Nation, NGS and the Kayenta Mine" 2012. Post Office

Generating Station and Kayenta Mine was inevitable due to market conditions and consumer interests. Whether or not these assertions of energy market conditions remain true, I want to stress the decision to close and decommission Navajo Generating Station was not an easy decision for many of my colleagues on the Navajo Nation Council. What is important to point out in this decision to close NGS was the Navajo Nation, especially our elected leadership, were not apart of the conversation about the energy transition until the decision was made for us. Literally there is billions of dollars of high quality coal assets stranded on the Navajo Nation without the ability to monetize them without a factual conversation about the real costs of transition, and who bares the brunt of the hurt. As Chairman of our Resources and Development Committee I feel it is important to convey that we still have not been invited, by federal decision makers, to the table to discuss a responsible energy transition.

Despite the closure of the Navajo Generating Station, the Navajo Nation since 2013 has been guided by the 2013 Navajo Nation Energy Policy Act, which re-affirms our inherent sovereign rights to develop our natural resources to promote the economic development of the Nation, while transitioning to alternative and renewable energy projects responsibly. To that end, in the same year in 2013 the Navajo Nation leadership created Navajo Transitional Energy Company, LLC (NTEC), under Navajo law as an autonomous commercial entity to “promote the development of the Navajo Nation’s resources and new sources of energy, power, transmission and attendant resources to develop the economic, financial, social and cultural well-being of the Navajo People and the Navajo Nation.” NTEC was formed as an LLC with the Navajo Nation as its sole shareholder. On December 30, 2013, NTEC purchases the Navajo Mine Coal Company LLC., the Navajo Mine is the sole supplier of coal to the adjacent Four Corners Power Plant (FCPP). The electricity generated from the Navajo Mine coal continues to play a significant role in meeting the energy needs of the rapidly growing Southwest. In 2018, NTEC finalized the acquisition of seven-percent ownership of Four Corners Power Plant, a 1,550 MW power plant. This makes NTEC the only tribal company in the United States to have partial ownership of a coal-fired power plant. In addition to NTEC’s interest in a continued coal economy, NTEC acquired interest in Texas Minerals Corp. to invest in rare earth minerals project near El Paso, Texas recognizing that rare earth minerals are needed to build, among other things, solar panels, wind turbines and modern electronics. Finally in October 2019, NTEC acquired the assets of Cloud Peak Energy through a bankruptcy auction process and thereby making NTEC the third-largest producer of coal in the United States now broadening its coal economy impact well beyond the borders of the southwest into three coal mines in the Powder River Basin of Wyoming and Montana (Antelope, Cordero Rojo, and Spring Creek).⁶

I give this perspective on the Navajo Nation’s coal assets through Navajo Transitional Energy Company to convey that the Navajo Nation continues to rely on a coal based economy at this time. Not only in the annual taxes and royalties paid by NTEC to the Navajo Nation from the operation of the Navajo Mine, which now exceeds \$40 million and accounts for almost a third of Navajo Nations General Fund Revenue, but this impact extends into the states of Wyoming and Montana.

NTEC is not some outsider who comes to the Navajo Nation, strips us of our natural resources, and leaves the landscape a barren moonscape like other companies have done in the past. In 2020, NTEC was awarded the Office of Surface Mining Reclamation and Enforcement’s Excellence in Surface Coal Mining Reclamation Award, the highest award presented for reclamation in the country. NTEC is also in the process of releasing 2,200 acres of fully reclaimed land back to the Navajo Nation, removing the land from NTEC’s lease and allowing it to be used for other purposes important to our people. For many people on the Navajo Nation, the Navajo Mine provides more than just essential financial support to the

⁶ NTEC History <https://navenergy.com/timeline/>

Native community; they use coal from the Navajo Mine to heat their homes. Each winter, NTEC operates the Community Heating Resource Program (CHRP), which provides free coal to community members in need. And, last year when the Kayenta Mine was closed, NTEC expanded the program to include all Navajo and Hopi chapters and families, trucking coal 150 miles across the reservation to serve the people there. In addition, the company has also made hundreds of thousands of dollars in charitable contributions to support STEM education and college scholarships in the community.

In 1868, the United States entered into a treaty with the Navajo Nation ensuring the Nation's permanent prosperity in exchange for our land and natural resources. Our treaty is the foundation of the federal government's Trust responsibility to the Navajo Nation. Secretary of the Interior Deb Haaland committed to honor the sovereignty of tribes in her US Senate confirmation hearings. Assistant Secretary of Indian Affairs nominee Bryan Newland promised to honor tribal self-determination in his testimony before the US Senate, and further promised to be a "collaborative trustee." I ask that this subcommittee make the same commitment to listen to the Navajo Nation Council -- to the voices of elected leaders -- when considering how to best support the Nation in its energy transition.

Navajo Energy Transition

Despite the footprint we continue to have in a coal based economy, our Navajo leadership is actively planning and preparing for transition to a new energy future. Another Navajo Nation enterprise, Navajo Tribal Utility Authority (NTUA), owns and operates several solar thermal energy plants, better known as Navajo Tribal Utility Authority's Kayenta Solar Project, which has two large fields of photovoltaic panels called Kayenta I and Kayenta II. Combined they generate 55 megawatts – enough to power 36,000 Navajo homes and businesses across the Navajo Nation. Kayenta I was developed by NTUA and constructed by Spanish renewable energy firm Isolux Corsán Group. It was completed in May 2017 and came online the following month, marking the official opening of Kayenta Solar Project that consisted of 119,301 sun-tracking panels and had a budget of more than \$50 million. Shortly thereafter, plans for Kayenta II began, built by NTUA and Swinerton Renewable Energy and today is also online. This solar thermal energy plant is 100 percent owned by the Navajo people through NTUA, for the benefit of the Navajo people. We recognize there are larger thermal solar plants built on tribal lands across the United States, but there is no larger thermal solar plant built on any tribal land that are owned by their own people, the Navajo people.

In addition, earlier this year in April 2021, the Navajo Nation signed leases for a new 600-acre, 70-megawatt solar project in far southern Utah near Red Mesa that will help power cities across Utah and generate revenue for the Navajo government. Even more of the revenue from the newly approved Red Mesa Tapaha Solar Generation Plant is expected to flow back into communities in both tax revenue to the Navajo Nation and in the form of residential water and power projects on the Utah Navajo strip, where hundreds of residents lack basic utilities. The project will also be majority owned by the Navajo Tribal Utility Authority (NTUA). Four megawatts of power produced in Red Mesa will go to communities served by NTUA, and the remaining 66 megawatts will be purchased by 16 member cities of Utah Associated Municipal Power Systems (UAMPS), ranging from 142 kilowatts for Fairview to more than 18,000 kilowatts for St. George.

Despite these investments in thermal solar by the Navajo Nation, we cannot forget the assets left behind from the Navajo Generating Station. This past December 2020, the three 775-foot concrete

smokestacks of the Navajo Generating Station were demolished⁷, for 45 years, power from the coal-fired plant was sent to cities across the Southwest and the transmission infrastructure remains in place for which Navajo Nation leadership is exploring ways to re-use these assets. Aside from the transmission lines left behind from NGS there is a proposal still being considered by the Navajo Nation government, is a 2,210 megawatt storage facility on the Navajo Nation that would use energy produced from solar and wind plants to pump water to a reservoir on the Cummins Plateau above Lake Powell, then release it each day to generate 10 hours of renewable energy that would reliably power the region around the clock. The project will likely be built alongside a massive solar farm, however the size of the system has yet to be determined.

As you can see, Navajo Nation leadership is taking the steps to build an energy transition plan for the future. These decisions and actions to create this new energy future is also focused on building infrastructure across the Navajo Nation, including water, electricity, broadband, and transportation. Over the past few months, we have called upon Congress to help the Navajo Nation by revising federal regulations or allowing an expeditious review process for infrastructure projects and by increasing and expediting resources to tribal communities. Despite these investments in this new energy transition it cannot be ignored that these measures still do not replace the many jobs and revenues lost from the closure of the Navajo Generating Station.

Compounding the issue is the announcement last year in that the Arizona Public Service Co. now plans to shutter the Four Corners Power Plant near Farmington, New Mexico, in 2031 when its coal contract expires rather than wait until 2038. The mine and power plant employ more than 700 mostly Navajo workers. The plant has an annual payroll of nearly \$100 million, another \$100 million a year is paid in taxes, fees and coal royalties to tribal, state and federal authorities, creating an economic impact that APS estimates is more than double that amount. This news of an early closure of Four Corners Power Plant also comes as New Mexico regulators consider plans for the 2022 closure of San Juan Generating Station, another coal-fired power plant just miles away off the Navajo reservation. The moves have prompted regional officials outside of the Navajo Nation to say they are even more focused on promoting tourism and recreation as economic alternatives and ensuring the area has reliable internet and other infrastructure to entice manufacturing, data centers and other businesses.

The Navajo Nation recognizes Arizona requires utilities to get 15% of their energy from renewable sources by 2025. APS independently launched a more aggressive plan, saying it will rely on the nation's largest nuclear power plant as it adds renewable power, battery storage and other sources of energy. It has vowed to have 45% renewable energy by 2030 and be carbon-free by 2050. In New Mexico, investor-owned utilities must be carbon-free by 2045 under an energy transition law adopted last year. Implementation of the law is tangled up in a regulatory fight, but Public Service Co. of New Mexico already has pledged to divest itself of coal and natural gas by 2040. The closure of the Four Corners Power Plant likely will mark the end of decades of coal mining on the vast Navajo Nation, which extends into Arizona, New Mexico and Utah.

The adverse effects of a potential shutdown of these facilities to our Nation translates to an across the board cut of all revenues to each of our governmental functions, from law enforcement and fire departments to elderly and child care. Each of the Navajo Nation's citizens or 110 Chapter governments would be adversely effected by these potential shut downs. While these are impacts that are difficult for us to contemplate, they are still not at the heart of what we stand to lose as a Nation of people. Our

⁷ <https://www.slttrib.com/news/2020/12/19/demolition-largest-coal/>

resources empower our sovereign ability to care for our people the way that only we can. What does our Sovereignty as a Nation of people really mean without the ability to serve our people? As outlined in my testimony we have already experienced several of our coal mines shutting down over the years. We had promises from several organizations that said they would help us replace the loss resource with more green energy resources. But despite these renewable energy based investments made to date in a new energy transition, it cannot be ignored this energy transition still again does not replace the jobs and revenue lost to the Navajo Nation. But more important and at the heart of these operations is the Navajo working family, providing for themselves, their communities and their Nation. During my travels to meet with the workers and their families across the Navajo Nation, we are often greeted with heart felt appreciation for helping to keep their jobs alive, but in truth it is we as a Nation that should be thanking these hard working Navajo families for keeping our Nation alive. When our families are strong, we see decreases in the myriad of social ills plaguing our Nation and we see stronger, more vibrant communities, and we as a Nation of people grow stronger as a result. The Navajo Nation should not bear the burden of losing vital jobs and revenue when unemployment is already at 42% and 43% to many of our Navajo people live below the poverty line.

Navajo Nation Helium Vision

As I begin to conclude my testimony on our energy story on the Navajo Nation, I want to also highlight It is not a secret that the potential helium resources of the Navajo Nation are abundant enough to propel an economic revitalization for the Nation. Helium just might be one of the Navajo Nation's most valuable under-tapped natural resources. But its important to point out that helium isn't energy, it's a coolant. When you liquefy helium it's the coldest substance known to man. Helium is also non-flammable, non-combustible, odorless, tasteless, and is found naturally in our atmosphere. It is the first of the noble gases in the periodic table of chemical elements. Helium is a critical mineral that is foundational to the renewable and green energy future. Beyond its familiar uses in balloons and blimps, helium has great value in all sorts of applications that require cooling or purging agents, including laser technology, the manufacture of semiconductors and circuit chips, medical diagnostics such as Magnetic Resonance Imaging scanners, space testing, solar cells, and cleaning combustion chambers in rocket launching systems. In fact, many of these vital technologies could not work without essential helium, which guarantees a market for it.

Without focused development of domestic resources such as those controlled by the Navajo Nation there is a tremendous risk to the US supply chain security that affects everything from health care and transportation to research and defense. Should the Nation pursue a meaningful development strategy of this safe and precious resource it would offer a great deal of influence within the United States and likely the international marketplace. In 2019, China was responsible for 80% of rare earths imports, according to the U.S. Geological Survey⁸, although exports fell last year in part due to Covid-19. The Biden administration and Department of Energy have targeted rare earths among domestic supply chain priorities as they outline ambitious climate and technology policy. Timing of this is opportunity is imminent as President Joe Biden on February 24, 2021 signed an Executive Order on America's Supply Chain outlining that the United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity and national security. Just this month the Biden administration announced new actions designed to strengthen critical U.S. supply chains, and the Department of Interior will lead a task force to identify sites where critical minerals could be produced and processed in the United States." The report said the U.S. will develop the capacity for "sustainable production, refining, and recycling" of

⁸ <https://pubs.usgs.gov/periodicals/mcs2020/mcs2020-rare-earth.pdf>

the 17 rare earth metals used in cellphones, cars and magnets, while meeting high environmental standards.⁹

If executed effectively and if the Navajo Nation is at the table in these discussions, the Navajo Nation stands to provide a great deal of ancillary employment opportunities and expanded revenue for our people, but also can directly assist the United States to reemerge as a dominant player in a rare earths supply chain.

The development of the helium projects will also generate opportunities to implement secondary oil recovery projects from the legacy oil fields that are generally found at shallower depths in the same area. Although not all fields will have the same recovery potential, the initial part of the secondary recovery strategy would be to evaluate and catalog the numerous prospects which would offer education and training opportunities along with a few jobs. There is an abundance of industry expertise and experience that could be utilized to provide this training opportunity and expect there will be a great deal of financial support available to pursue it.

The secondary recovery projects could add decades of additional revenue and employment through staged development that could lead to tertiary recovery projects if viable years down the road.

Another area of business would be in developing a strong transportation workforce that will provide commodity and equipment trucking jobs plus the mechanical labor force necessary to maintain the equipment. There is a real need across America for qualified transport drivers that could be tapped into as a way to increase the job opportunities.

A well crafted strategy and resource development plan by the Navajo Nation will highlight areas that can benefit from State and Federal support and identify the specific areas to apply that support and keep the Nation in control of its resource development destiny. There has also been expressed interest from New Mexico US Senate leadership to work with the Nation on creating Resources Management Plans for the various opportunities that are on the table with the Tribe. New Mexico, as well as other resource focused states, have a great deal of experience in building out RMPs that provide the framework and guidance to optimize the development in a safe and sustainable manner.

Summary

In closing, I want to thank you again for inviting me today to provide perspective of our “energy story,” and our continued efforts to transition from a coal based economy. Myself and my colleagues on the 24th Navajo Nation Council will continue to work in actively transitioning to a new energy future “responsibly,” but I cannot stress this point enough - Indian Country and the Navajo Nation need to be at the table when discussing the energy future and transition of the United States. We understand that we must find and develop alternative energy resources to sustain our planet. But the Navajo Nation continues to manage the impacts of the closure of Navajo Generating Station and Kayenta Mine and we are continuing to manage the loss of tens of millions of dollars in direct revenue to the Nation. We will continue to advocate for the Navajo Mine and Four Corners Power Plant plan to operate through 2031, but we have just ten years to transition our economy and jobs to a new energy future responsibly.

⁹ <https://www.cnbc.com/2021/04/17/the-new-us-plan-to-rival-chinas-dominance-in-rare-earth-metals.html>

I hope members of this subcommittee of the Natural Resources Subcommittee on Energy and Mineral Resources can work with the Navajo Nation directly and invite us to the table in future discussions. I invite you to the Navajo Nation, to show you first hand how we continue to rely on a coal based economy but as outlined in this testimony are actively moving toward a new energy future.

Thank you again and I am happy to answer any questions.