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TESTIMONY OF CHAIRMAN ALVIN "A.J." NOT AFRAID, JR., OF THE CROW TRIBE OF INDIANS BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM SUBCOMMITTEE ON THE INTERIOR, ENERGY, AND ENVIRONMENT JULY 17, 2018

Good Morning! Thank you Chairman Gianforte, Ranking Member Plaskett, and Members of this important Subcommittee. I appreciate the opportunity to share my views, and the views of the People I represent, regarding the impediments to energy production in Indian Country.

My name is Alvin Not Afraid, Jr. and I am the Chairman of the Crow Tribe of Indians. We are more than 14,000 Members strong, and we own more than 2.2 million acres in the West, along the Big Horn River, and it is the most beautiful country under Creation.

Our land is rich in energy resources, natural resources, and minerals. So this topic is near and dear to the hearts and the pocket-books of the Crow people. The Crow Tribe owns nine (9) billion tons of mineable coal, constituting three-percent (3%) of US mineable coal reserves; yet we have only one active mine. Colorado-based Westmoreland Resources, Inc., currently leases the Absaloka Mine. The mine has produced more than 200 million tons of coal since 1974. It was producing five (5) to seven (7) million tons of coal per year, but has recently decreased its production to three (3) million tons per year in part because of over-regulation. This number is extremely low, as the mine has the capacity to produce as much as 10 million tons per year.

The Crow Tribe depends on coal tax and royalty revenue from this mine for up to two-thirds (2/3) of our non-Federal revenue annually, including essential Member services, such as care for elders, and basic infrastructure projects, such as road maintenance.

Coal is not the only resource that we have in abundance. We also sit on a significant oil & gas field. Independent geologist estimates place our oil reserves at approximately 3.3 million barrels of oil in prospected areas alone. We have only prospected approximately 10% of the reservation, so we believe that there are millions more barrels to be found.

Yet despite owning these economic assets – we experience extreme economic disparities when compared with non-tribal, non-federal owners of coal and oil reserves. In short, we are facing a significant budget crisis – projected revenue from our coal mine is half of what it was seven years ago, before the War on Coal began under the last Administration.

Further, the Crow Nation's unemployment rate sits at 80%, compared with the State of Montana's unemployment rate of 3.8%. This unemployment rate, and the lack of non-federal income and jobs in Crow, means that we endure the same economic conditions that were once faced by the communist satellite states of Eastern Europe: poverty, hunger, poor sanitation, the absence of industry and an aging infrastructure. We love our land and our homes, but our inability to grow our local economy, through the development of our energy resources, ensures that we will never rise out of the cycle of poverty that we find ourselves in today.

As with any problem we are faced with, there are many issues impeding the development of our natural resources. While every impediment cannot be fixed by government, many of them can.

Some of the government-related challenges we face include:

- Cumbersome Indian coal and oil & gas lease approval processes
- Long wait times for those approvals
- Myriad federal agencies and offices, both within and beyond the Bureau of Indian Affairs (BIA), that must grant approval for energy development contracts to move forward
- Cumbersome regulations, promulgated without meaningful consultation with Energy Tribes – though we are appreciative of the work done to repeal many of those in the last year.
- Poorly kept and incomplete records, from which critical decisions must be made
- Inexperienced bureaucrats who oversee the entire approval process

Barriers to economic development cost Indians millions of dollars in lost revenue. Consider that if an Indian rancher – off the reservation – owns his own land, and wants to enter into an oil and gas lease, he can do so. The permits are fairly cheap, easy and quick to obtain, and he is free to make his own determination as to whether the agreement is in his interest. If the Crow Tribe wants to enter into an oil or gas lease – on land that the Tribe owns – we face a process of long wait times. We wait and wait and wait.

And what are we waiting for?

We wait for permission from the federal government. By law, we need the BIA to bless our business contracts.

The BIA was created long ago, in part because it was thought that Indians could not intellectually evaluate business contracts, purchase agreements, leases and other economic tools. Yet, in an ironic twist of fate, it is now the BIA – which according to the GAO and DOI-OIG – that lacks the intellectual capacity to evaluate business contracts, purchase agreements, leases and other energy development mechanisms.

It is the tale that every freedom-loving American knows: the government lacks the ability to perform the role it has taken for itself, yet we are at its mercy.

So, we wait for the Bureau of Indian Affairs – with no expertise in the field of energy development – to approve the lease agreement. We wait years for this.

The companies we wish to do business with must wait and wait as well. Good companies, legitimate developers, do not want to wait for government permission. In fact they can't wait, or they will bankrupt themselves.

Consider this from the viewpoint of a businessman. This will be an easy exercise for you, Mr. Chairman, being a self-made and highly successful businessman yourself: would you have asked a random tourist, passing through Bozeman, to approve purchase agreements you wished to make, as CEO of RightNow Technologies? I am sure you would not have, as they would not possess the knowledge to make such a decision. So why would a Tribe be forced to request approval of a bureaucrat, adept at stapling papers, to determine whether an oil and gas lease is a good deal for the Tribe?

It will take time to roll-back the oppressive regulations that the previous Administration used to perpetrate the War on Coal. And we appreciate all of the work that has been done to-date, by this Congress and this Administration, to create a positive and healthy atmosphere for energy development and energy security for the United States.

All of us who run governments during this time, are in the same predicament: from the President, to Members of Congress, to the Secretary of the Interior and to me, as Chairman of the Crow Tribe of Indians. We all find that we are trying to fix problems not of our making, and certainly not of our choosing. So how can we work together to fix these problems?

I advocate the following:

- At home, I am working with federal investigators to shine a light on waste, fraud and abuse. The Crow Administration is working to build capacity and skills within the Tribe; so that we can "educate locally" and "hire locally". We are cleaning up decades of financial mismanagement and codifying oversight controls within our government. Like every government, we are staying vigilant and we are maintaining constant oversight of our programs and over taxpayer dollars. These are self-help steps that we are taking, in order to be accountable for our own welfare, and to create a healthy atmosphere for private investment in Crow.
- At the Congressional level, I ask you to co-sponsor and support S. 245, by Senator Hoeven and passed by the Senate in December of 2017. This bill, which awaits consideration by the House Committee on Natural Resources, Energy and Commerce, is a tremendous step forward for both tribal energy regulations and economic development initiatives. We believe that it will correct issues currently stifling progression of the Tribal Energy Resource Agreements (TERAs). If these fixes become law, it is my intention to ensure that the Crow Tribe is the first to apply for and enter into a "TERA agreement" with the Secretary of the Interior.
- Modify the HEARTH Act to include mineral development: currently the HEARTH Act allows Tribes to approve leases for activities such as wind and solar energy development, and for business purposes, after the Interior Department approves Tribal regulations. These regulations must include an environmental review process. Despite these safeguards, mineral leasing was excluded from the list of activities, but should be

included. This would return to Tribes the freedom of self-determination in the development of ALL energy resources, not just those favored by special interests.

- Finally, I urge you to continue to seek the expertise of organizations that are educating tribal leaders, federal elected officials, and future generations, as to the best ways to promote private economies in Indian Country. Specifically, the research legacy of Dr. Terry Anderson, at the Hoover Institute, and the tribal leaders of the Alliance for Renewing Indigenous Economies. Their scholarship is groundbreaking, and remains some of the only reservation-based, free-market-focused discussions in the public sphere today. They are advanced in their research and in their innovative solutions for creating capitalist economies within the Treaty-Trust framework.

In closing, while most of us recognize the barriers to tribal energy development, the answers are not simple. We are trying to free-up economies on reservations, underneath a complex framework of mixed government ownership of assets. Our nation-to-nation relationship means that we are all caught in a delicate web of legal promises and historical responsibilities, as well as racial and cultural sensitivities.

That is a difficult tight-rope to walk, for all of us.

But I appreciate that by holding this hearing and focusing on our issues, you are willing to walk this tight-rope with the Great Apsaalooke Nation. As for our Tribe, we are open to testing innovative solutions and challenging old doctrines, in partnership with anyone who seeks the same – including Members of this Subcommittee. We ask only that these innovative solutions come to us with more freedom, and less government. It's the simplest of principles, but truly, the most important.

Thank you.