



Navajo Transitional
Energy Company

Testimony by Matthew Adams for the House of Representatives Natural Resources Committee, Energy and Mineral Resources Subcommittee hearing entitled “Examining the Biden Administration’s Record on Federal Coal Leasing” on Wednesday, July 12, 2023, 10:15 a.m. ET

Good morning. My name is Matthew Adams. I am Vice President and Senior Tax Counsel for Navajo Transitional Energy Company – also known as NTEC.

As way of background, I would like to include some information on NTEC.

Navajo Transitional Energy Company was formed in 2013 as part of a ground-breaking initiative by the Navajo Nation to assert and assume full sovereignty over its vast mineral and energy assets. NTEC was established under Navajo law as an autonomous limited liability company whose sole shareholder is the Navajo Nation. NTEC’s initial objective was to acquire ownership and control of the Navajo Mine located entirely on the Navajo Nation just outside of Farmington, New Mexico. In 2019, NTEC went on to acquire substantially all the assets of Cloud Peak Energy after they filed bankruptcy. Through this acquisition, NTEC became the 3rd largest coal producer in the United States. Our coal portfolio includes the Navajo Mine – which is a mine mouth operation feeding the Four Corners Power Plant located on the Navajo Nation; the Antelope and Cordero Mines in Wyoming; and the Spring Creek Complex in Montana. In 2022, NTEC produced 52 million tons of coal; of which 49 million tons were sold domestically and 3 million tons were exported to the Asian Pacific rim.

In addition to owning and operating coal mines, NTEC owns and operates producing helium wells on the Navajo Nation, we have an ownership percentage in the Four Corners Power Plant, we have an ownership interest in the Round Top rare earths deposit in Texas, and we just announced a partnership with Arizona Lithium for development of the Big Sandy lithium project in Arizona. Further, we are working closely with the respective owners of the FCPP to develop large-scale, merchant power solar facilities on reclaimed mine land. I would be remiss if I did not mention that in May NTEC was selected by the Department of Energy as one of 8 Carbon Capture Demonstration Projects, and we will be partnering with DOE’s Office of Clean Energy Demonstration to determine if carbon capture is feasible at the Four Corner Power Plant on the Navajo Nation. We truly represent and strive for All of the Above solutions to the energy needs of the Navajo Nation, the United States and beyond. If a new technology is developed which we believe can help us provide energy and support the Navajo Nation – we will be analyzing it.

In addition to what we do, we are very proud of how we do it. Our steadfast focus on safety gets our people home safe and our stewardship for the land leads by example.

Last year, the Navajo Mine was the first mine in the United States to ever earn both the National Mining Association's Sentinel of Safety Award, one of the highest safety honors in mining, and the U.S. Department of Interior's National Reclamation Award in the same year.

We are an essential contributor to the Navajo Nation. Through royalties, taxes and other payments, NTEC provides 30% of the Navajo Nation General Fund on an annual basis. Further, the Four Corners Power Plant provides another 9%. That power plant is currently scheduled to be shut down in 2031.

In addition to significant royalties and taxes, NTEC provides critical support on the Navajo Nation in numerous other ways. We provided over 12,000 tons of free coal to Navajo and Hopi families in 2022 through our Community Heating Resource Program (CHRP) program to ensure houses stay warm in the winter months. Due to high energy costs and local energy shortages, we expect to exceed that amount this year. In all, NTEC has provided over \$315 million directly to the Navajo Nation and to Navajo charities since 2013. Of our almost 1,400 employees, 354 voluntarily identified as Native American – including 318 Navajo employees. The average salary of our employees identifying as Native American is \$82,600. These high paying jobs are essential to the Navajo community. The Navajo Nation is one of the most impoverished communities in the United States, so to put this in perspective,

On the Navajo Nation:

- Median household income is \$26,862 (\$57,652 for the U.S.),
- 36% of households have income below the poverty line (12.7% in the U.S.),
- 19% of households are in Extreme Poverty,
- 40% of homes lack running water,
- 32% of homes lack electricity,
- 86% of homes lack natural gas,
- Unemployment rate is just above 40%,
- More than 50% of Navajo on the Nation live more than 20 miles from the nearest grocery store (there are 13 grocery stores on the 27,000 square mile Nation),
- 2020 census numbers provide 32.9% of homes have broadband access.

Navajo Transitional Energy Company's Position on Energy

We truly believe in an 'All of the Above' energy strategy. We don't just believe in it, we live it. However, we strongly believe that all of the above should include coal. Coal continues to provide reliable, inexpensive energy for United States industries and citizens. Whether the sun is out or not, whether the wind is blowing or not, whether it's 120 degrees in peak summer or -50 below as a winter storm comes through, coal

continues to be the most reliable, dependable, affordable source of energy to keep homes warm and safe and industry moving.

As personal background, I have been working in the extractives space for 20 years as a legal and tax professional. I was on the Royalty Policy Committee under the Trump Administration and co-chair of the Fair Return and Valuation Subcommittee. I represent NTEC as a member of the Board, or on committees, for National Mining Association, American Coal Council, America's Power, Wyoming Mining Association, Rocky Mountain Mining Institute, Washington Coal Council and several other industry groups. I can testify today that I have never been at a meeting, nor ever had a discussion with a member of any of these organizations where the goal was to eliminate solar, wind, hydro or other 'renewable' forms of energy. That is not a focus or priority of any of these groups. However, I have been party to many conversations where the focus was around how to ensure that baseload power – the power needed to keep homes warm and safe, to keep incubators on in the hospitals, and the modern machinery in industry running – can be borne by the most reliable energy sources available in our country.

CONTINUED KEY POINTS:

- **Coal continues to be an essential resource for the United States. This is true from an energy reliability perspective as well as from a federal revenue perspective.**
 - All of the Above, should be ALL of the Above.
 - Coal generated 21% of the electricity in the United States in 2022.
- **We need to shift the focus away from what fuels the plant, to how we can utilize technology and innovation to ensure emissions are where we want them to be.**
 - The United States coal fleet has invested approximately \$127 billion in emissions controls through 2022.
 - In 2021, the United States coal fleet emitted 909 million tons of CO₂, which was 18.5% of the total emissions of 4.9 billion from energy-related CO₂ globally.
 - The total GHG emissions from United States coal fleet (from inception to closure) is estimated to be less than 1.5% of global GHG emissions.
- **We need to develop a deliberate strategy for a conversion from fossil fuels that does not put lives at risk, does not hinder the economy, and is thoughtful and practical.**
 - A coal plant should not be retired before stable, replacement energy is in place.
 - Technology has NOT advanced to policy mandates.
- **There are significant issues with the current permitting process that is having significant impacts on developing additional coal resources as well as development of new gas, wind and solar projects.**
 - Too much redundancy in evaluations and analysis.

- The internal strategy of delay, ponder and further delay is pushing our energy infrastructure to the brink of catastrophe.
- The level of judicial advocacy around permitting and environmental issues needs to be resolved.
- **The United States should look for ways to maximize coal exports.**
 - The outcome is additional revenue to the Treasury and ensuring that our high-grade coal, which is mined with significant focus on environmental and labor concerns, continues to fuel the development of the global economy.
 - When Asian utilities cannot secure their coal requirements from the United States and Australia, they are forced to consider and use Russian coal.
- **The amount of coal burned in the United States is immaterial compared to China. China and India continue to build and develop coal-fired generation and will continue to increase burn rates through the remainder of the decade.**
 - We estimate that there will be approximately 8 billion tons of coal burned worldwide in 2023. Approximately 500 million of that will be in the United States and over 4 billion will be in China.
 - The United States currently has 200,000 MW of coal capacity – of which 127,000 MW are scheduled to be retired or eliminated by EPA regulations in the next 7 years.
 - China has over 1,100 coal plants with a capacity over 1,000,000 MW currently active and they are adding significantly to that amount through 2029.
 - The world's existing coal fleets will emit 276 billion tonnes of CO₂ during their collective lifetimes. The U.S. fleet will emit 9 billion tonnes over its lifetime – 3% of the global emission.
- **Eco-Colonialism is NOT the answer for dealing with Tribes – or international partners.**
 - According to the International Energy Agency, there are 775 million people in the world without access to power.
 - In the United States, the economic impact of not allowing or marginalizing mineral develop on Tribal Lands would be catastrophic.
 - Not allowing countries to establish energy independence to further advance their own growth and economic independence should not be the policy of the United States.
 - Tribal consultation should be consultation with Tribes, not dictating to a desired outcome.

EXPORTS

NTEC is one of a few companies that is exporting thermal coal out of the Westshore Terminal in Southwest Canada. We export between 3 and 5.1 million tons per year – depending on the quality of rail service we get. If we could get 40 million tons available

for export, the Asian market would gladly purchase it. The coal they are purchasing from United States mines is high quality, consistent coal and it burns very efficiently in their boilers. There are some significant side benefits to the exportation of U.S. coal as well. First, the vast majority of the coal that is being exported is on state or federal land – therefore it is subject to a 12.5% royalty. Second, the coal that we are able to place into the market displaces coal that is mined in countries that do not have the same environmental and labor laws that are prevalent in the United States. However, we have extreme constraints on getting coal into the export market. As I mentioned, we are exporting through Canada. Canada, and the province of British Columbia, have actively discussed legislation that would ban coal trains from the United States passing through their territory. Further, all of the projects that were initiated to build a new coal terminal in Oregon and Washington were shut down by either the Army Corp of Engineers or Washington Governor Inslee. As such, there is a very significant challenge in being able to place United States coal into the Pacific. Starting over a year ago, there have been significant transportation disruptions and we have not been able to get rail service adequate to deliver coal to meet our customers’ demands in Asia. The demand for coal in Asia is being met by other suppliers, including Russia, in absence of sufficient U.S. supplies. That did not have to be the case – it shouldn’t be the case.

FOCUS ON EMISSIONS, NOT THE FUEL SOURCE

There is such an overwhelming focus on ‘eliminating coal’. The Powering Past Coal Alliance’s current website states “The End of Coal is in Sight” as an almost celebratory statement. Over the past decade, a significant number of companies in the financial and insurance sectors have told coal companies they will no longer work with them . . . not because they were high risk or bad business, but because they were coal producers. Headlines across the globe are available on a daily basis demonizing coal, coal workers, and supporters of the most reliable, dependable and affordable producer of energy on the planet.

We should have a very consistent focus of what comes out of the stack rather than what runs the turbine. If we are truly concerned about greenhouse gases, then the focus should be on minimizing/eliminating emissions regardless of what is running the generator within the plant. We believe carbon capture may be one possible solution to reduce emissions. However, CCUS is NOT a solution that will work for every power plant, nor is it viable for every geographical location. Further, the permitting necessary to get Class 6 wells in place is not streamlined and currently looks as if the process will take years. Additionally, there are MANY Other potential solutions which may either exist or are yet to be found. Perhaps harnessing and storing the power of lightning is possible. Perhaps the technology to separate elements within our atmosphere to breakdown GHGs will prove possible. There are areas that are focusing on innovation, but nowhere near enough if we want to truly find a solution.

One example is C-Valley in Campbell County, Wyoming. C-Valley has established a site where companies and researchers are able to not only work on carbon capture projects; but look for new and innovative ways to transform coal into other products – such as asphalt, graphite, carbon fiber and more. Additionally, the University of Wyoming continues to move forward with research on alternative uses for coal. They recently filed a patent for a building material that uses coal rather than clay. The new product has shown in tests that it is lighter, stronger, more energy efficient and cost effective.

From a policy perspective, I believe the focus on demonizing coal rather than finding ways to solve the concerns has led us down a path with some extraordinary challenges and devastating consequences.

REVENUES

Coal has clearly been in a decline over the past 6 years. In 2017, federal coal revenues (includes bonus payments, rents, royalties) totaled \$558 million. After years of declines, 2021 revenue totaled \$382 million. There was a rebound in 2022 and the preliminary revenue is \$526 million. This revenue for the Department of the Interior is essential to the federal government and the states in which coal is mined.

PERMITTING

There has been 1 Lease by Application (LBA) in Wyoming in the last 15 years.

Over the past 20 years, the process of acquiring additional coal to mine has gone from a 3–5-year process to the current 12-year process. There are several reasons for this lengthy process including redundancy of reviews by different agencies, litigation delays, Department of the Interior’s timing of handling its workload just to name a few. One of the most significant causes of delay is the well understood use of “lawfare” that is supported by a judicial review process that permits virtually unlimited re-considerations of challenges to pending permits and agency rulings. Also, under the current rules, when a company is awarded an LBA, it pays for that coal in the immediately following 5 years. The winning bids for coal between 2000 and 2012 ranged from a low of \$42.8 million to a high of \$793 million. In other words, if a coal company is interested in acquiring additional coal on federal land (where the vast majority of the coal is located west of the Mississippi River), the company would need to pay the bid of hundreds of millions of dollars without obtaining a penny of revenue from the purchased coal for 12 years. This economic reality has created a situation where the currently leased coal in the Powder River Basin could be mined in the next 15-20 years. Unless the economics around thermal coal significantly change, or the permitting process is significantly shortened, the amount of coal coming out of Wyoming and Montana will be a pittance of what we see today.

REST OF THE WORLD

We estimate there will be approximately 8 billion tons of coal burned in the world in 2023. That includes thermal and met coal. Of that amount, only 500 million tons burned in the United States – leaving a balance of 7.5 billion tons burned elsewhere. Of that, approximately 4 billion tons will be burned in China.

Today, the U.S. coal fleet is around 200,000 MW. Of that, approximately 50% is supposed to retire by the end of 2030. Further, it is anticipated that the regulations about to come out of the Environmental Protection Agency will eliminate another 27,000 MW of coal generation in the U.S. by 2027. This at a time when moving to an EV economy is expected to at least double the demand for electricity in the next 25 years.

Currently, China has the world's largest coal fleet with over 1,000,000 MW. Five times the U.S. fleet. India is currently second with 233,000 MW. China and India are both increasing their coal generation; together, they have 347,000 MW under construction or in development. Chinese President Xi Jinping has pledged to 'strictly control' coal consumption until 2025 and start cutting coal use in 2026 in order to reach their maximum CO2 emissions before their 'before 2030' deadline.

As of December 2022, there were 2,439 coal plants in the world. Of those, 225 are in the United States. It is currently estimated that the world's existing coal fleet will emit 276 billion tonnes of CO2 during their collective lifetimes. The U.S. fleet will emit 3% of the world's total.

The concern is that while the U.S. policy is to eliminate reliable and available coal generated electricity, a country that has a stated goal of being the single global superpower is dramatically increasing its available power. China currently consumes over 50% of the global coal consumption, and it is highly likely that allocation will continue to grow.

Respectfully submitted,



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