



THE NAVAJO NATION

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**Testimony for Navajo Nation President Russell Begaye
before the
House Natural Resources Committee
Subcommittee on Indian, Insular and Alaska Native Affairs on
HR 2402**

“To authorize the Secretary of the Interior to retire coal preference right lease applications for which the Secretary has made an affirmative commercial quantities determination, to substitute certain land selections of the Navajo Nation, and for other purposes.”

Good afternoon Chairman LaMalfa, ranking member Torres and members of the Subcommittee. I am Russell Begaye, President of the Navajo Nation. I am here to express my support for HR 2402. This important legislation brings to a close one chapter of a four decade-old federal statutory obligation to the Navajo Nation that was authorized in the Navajo Hopi Settlement Act of 1974.

I would like to thank Congressman Ben Ray Luján for introducing this legislation. I would also like to take this opportunity to thank this Subcommittee for holding this hearing. The Navajo Nation recognizes and appreciates your tireless efforts working on behalf of the Navajo Nation and all Indian tribes.

The Navajo-Hopi Settlement Act of 1974 led to the relocation of Navajo citizens from their traditional family land, and the loss of overall Navajo Reservation acreage and its mineral rights. In return for the lost acreage, the Navajo Nation was permitted to select comparable acreage on federal lands to be taken into trust for the Navajo Nation. In the 1974 Act, Congress committed to provide the Navajo unencumbered lands that the Nation would select from federal lands managed by the BLM. However, thanks to several bureaucratic errors in reselection, the Navajo Nation has yet to receive comparable lands more than four decades after Congress passed the original statute.

In the early 1980s, the Navajo Nation selected several parcels of federal land. The Secretary of the Interior has since taken most of those parcels into trust for the Navajo Nation. Unfortunately, a number of the parcels selected by the Navajo Nation were encumbered by prior mineral rights (PRLAs) held by private entities. These parcels are unable to be transferred to and taken into trust for the Navajo until the private mineral rights are removed. The status of these parcels of land with valid private mineral rights, and stipulated commercial quantities of coal, remains unresolved.

Further complicating a resolution to this matter is that subsequent to the Settlement Act, the federal government also provided protections against development in the Ah-shi-sle-pah Wilderness Study Area on which these PRLAs existed and on which the Navajo had selected parcels to be taken into trust. It is the BLM’s goal to protect these areas that are replete with historical and archeological assets. Unfortunately, the current law does not provide a mechanism for deselecting any of the parcels and reselecting others.

Representative Ben Ray Luján introduced HR 2402 to provide statutory authorization to resolve these issues, most importantly the federal obligation to the Navajo Nation, by providing a mechanism to retire these remaining PRLAs. This legislation:

- 1) Is an important mechanism to un-encumber lands by exchanging existing PRLAs for competitive coal leasing bidding rights, essentially “trading in” the old PRLAs for credits that can be used to meet future obligations under the federal coal leasing program;
- 2) Authorizes the cancellation of land selections previously made by the Navajo Nation; and
- 3) Authorizes the selection of new lands in accordance with Navajo-Hopi Land Settlement Act on an equal value for value basis.

Once this legislation becomes law, the work can start to unencumber the prior mineral rights and previous land selections can be deselected and new lands can be selected. Thereafter, the Secretary can then transfer all rights, title and interests of the United States in these lands to the Navajo Nation in accordance with the Navajo Hopi Settlement Act, as amended.

It is important to note that while the selection of the lands in question result from the terms of the Navajo-Hopi Land Settlement Act, this is solely a Navajo Nation, Arch Coal, New Mexico issue. The lands selected by the Hopi Tribe for conveyance were solely within the state of Arizona, and the rights therein have already been transferred; it is only the Navajo Nation that has yet to finalize its land selection and transfer. Completion of this exchange does not require that the Hopi agree to the terms contained within the legislation.

Furthermore, since this bill was introduced, I want to highlight a development in what I consider a best-practices for tribal land status. Specifically, the National Defense Authorization Act for Fiscal Year 2017, PL-114-328, which passed last year contained a provision that allowed Navajo to elect to receive land in Restricted Fee land status, as defined by the statute, in lieu of trust status. Such status as defined in the statute will allow a tribal government to develop land more efficiently by minimizing unnecessary and duplicative federal reviews that area already conducted at a tribal level. Moving forward, we will work with Congress to create this as an option in future legislation involving not only these lands, but also all future land returns.

Ultimately, passage of HR 2402 would bring to a close one element of the long painful experiences the Navajo people have experienced due to the 1974 Navajo Hopi Land Settlement Act. Further it fulfills a promise made by the federal government to the Navajo Nation 40 years ago. As Navajo Nation President, I look forward to working with Congress to ensure all other promises to our relocates are fulfilled.

Thank you.