



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT

**Testimony for Navajo Nation Vice President Jonathan Nez  
before the  
House Committee on Natural Resources  
Subcommittee on Indian, Insular and Alaska Native Affairs on  
HR 215  
“American Indian Empowerment Act of 2017”**

Yá’át’éeéh and good afternoon Chairman LaMalfa, ranking member Torres and members of the Subcommittee. I am Jonathan Nez, Vice President of the Navajo Nation. I am here to express my support for tribal self-governance, tribal nation control over our homelands, and thereby HR 215. This legislation is a step forward in self-governance and helps return land management to the true owners, Indian tribes.

I would like to thank Congressman Don Young for introducing this legislation several years ago and for keeping with this effort today. I would also like to take this opportunity to thank this Subcommittee for holding this hearing. The Navajo Nation recognizes and appreciates this Subcommittee’s tireless efforts working on behalf of the Navajo Nation and all Indian tribes.

The subject of this bill has many opportunities, however in the interest of time I would like to discuss four important bill highlights, then I will touch on three areas where I suggest additional improvements to further enhance this bill.

The first important highlight is the driving idea behind this bill that Indian land should not be treated like federal “public” land – Tribal Nation land should be treated as Tribal Nation land and nothing else. Tribal Nation land should only be treated like Bureau of Land Management lands or Natural Park lands if and when a tribal nation decides. Otherwise our land should be treated as ours and we should be allowed to manage and develop with minimal interference from other governments, whether they be federal, state or local.

If we embrace this important idea, it can help the Navajo Nation in areas such as housing, utility infrastructure buildout, or economic development by eliminating unnecessary and duplicative bureaucratic reviews. Currently our people have some of the highest rates for lack of electricity and lack of access to running water. While there are many factors that complicate the problem of development in Indian country, it is not helped by the current requirement that we gain additional approvals from the Department of the Interior for rights-of-ways and permits across our own lands.

A second important highlight is the decision to transfer to restricted fee land is entirely up to the tribal nation and no one else. Therefore, an Indian tribe can choose to transfer a great amount of lands to this status, or choose to transfer some specific areas to help empower development, or a tribe could choose to ignore this option entirely and proceed exactly as it has been. This option for tribal self-determination should not be overlooked and should be encouraged in all other pieces of Indian legislation.

We recognize that restricted fee is a great option to facilitate development for certain areas and we have taken advantage of the restricted fee status in a recent return of our Fort Wingate lands in New Mexico. However, I also want to be clear that the Navajo Nation President and I do not view restricted fee as a blanket solution for all tribal land. We fully support both retaining tribal trust lands as well as retaining the option to transfer some lands to restricted fee status.

The third important highlight is the bill explicitly protects against the loss or alienation of Indian lands. Given our history with the federal government, as Native people we are rightly concerned about any further loss of our lands. At one period in time, our traditional lands encompassed the entire Colorado Plateau, including Arizona, New Mexico, Utah and Colorado. Today, while we have 27,000 square miles of land, we still only occupy a fraction of what our ancestors managed. Nonetheless, we will continue to be vigilant in protecting our lands from encroachment and external interests.

The fourth important highlight is the bill explicitly states that “nothing in this section shall be construed to diminish the Federal trust responsibility to any Indian tribe.” The Navajo Nation has had a nation-to-nation relationship and treaty with the United States longer than the existence of the states that surround us. While we support one of the aims to minimize federal micromanagement of Navajo land, minimizing micromanagement should not replace the trust responsibility. This responsibility stemming from our treaty as well as two hundred years of case law includes a federal responsibility to protect and enforce laws against external bad actors, to protect natural and monetary resources, and protect tribal livelihood to name a few.

HR 215 includes good ideas to help foster tribal empowerment. I would like to discuss three additional improvements that I think can further enhance this bill. First, the bill should include one further option for Tribes to elect to revert land back to trust land from restricted fee land if they deem it in their best interest. The restricted fee land contemplated by this bill may be too experimental for some Indian tribes and if there is an option to return to trust status, I think more Indian tribes will feel comfortable executing the option to transfer to restricted fee status. Second, include language in the bill that makes it clear that Indian tribes have exclusive taxing authority over the land, not states and local governments. Dual taxation has been an issue for Indian tribes for a long time and it would be helpful to tackle the issue in this bill. Third, this legislation should include explicit acknowledgement that an Indian tribe have exclusive tribal civil jurisdiction for all acts that should happen on restricted fee land. It would be great to include all criminal jurisdiction also, but we understand that tribal criminal jurisdiction is being worked on in further amendments to the Violence Against Women Act and Tribal Law and Order Act.

In summary, I am very encouraged by this bill. The Navajo people have a saying, “T’áá hwó ajit’éego” which is about taking self-action and empowerment. I strive to live by this saying and I think that when Congress takes action on legislation such as this, we are working together to support tribal resiliency, self-governance and empowerment.

Ahxéhee’ – thank you.