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President
The Navajo Nation

Testimony before the Committee on Resources
United States House of Representatives

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Chairman Pombo, ranking member Rahall, Congressmen Renzi, Udall, and Pearce, distinguished members of the House Resources Committee; Good morning. My name is Joe Shirley, Jr. I am the President of the Navajo Nation. Thank you for the opportunity to testify before the Committee on behalf of the Navajo People, and in particular, the thousands of Navajo and their communities impacted by the Navajo-Hopi Land Settlement Act of 1974 (the "Act"). My testimony before you this morning will touch on three basic points: the view of the Navajo Nation on the Navajo-Hopi relocation program; a proposal for bringing the relocation program to a close; and the Navajo Nation's opposition to the Navajo-Hopi Land Settlement Amendments of 2005, S. 1003.

I would like to take this opportunity now to thank Congressman Rick Renzi for his leadership and dedication to this issue and to his constituents. Congressman Renzi has taken up this fight when others would have shied away. The Navajo People, thank you.

I would also like to thank Chairman Pombo for holding this hearing. Mr. Chairman we are making history this morning. The House of Representatives has not looked at this issue in decades. Many of your distinguished colleagues were not members of the House when the original Act was passed. This hearing presents an opportunity for the House of Representatives to have a record of the history of this issue, and to hear from those of us who have lived with relocation for years.

From the outset let me make two points very clear for the record. First, the Navajo Nation is not here to lay blame and has no interest in refighting the long history of the land dispute between the Navajo Nation and the Hopi Tribe. While I would like nothing more than to be able to stand before the Navajo People relocated from their traditional lands to areas where they had no historic ties and no economic opportunities, or to the people of the communities where these Navajos were relocated, and say your land, your lives, and your legacy have been restored; I know that that can never happen. The long land dispute between the Navajo and the Hopi is all but over and the Navajo Nation, which fought so hard and so long to overturn the relocation law, can claim neither a win nor a loss. There are no losers or winners when people are displaced by bad policy. I am not asking to go back thirty-two years and say to you the federal government is about to begin a catastrophic process that will destroy the lives of thousand of Navajos. I wish I had the power to tell that Congress the expectations regarding the number of Navajos to be moved, the overall cost, and how long the relocation process would take are all wrong. I wish they could look into the eyes, as I have, of a generation of dislocated Navajo refugees who, deprived of their right to inherit their traditional family lands, are left homeless. I have no such power, I am just a man elected by my people to speak on their behalf.

Second, the Navajo Nation has no interest in securing rights or benefits for the Navajo People to the exclusion of the Hopi Tribe. While it is true that many more Navajos and Navajo communities were impacted by the relocation than Hopis, the truth is that there were many people from both sides who were forcibly moved against their wishes. We have both suffered and both experienced impacts that the original Act intended to mitigate. To a great extent, that has not happened for either of our people. Many of my people were moved from lands where they had lived for centuries tending their sheep and living in a traditional manner to towns, cities, and communities with no room to graze their sheep and no way to provide for their families. I am sure that the Hopi Chairman has many similar stories of the impacts of relocation. Any benefits for which the Navajo Nation is eligible should be in proportion to the level of harm the Navajo relocatees and their communities experienced.

No Mr. Chairman, I am not asking you today, as some would suggest, to undo what has gone before. I am asking you stop another travesty in the long history of federal Native American policy from taking place. S. 1003, represents just such a travesty. The immediate closure of the Office of Navajo Hopi Indian Relocation (OHNIR) and the shutdown of the relocation program would leave the job unfinished. The rationale behind S. 1003, appears to be that the relocation program has gone on too long and cost too much. I agree, but the Navajo Nation never wanted the program to begin at all. Should the Navajo be punished because the federal government adopted a policy without understanding the issues involved? Is it the Navajo's fault that there were more than ten times the number of Navajos living on what has become the Hopi Partioned Land than the government expected? Is it the fault of the Navajo relocatees that the promise of a new house and a new life has cost so much? I say that it is not. Yet, S. 1003 ignores the needs of thousands of Navajos who have had their lives disrupted.

In short, Mr. Chairman, I am asking this Committee to take the time to understand what relocation has wrought and instead of allowing the federal government to commit another grave error to create a humane planned resolution the plight of these Americans. I urge the Committee to reject S. 1003 and its unintentional disregard for the lives of the Navajo relocatees, and instead adopt a rational reasonable policy that would close the relocation program after the completion of a study that would determine the effects of the relocation policy, what remains undone, and the development of a mitigation and closure plan. The Navajo Nation does not want the relocation program to go on indefinitely. In fact, the Navajo Nation would like nothing more than to be able to stand on its own as a Sovereign Nation without the intrusion of the federal government; to stand side-by-side with you rather than have policy dictated to us. A study. That is all. A study to take place over one year. Is that really too much to ask after years of misery? A study that would simply say what has happened, what needs to occur to make the people as whole as is reasonably possible, how to implement a mitigation plan, and how to shut down the program so that the Navajo, the Hopi, and the federal government can put this painful period behind us. What could be more reasonable?

What would this study look like? The Navajo Nation suggests that an independent unbiased non-federal consultant selected by OHNIR with input from both the Navajo and the Hopi conduct the study. The consultant should be selected on the basis of their expertise and reputation for integrity with both the Navajo Nation and the Hopi Tribe. This consultant would then take one year to determine whether the purposes of the act have been achieved, and to recommend mitigation activities to redress the negative consequences of the Act. The study should examine among other things: the effects of the relocation program and the ongoing needs of the people and communities impacted by relocation; the effects of relocation on range management and livestock grazing; whether all individuals who are eligible for benefits have been identified and certified; and the effect of the termination of the relocation program. The study should examine the needs and impacts of relocation on both the Navajo Nation and the Hopi Tribe.

Once the study is complete OHNIR, in consultation with the Navajo Nation and the Hopi Tribe, will develop a mitigation and closure plan based on the findings and recommendations of the study to address the impacts of relocation. To further foster self-determination, both the Navajo and the Hopi should be allowed to contract OHNIRs responsibility for mitigation activities. When the mitigation of the impacts is complete, the relocation program shall close and the responsibilities of the federal government on this matter will end.

A question that often arises is why do we need a study? The answer is simple. The Navajo Nation does not wish to see the federal government expend any more time or money than is necessary to live up to its obligations. Currently, the Navajo Nation has many stories we can tell of how people and communities fared with relocation. However, we do not have concrete empirical data. This would let the facts on the ground dictate the policy that will guide the federal government, the Navajo Nation, and the Hopi Tribe, instead of S. 1003's policy of having the federal government once again dictate a policy to us with no empirical or factual background. The funding for the study could be provided from OHNIRs already appropriated funds, and should be capped at one million dollars.

The study will also allow us to answer, what are from the federal government's perspective, two important questions: how much more money will this program need and how long will it take to address the needs of the people? It is impossible to answer these questions without data. I would like to be able to sit before you today and say that the program is almost complete. I cannot say that, nor can anyone else. No one can tell you how much longer the program will take and no one can tell you how much more money is needed. No one can say this because no one has the information necessary on which to base an answer. The only answer that can be provided at this time is that the greatest cost of the relocation program, housing, is almost complete. Therefore, any further activities will cost substantially less. The study would allow us all to know the answers to these questions.

Let me now turn to why the Navajo Nation opposes S. 1003. As an initial matter, S. 1003 picks an arbitrary shut down date for ONHIR of September 30, 2008. After the shutdown, all remaining responsibilities will be transferred to the Bureau of Indian Affairs. This provision does not take into account the needs of the people, the outstanding claims and appeals of those individuals who have been denied benefits, or the mitigation responsibilities contained within the original Act. S. 1003 merely cuts off the funding that would be necessary to help people receive job training, or to rebuild shattered communities.

Second, the relocation law currently authorizes the Commissioner to make grants "which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens" of the law (25 U.S.C. 640d-25). S. 1003 would strike this provision (Section 122), but this is the very provision that provides ONHIR the flexibility to address the needs of families and communities as they arise. Pursuant to this provision, the Navajo Nation has proposed various projects such as a community center for the Navajo families that have signed Accommodation Agreements with the Hopi Tribe, range and road improvement, power line extensions, and some housing improvement for heavily impacted NPL host families. Although ONHIR has not yet approved any of these proposals, they are exactly the kind of projects that bring humanity to the relocation process while addressing the real needs that result from the process. Notably, the draft substitute bill that the Committee staff have released would restore the discretionary fund authorized by this section, but would not retain the directing guidance that the funds are to be used to "assist the Navajo Tribe or Hopi Tribe in meeting the burdens" of the law. The legislation should preserve this guidance.

Third, S. 1003 jeopardizes the ongoing selection of lands in the State of New Mexico to which the Navajo Nation is entitled to compensate for the land lost to the Hopi Tribe. Section 107(c) of S. 1003 provides that the authority of the Commissioner to select lands in New Mexico shall terminate on September 30, 2008. Since the Commissioner's authority would terminate on that date, it is not clear that this authority would continue in the new Office of Relocation at the Department of the Interior. The Navajo Nation has not yet completed its New Mexico land selections due to circumstances beyond its control. Completion of some of those selections is the subject of legislation introduced in this Congress, specifically S. 692, the Bisti/PRLA Dispute Resolution Act. The Navajo Nation is concerned that this provision in S. 1003 could affect that selection process and potentially prejudice Navajo interests. This authority should be carried over in to the Department of the Interior if the selections are not completed by September 30, 2008.

Fourth, ONHIR has developed critical and hard-won experience in working on and near the Navajo Nation and is ideally suited to addressing the rehabilitation of the Bennett and Statutory Freeze areas. Based on this institutional knowledge ONHIR should not be eliminated, although it certainly can be downsized. However, whether ONHIR is maintained, or its responsibilities are transferred to a new Office of Relocation in the Department of the Interior, it is critically important to the Navajo Nation that the issues set forth above are adequately and fully addressed. Only by completing all the necessary tasks can this chapter be closed without future repercussions.

I once again urge the Committee to reject S. 1003 and to move forward with legislation that is everything that S. 1003 is not: rational, reasonable, and humane.

I submit this statement for the record. The Attorney General of the Navajo Nation, Louis Denetsosie will be submitting his remarks in writing. Roman Bitsuie, the Executive Director of the Navajo-Hopi Land Commission Office is unable to testify today due to a family medical emergency. Council Delegate Raymond Maxx will be testifying in his place.