



**Statement of Chairman Randy King
Shinnecock Indian Nation**

**Subcommittee on Indian and Alaska Native Affairs
Natural Resources Committee
U.S. House of Representatives**

February 15, 2012

Legislative Hearing on H.R. 3973, the Native American Energy Act

Good afternoon Chairman Young, Ranking Member Boren, and Members of the Subcommittee on Indian and Alaska Native Affairs. My name is Randy King. I am the Chairman of the Shinnecock Nation Board of Trustees. Thank you for the opportunity to testify today on H.R. 3973, the Native American Energy Act.

The Shinnecock Nation's Reservation is located within the geographic boundaries of Suffolk County, New York—on Long Island. The Nation has maintained its existence on Long Island as a self-governing nation with a land base that it has exercised jurisdiction over since time immemorial. Despite this long history, the Nation was only recently acknowledged by the federal government. This circumstance has resulted in a situation where the Nation bears all the burdens and responsibilities of governing its land base without the support of federal resources that other tribes utilize.

Federal acknowledgement opens up new opportunities for the Nation to provide for the critical needs of its communities, including implementation of energy development and efficiency measures. The Nation is facing impacts from climate change, growing energy costs, and the need to provide jobs for its members. In order to provide long-term economic opportunities for our members, protect our Reservation homelands, and address the imminent challenges of climate change, the Nation must plan for its energy future. We have already begun by partnering with local organizations, including Stony Brook University, to develop and implement renewable energy projects that will benefit both the Nation and the surrounding communities.

Since the Nation gained federal recognition status, it has worked to build its sovereign capacity and self-governing infrastructure to better serve its tribal members. The Nation now has the ability to apply for federal grants to support and expand land use planning, environmental protection, health and safety, energy sovereignty, and economic self-sufficiency. Prior to now, the Nation has never been able to take advantage of federal assistance programs that many tribes utilize. The Nation plans to use this new opportunity to meet the needs of its members in the area of energy development by examining options for energy self-sufficiency, and economic

development, including training and jobs for tribal members, as well as energy efficiency programs.

According to the economic characteristics data set from 2005-2009, the U.S. Census Bureau reports that a significant portion of the tribal membership is unemployed, underemployed, or in need of employment. This percentage does not include tribal members who are living off the Reservation, and want to come home to raise their families within their traditional community. In 2003, more than 70 percent of the Shinnecock citizens lived in Suffolk or Nassau County on Long Island or in one of the boroughs of New York City, all approximately within a two-hour drive of the Reservation. The Nation is faced with the challenge of developing and promoting energy projects that will provide benefits to all its members both on the Reservation and off. In order to meet this challenge the Nation must be able to create and implement sustainable energy projects that benefit the Reservation and surrounding area.

Because the Nation's Reservation is geographically limited and surrounded on three sides by water, we have an acute sense of the growing threat of climate change and the need to plan for our energy future.

The Nation's energy planning includes developing sustainable energy projects that will serve the immediate needs of the Nation, and longer term adaptive measures that will be needed in the face of climate change impacts over time. Energy independence will play a critical role in meeting these challenges. In order to be self-sufficient and sustainable as a Nation, the Shinnecock people will need to have sound reliable sources of energy. This includes not just generation resources, but also energy efficiency and weatherization measures that will help the Nation control energy costs for itself and its members.

Environmentally sound energy development and the promotion of tribal energy sustainability would dramatically and positively impact the Shinnecock tribal economy by creating revenue through the sales of clean energy and, potentially, carbon credits, into the regional economy. Our effort to gain energy independence would promote the long-term security of our communities, provide a major regional economic boost, and provide a test-case in clean energy development that can assist the Department of the Interior (DOI), the Department of Energy (DOE), and other tribal communities seeking examples of successful tribal energy management and renewable energy development.

The Nation intends to implement its energy planning through a potential partnership with Stony Brook University's Southampton Campus to develop a hydrokinetic project. This project would allow a research facility to be put in place off the coast of the Nation's Reservation. Tribal members and the University will be able to gain practical engineering experience and electric market experience in the development of the project. Hydrokinetic power offers a clean reliable domestic source of energy that could have far reaching benefits not only for Shinnecock, but for all coastal communities.

The Tribe supports H.R. 3973. Promoting Indian energy and tribal management of energy resources is consistent with the Nation's energy planning and goals described above. The Nation specifically supports the bill's reforms to the appraisal process, the environmental review process and the creation of Indian Energy Development Offices. In addition to what is already in H.R. 3973, the Nation requests that the Subcommittee include additional changes needed to overcome barriers to Indian energy development.

As a newly acknowledged tribe, the Shinnecock Nation needs support for land into trust, tribal permitting processes, and restructuring of renewable tax credits. We ask the Subcommittee to consider including provisions for incentives for development of offshore technologies, and an expedited fee to trust process for lands where energy projects are intended to be developed. Below, we provide some specific examples of how these changes in law and additional tools for tribal governments would help us manage our energy resources and provide long-term economic resources for our communities.

First, the Nation appreciates Chairman Young's work to support hydrokinetic projects by co-sponsoring another bill, H.R. 2994, which will improve marine and hydrokinetic renewable energy research and development. The Nation requests that the Subcommittee consider including the provisions of H.R. 2994 in this Indian energy bill. Or, if that is not possible, the Nation asks that the Subcommittee work with the bill's sponsor, Congressman Inslee, to ensure that tribes are included as eligible entities for grant funds to implement hydrokinetic test facilities. Currently, H.R. 2994 does not include tribes as an eligible entity. The Nation request that the legislation be amended to include federally recognized tribes so that the Nation has an equal opportunity to apply for such funding and participate with other entities on Long Island as an equal partner for implementation of this important project.

Second, the Nation also has an opportunity to purchase a tract of land on eastern Long Island that could be utilized for the development of a solar power facility that would bring clean and reliable energy to Long Island. Currently, there are transmission constraints on Long Island that have impacted the ability for the eastern end of the Island to have reliable power. The Nation's plan to acquire the lands and develop a solar facility on eastern Long Island would help meet New York State's renewable portfolio standard and also provide local power without the constraints of wheeling power from other areas which would promote the reliability of electricity for the Nation and Long Island.

In addition, this potential project is consistent with Governor Cuomo's Energy Highway concept as it creates new clean sources of power to meet the needs of Downstate New York, while providing skilled jobs for tribal members and revenue for the Nation. This provides a win-win for both the Nation and the state of New York, allowing for a beneficial partnership that can be built on for future tribal energy projects in New York. However, in order to move forward with the proposed solar project the Nation will need to acquire the land and have it placed into trust. The Nation recommends including legislation in this bill that would require the DOI to expedite fee to trust applications for tribal energy projects.

Third, the Subcommittee should consider exemptions from DOI approvals for energy projects in Indian country. As an alternative to DOI approvals, tribes could conduct their own environmental review and approval programs. While the Tribal Energy Resource Agreement provisions of the 2005 Energy Policy Act already allow tribes to do this, not every tribe has the resources to develop a TERA application. Every tribe is at a different place in its capacity to oversee energy projects and alternatives should be available for tribes to take over some DOI approvals, but not necessarily the whole program.

Fourth, the Nation aspires to make President Barack Obama's Executive Order on "Stewardship of the Ocean, Our Coasts and the Great Lakes" a reality and plans to examine its opportunities for development of ocean energy technology, which will be a monumental step towards energy security and conservation for the entire Northeast Region. In order to be successful in this pursuit, the Nation will need to have the ability to permit such facilities, and have access to federal programs and funds that promote the development of offshore energy projects.

On July 19, 2010, President Obama signed the Executive Order and established a National Ocean Policy to ensure the United States' coasts, oceans and lakes are "healthy and resilient, safe and productive... so as to promote the well-being, prosperity, and security of present and future generations." Exec. Order No. 13547, § 2. The Executive Order contemplates direct participation by tribal officials in the promotion of this policy, as well as tribal collaboration with state and Federal officials, with the goal of developing and implementing regional coastal and marine spatial planning that includes assessment and consideration of offshore renewable energy technologies.

The Nation intends to participate in the process, and pursue the potential for clean renewable ocean energy development; including both the aforementioned hydrokinetic project, as well as examining the potential for offshore wind projects. The Nation asks that the Subcommittee help to make sure that tribes are included in programs and legislation supporting offshore energy projects.

Fifth, the Nation looks to the Subcommittee and Congress for support in the development and implementation of sound energy policies that will be able to promote environmentally friendly energy resources, and economic opportunities. An environmentally sound and predictable order for development on the reservation allows the Nation to move forward with implementation of much needed energy projects, and, in turn, provides certainty for those considering investing in the Nation from an economic stand point, as well as for government agencies considering awards to the Nation for energy programs.

The Nation has struggled for more than three decades for its rightful place as a federally recognized Indian tribe, it now needs to focus on the long term sustainable development of tribal resources. It is critical that Congress adopt policies that will allow for Indian tribes to meet our long term goals by ensuring that federal programs designed to promote development of

renewable power projects include Indian tribes as beneficiaries, and that policies supporting tribal permitting of such projects on tribal land be in place.

The Nation is confident that tribal members and the surrounding communities will mutually benefit from environmental conservation, economic self-sufficiency and job creation that would come from a more streamlined tribal permitting process, expedited fee to trust applications for energy projects, and full access to grants, loan guarantees and tax credits used to advance energy technology and promote energy development. The Nation believes that the renewable energy mandatory purchase requirements of state and federal agencies are only going to increase. The Nation hopes to be a part of this growing market while at the same time promoting environmentally positive energy resources, as well as providing resources to assist coastal communities in climate change adaption measures.

Fifth, as the Nation increases its energy activities, our tribal government will need to use the same tax revenues as other governments use to staff our energy programs, finance energy projects, and oversee tribal infrastructure. The bill should also ensure that tribes can raise needed tax revenues. Without tax revenues we will not be able to develop the infrastructure necessary to manage and oversee our energy resources.

Sixth, tribes also need to be able to take advantage of renewable energy tax credits. These tax credits have become essential to financing renewable energy projects and lowering the cost of the energy produced. Tribes need to be able to monetize these tax credits or share them with a private energy partner. Without the ability to utilize renewable energy tax credits tribes will be priced out of the market.

Seventh, the bill should open up federal energy efficiency and weatherization programs to tribal participation. For decades the federal government has helped state governments manage their energy costs by providing around \$50 million a year in energy efficiency funding. Tribal governments need the same support.

The bill should also require the DOE to send weatherization funding directly to tribal governments. Currently, DOE sends the money to state non-profits and tribes barely see a dime. DOE does not even know how much funding tribes receive. This funding should go to those who need it most, but for decades DOE has ignored the needs of reservation homes.

Finally, we support many of the other suggestions made by tribes at this hearing. Like many tribes, the Nation wants to exercise self-determination over its energy resources. To do this, we need Congress to reform laws that stand in our way, include tribes in all federal energy programs, and ensure that tribes can exercise the full range of governmental authorities needed to develop the physical and legal infrastructure to support energy development.

I would like to thank Chairman Young, Ranking Member Boren and members of the Subcommittee for the opportunity to present this testimony on behalf of the Nation.



Shinnecock Indian Nation

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February 24, 2012

The Honorable Don Young
Chairman
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The Honorable Dan Boren
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Re: Clarifications to Testimony on H.R. 3973, the Native American Energy Act

Dear Congressman Young and Congressman Boren:

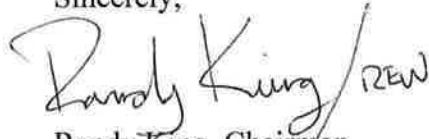
Thank you again for the opportunity to testify at the Subcommittee on Indian and Alaska Native Affairs' Legislative Hearing on H.R. 3973, the Native American Energy Act. I write today to clarify two points in my testimony provided to the Subcommittee. Please include this letter in the Subcommittee's hearing record so that these clarifications can accompany my testimony.

First, my testimony describes a potential partnership with Stony Brook University's Southampton Campus to develop a hydrokinetic project. In my testimony, when this potential partnership is first mentioned, it is only referred to as a "partnership." I wanted to clarify that the partnership has not yet been finalized and should be referred to as a "potential partnership" throughout my testimony.

Second, my testimony describes land that the Nation has an opportunity to purchase for a solar facility on eastern Long Island. My testimony refers to this land as a single "tract of land." I would like to clarify that the Nation has the opportunity to purchase "a number of tracts of land" on eastern Long Island that could be utilized for the development of a solar power facility.

I appreciate the Subcommittee's attention to these clarifications and inclusion of this letter in the hearing record so that it may accompany my testimony. The Nation seeks these clarifications as a part of its high level of commitment to energy planning and developing responsible energy projects that will benefit the Nation, eastern Long Island and the entire Northeast Region. The Nation hopes that these clarifications will prevent any confusion by the Nation's partners and surrounding communities about our energy actions and plans.

Sincerely,

A handwritten signature in black ink that reads "Randy King" followed by the initials "RKN" in a smaller, slanted font.

Randy King, Chairman

Shinnecock Nation Board of Trustees