

**TESTIMONY OF CONGRESSMAN DENNY REHBERG
MONTANA—AT LARGE**

**Before the
HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
On
H.R. 1158, THE MONTANA MINERAL CONVEYANCE ACT**

June 22, 2011

Chairman Young and Ranking Member Boren, thank you for inviting me to testify before the Subcommittee on H.R. 1158, the *Montana Mineral Conveyance Act*.

Before I begin, it's a privilege to welcome one of my constituents here today, Joe Fox Jr., to testify on this bill. Joe is Vice President of the Northern Cheyenne Tribe, which is located in Southeastern Montana, and he will be able to share with the Subcommittee the importance of this legislation to the Northern Cheyenne. Montana's a long way from Washington, and I appreciate his willingness to travel across the country for this hearing.

I introduced the *Montana Mineral Conveyance Act* to right a wrong that has been done to the Northern Cheyenne. For more than 111 years, the Northern Cheyenne have been deprived of controlling eight sections of land on their Reservation—the only subsurface rights on the Reservation they do *not* own.

The Tribe does not own this property because of an oversight of the United States more than a century ago. The failure to remedy this oversight has gone on for too long. This legislation makes the Northern Cheyenne whole again, which is why I'm proud to sponsor it.

In 1900, the federal government failed to purchase eight sections of subsurface property within the Reservation. This omission left these sections under control of the Northern Pacific Railway, which has since been passed onto Great Northern Properties. The Tribe and Great Northern Properties negotiated an agreement that provides for

relinquishment by GNP to the Tribe of these eight sections—or about 5,000 acres—of on-Reservation subsurface coal owned by GNP. In return, GNP will receive approximately 5,000 acres of off-Reservation federal coal located in the Bull Mountains and Bridge Creek federal coal tracts in Montana.

This collaborative legislation strikes a reasonable balance between all impacted parties. The Tribe regains subsurface control, which makes their land and resources contiguous and provides needed revenue. And Great Northern Properties receives subsurface access from two other areas in Montana currently owned by the federal government.

This bill will provide much-needed impact funding for the Northern Cheyenne as well. The Tribe will receive 40% of the royalties Great Northern Properties is paid from any coal development that occurs on the federal land received by GNP as compensation. This money will help alleviate some of the challenges now faced on the Reservation, whether it's for healthcare, education or infrastructure.

I'd also like to mention that enactment of this legislation will ensure that 280 miners at Signal Peak's mine in Musselshell County, Montana will keep their good-paying jobs. Rural Montana desperately needs these jobs, and this bill will provide an avenue for uninterrupted coal production. This area has been devastated by recent flooding, and Signal Peak Energy, the mine's owner, has been integral in helping Roundup's residents protect their businesses and homes. I want to thank them for their efforts.

It's important to stress the bipartisan nature of this legislation. This legislation had bipartisan support in 2002—when the Montana Board of Land Commissioners, which is comprised of the top five elected officials in the State, entered into the so-called Otter Creek settlement with the Northern Cheyenne. That settlement was supported by the entire Montana Congressional delegation.

This bipartisan support continues. Senator Baucus has introduced companion legislation in the Senate. And, the current Montana Board of Land Commissioners, which has five Democrats, including Governor Schweitzer, has sent a letter urging Congress to pass the bill. Today's hearing is a great start.

As you know, federal coal royalties are split between the federal government and the states. While both lose out on royalties, the state supports the settlement and its job-creating impacts. In return for the package of commitments, the Tribe in 2002 promptly dismissed with prejudice a federal court lawsuit against the United States challenging the transfer of the Otter Creek tracts to the State.

I'm working with the Congressional Budget Office to ascertain the cost to the federal government of the withdrawn royalties, but the Tribe's aforementioned claim could offset the value of these royalties. The Tribe committed that, in return for the conveyance to it of the eight sections, it would release any and all claims it may have against the United States for its failure to acquire that subsurface. Furthermore, \$70 million in impact funding contemplated by the Tribe's Otter Creek settlement has been deleted from the bill. Congress, as a result, will not need to appropriate any funds for this legislation upon passage.

With passage of this legislation, the American taxpayer will avoid costly litigation, the Tribe will regain control of its own resources and the associated revenue, and the people of Montana will benefit from the development of Montana's abundant coal reserves. Montana has been called the "Saudi Arabia" of coal. It's plentiful and relatively easy to get to—when the government permits it. Coal can, and should be a part of America's all-of-the-above energy solution to ease prices while stimulating job growth in our rural communities.

Because of everything the bill will do for the Northern Cheyenne, H.R. 1158 has the support of the Montana-Wyoming Tribal Leaders Council and the National Congress of American Indians. This bill is the right thing to do.

In closing, I want to thank Chairman Young and Ranking Member Boren for holding a hearing on this legislation. I also want to thank the Tribe and all those who've come together on this agreement. With your permission, I'd like to submit for the record a letter of support from the Montana Board of Land Commissioners and a resolution passed by the Montana-Wyoming Tribal Leaders Council. Again, thank you, and I'd be happy to answer any questions the Subcommittee may have.