

**Statement of Tex G. Hall, Chairman
Mandan, Hidatsa and Arikara Nation of the Fort Berthold Reservation
Before the Subcommittee on Indian and Alaska Native Affairs
Committee on Natural Resources
U.S. House of Representatives**

**Oversight Hearing on Tribal Development of Energy Resources and the Creation of
Energy Jobs on Indian Lands**

April 1, 2011

Good morning, Chairman Young, Ranking Member Boren, and other members of the Subcommittee on Indian and Alaska Native Affairs. My name is Tex Hall, or Ihbudah Hishi, which means “Red Tipped Arrow.” I am honored to present this testimony as the Chairman of the Mandan, Hidatsa and Arikara Nation of the Fort Berthold Reservation in North Dakota (MHA Nation).

Let me start my testimony by expressing my appreciation to the Subcommittee for having this hearing to evaluate energy development opportunities on Indian lands.

Fort Berthold Oil and Gas Regulatory Issues

The Fort Berthold Reservation is located in the heart of the Bakken Formation, which is the largest continuous oil accumulation within the lower 48 states. In 2008, the U.S. Geological Survey (USGS) estimated that the Formation contains between 3 billion and 4.3 billion barrels of recoverable oil. This USGS assessment compares favorably to the agency’s most recent assessment of oil contained within the Arctic National Wildlife Refuge (ANWR). As of 2005, the USGS assessment for ANWR was that it contained between 4.3 billion and 11.8 billion barrels of recoverable oil.

Unfortunately, oil and gas exploration on the Fort Berthold Reservation has been lagging behind energy development on non-Indian lands in North Dakota, largely because of unnecessary red tape and bureaucratic delays at the Interior Department, in processing the necessary approvals under Federal law.

As you know, oil and gas exploration is subject to extensive Federal oversight and review. Leasing, permitting, royalty collection, and royalty payment activities involve five separate agencies: the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Ocean Energy Management, the Office of the Special Trustee for American Indians and the Environmental Protection Agency. In order to comply with the many Federal laws and regulations that apply to Indian mineral activities, the Interior Department has developed a 49-step process for obtaining Federal approvals involving oil and gas exploration. This 49-step process can take as long as two (2) years to complete.

In contrast, the process for approving oil and gas exploration activities on non-Indian lands in North Dakota involves just 4 steps. Oil and gas leases don't need governmental approval and, according to the North Dakota Industrial Commission, it only takes about a week and a half to process an application for a permit to drill.

I believe that we must find a way to streamline the process for federal review and approval of individual Indian and tribal mineral leases and agreements and make it less complicated and more efficient. At the same time, however, it must be done in a way that ensures the federal government will continue to fulfill its trust responsibility to the MHA Nation. This can be accomplished by placing all federal authority in one agency on our Reservation, such as through a One Stop Shop Office, as discussed in more detail below. There must be adequate funding that ensures the federal officials responsible for approving and regulating these leases and agreements on the ground are adequately qualified and that there is sufficient agency staff to meet the demand that comes with this extensive oil boom in the Bakken Formation.

I have been working for the past 3 ½ years to overcome the Interior regulatory obstacles we are facing, so that Indian mineral owners on the Fort Berthold Reservation can have the same opportunities for energy exploration that exist on private lands outside of the Reservation. Prior to my recent election as Chairman, and since our Reservation has more than 8,000 allottee owners, I formed the Fort Berthold Land and Mineral Owners Association several years ago, to represent individual allottee owners on oil and gas regulatory issues.

As the Chairman of the MHA Nation, I now have the responsibility for our tribal lands as well as our individual Indian lands. Our focus must be on maximizing the economic benefit that the MHA Nation and its members can receive from the oil and gas resources under our lands. At the same time, our lands must be protected by appropriate federal and tribal regulations, adopted and enforced on a cooperative basis, which protects our environment and our people.

Mitigating the Impacts of Oil and Gas Development

A substantial amount of revenue from oil and gas production on our land comes from taxes, revenues that the our tribal government needs to help mitigate the massive toll on our roads, law enforcement, fire and emergency protection, and environment that comes with this oil boom. Oil and gas is a nonrenewable resource. Once it is extracted and sold by the oil companies that lease our lands, it is gone forever. As a result of the continued threat of double State and tribal taxation on Indian energy development on the Reservation, the tax revenue that the MHA Nation receives from production on tribal lands has not been maximized. Indian tribes should be the primary beneficiaries of the tax revenue that is generated from energy production on Indian land. These revenues are sorely needed to keep up with the overwhelming burden that oil and gas production puts on our roads, our natural and human resources.

While the oil and gas industry has brought increased economic opportunities to the MHA Nation, those increased opportunities have not come without costs. The three most visible of those costs are the virtual destruction of many of our Reservation roads, the advent of new law enforcement and public safety needs, and the negative environmental impacts associated with oil and gas development.

1. Reservation Roads Costs. Let me start with the impact on our roads. The Fort Berthold Reservation encompasses approximately 1 million acres, approximately 1,544 square miles, and 1,520 miles of roads, a sizable percentage of which are used by the oil and gas industry. The Reservation encompasses parts of six North Dakota Counties: Mountrail, McKenzie, Ward, McLean, Dunn and Mercer. Approximately half of the Reservation consists of tribal and allotted trust land. Of the 1,520 miles of roads, more than 70%, or 1,200 miles, are in the Bureau of Indian Affairs (BIA) inventory system. Roads in the BIA inventory are broken down as follows:

Rural minor arterial roads:	141.2 miles
Community streets:	28.7 miles
Rural major collector roads:	191.5 miles
Rural local roads:	729.5 miles
City minor arterial streets:	6.8 miles

In addition to the 1,200 miles of BIA/Tribal Indian Reservation roads described above, there are also approximately 664.4 miles of county roads and 150 miles of state highways within the Reservation. There also is an undetermined amount of private roads and abandoned BIA roads that are impacted to various extents by the oil and gas industry. Unfortunately, this ownership pattern has made it difficult, and in some cases, impossible, to keep these roads maintained in a manner which is safe for both the industry and tribal members.

The current road system was not constructed to withstand the weight and volume of heavy truck traffic that accompanies the oil boom. The damage being done daily is enormous, and the MHA Nation does not nearly have the resources to keep up with the burden. For example, the MHA Nation recently had to break up the existing pavement and resurface it with additional gravel paid for by the Nation. The estimated cost was over \$500,000. The work was necessary because the oil traffic literally destroyed the road faster than any paving contract could repair it.

Despite the safety hazards presented, the Nation was forced to pay for this work itself, because the BIA's roads maintenance funding distribution formula is based almost exclusively on maintaining roads utilized by normal non-industrial traffic. At a minimum this year, 56.2 miles of BIA/Tribal roads need to be reconstructed immediately, with more reconstruction becoming necessary in the future. According to the BIA Roads Engineer, the estimated cost for adequate design and reconstruction of the inferior roads is approximately \$1.5 million per mile, which equals over \$84.3 million.

The current roads on the Reservation are also beyond their life span. The highways were built with 2 inches of bituminous asphalt in the 1970s-80s, not enough to withstand the heavy traffic that comes with oil trucks and oil-related traffic. The MHA Nation has currently over 2,500 trucks working on the Reservation; and each oil well from drilling to production takes over 2,024 trips per year per truck. The MHA Nation is anticipating over 200 new oil wells this coming year, which will triple the number of trucks on our roads.

According to our tribal records 57.7% of the Reservation roads are gravel, 26.6 % are paved and 16% are primitive dirt. Much of the current system remains inaccessible to drilling and is in need of immediate upgrade to allow access to well sites; we cannot afford to have potential stranded wells. In addition to the immediate repairs and upgrades needed, we estimate that it will cost millions of dollars per year to maintain the Reservation roads as long as the oil boom lasts. The current BIA budget to maintain our road system is a paltry \$456,000.

Travel is hazardous even in good weather. The damage which has been and will continue to be inflicted on the tribal, county, and state road system has made travel on those roads very hazardous. As a result, our traffic accidents and fatalities have dramatically increased since 2007 when the oil activity began. Presently, there are so many potholes and ruts on our tribal roads that the MHA Nation simply cannot keep up with them. In fact, many of our roads are so deteriorated, that when we can find the money to repair a small stretch, the patch does not hold and the next section of road just falls away. This winter's snow accumulation has doubled our snow removal budget and our small crew has to work around the clock to keep our roads open for this oil traffic. For all of these reasons, our roads currently present a very real danger to our school busses, emergency vehicles, the general public, and even the vehicles operated by the oil and gas industry itself. Those roads are also costing our citizens, our governments and the oil and gas industry itself thousands of dollars a year in vehicle repairs and replacements, and this situation is and will continue to stifle economic growth.

Let me make it clear that the MHA Nation is already doing its part. We are currently supplementing the BIA roads budget with over \$2 million in tribal funds. We are so concerned with the safety of the public and of the oil and gas workers themselves that we are spending as much of our own money as possible to address this problem. Unfortunately, that is simply not enough. Thus, we need your help in the form of a practical and equitable adjustment of the allocation of oil and gas related tax dollars. The MHA Nation is not looking for a windfall; it is simply looking for the funds necessary to allow this economic boom to continue in a safe and responsible manner.

Mr. Chairman, nothing is more important to any of us than the safety of our citizens and to put it bluntly - on these roads, our citizens are not safe.

2. Law Enforcement Costs. In addition, the MHA Nation has very serious and very pressing law enforcement and public safety problems that have to be addressed immediately, and those problems can only be addressed with increased dollars. The

influx of new oil and gas workers has created a great deal of strain on our already severely underfunded tribal law enforcement and highway law enforcement systems. At present, the MHA Nation can only afford to employ thirteen (13) law enforcement officers—and this is after the Nation supplements the federal law enforcement dollars that we receive by approximately \$1 million a year.

These thirteen officers are, according to testimony presented to the Congress by the Bureau of Indian Affairs in 2010, only 1/3 of the minimum number of officers that we require just to service our own Reservation population of approximately 12,500 (approximately 10,000 of whom are Indian). This does not include the thousands who are on the Reservation on a temporary basis just to work. Add to this the number of officers that we now require in order to serve the increasing population from new oil and gas workers in our communities, the increased traffic, the large land base our officers must cover, the increased number of automobile accidents and increased fatalities created by our ever deteriorating roads and the heavy traffic, and you can begin to see just how serious our situation really is.

The substantial increase in population brought on by oil boom on the Reservation has brought with it an increased burden on law enforcement. A recent article in the Bismarck Tribune reported that police calls in Williston, a city just west of our Reservation and also in the Bakken formation, have increased 250% in the last year. We face the same problem on our Reservation because of the distances our officers have to travel, and the substantial increase in calls for police assistance. Our police response time has now risen to up to 1 hour in some cases, which is unacceptable. This coupled with the significantly increased costs of repairing police vehicles which are traveling 1,500 miles or more a day on our deteriorated roads, has left our small tribal police department and its budget stretched to the breaking point. For all of these reasons, we need more law enforcement resources in order to protect the public and without those resources, people will continue to suffer unnecessarily.

The MHA Nation is in the process of constructing a health clinic. The clinic is underfunded and my Administration has made it a priority to find sufficient funds from all available sources to build a larger and better facility and one that has an emergency response capability for our Nation members and for oil and gas potential accidents. In addition, we need ambulance and air ambulatory services that will deliver much needed critical care. Additional funding is needed to build houses to recruit and support doctors, nurses and clinic staff.

3. Environmental Costs. No one disputes the overwhelming effect that the oil and gas boom in western North Dakota is having on our tribal, county, and local governments, as well as our citizens in western North Dakota. The impact on our roads, infrastructure, law enforcement, emergency services, and particularly our natural environment, has far exceeded the resources our respective governments have to keep up with the burden.

The need for a fair, cooperative and comprehensive oil and gas tax and regulatory system on the Fort Berthold Reservation is critical as we move forward to deal with the continuing onslaught that comes with this economic boom. Mr. Chairman and members of the Subcommittee, it is particularly important to recognize that we all have a responsibility to ensure that the oil and gas industry is held accountable for the responsible development of our resources. This is particularly true when it comes to the dust, the fumes, and the damage to our roads, our horses and cattle, and the increased danger to our people as a result of the heavy truck traffic that comes with oil and gas activity. We must all be concerned about the transportation and use of the chemicals used in the oil fields of western North Dakota and to make sure that it is done in a safe and responsible manner.

The MHA Nation needs more revenue to catch up to and get ahead of the enormous burden the oil and gas development is putting on our roads and infrastructure, our law enforcement and emergency response personnel, and to help put an effective regulatory and inspection system in place to protect our natural and human resources. This must come from all available federal funding sources, as well as Congressional support of an amendment to existing Indian energy legislation that levels the playing field on energy tax issues by clarifying that Indian tribes have the exclusive authority to tax energy development on Indian lands.

Outstanding Regulatory Issues

We must have a coordinated regulatory system in place to protect our land and our resources while we promote responsible development. Over the past several years, our Allottee Association has developed very detailed recommendations for addressing the outstanding oil and gas regulatory issues on the Reservation. A copy of the latest version of our recommendations paper is attached to my statement.

While we have certainly made progress, there are still many issues which have not been addressed by the Department. Let me highlight for you the most significant of these outstanding issues:

1. Improved Staffing. The Interior Department was not prepared for the level of oil and gas approval requests at Fort Berthold, when leasing and exploration activities began in earnest in 2007. With help from the North Dakota Congressional delegation, we were able to increase staffing for these regulatory activities at both the Fort Berthold Agency and the Great Plains Regional Office. The Department also accepted our recommendation that a "One Stop Shop Office" begin operation at Fort Berthold, in order to ensure that all four Interior agencies are represented in one location and can operate in a coordinated fashion. Unfortunately, Congress has yet to provide funding for the personnel necessary to staff this One Stop Shop Office. As a result, mistakes have been made and leases have been approved at less than market value.

Let me give you one example. In early 2008, the BIA approved a tribal lease executed pursuant to the Indian Mineral Development Act that tied up nearly 42,000

acres. The bonus paid for this lease was \$50 per acre, at a time when bonuses for oil and gas leases in the Bakken, including leases on the Reservation, were going for \$1000 or more an acre. This is inexcusable.

Last year's energy bill that contained language for funding the One Stop Shop Office did not make it through Congress. Therefore, there is no budget available to continue this concept. The BIA staff still support the need for this important concept and agree the funds should be provided to implement it. I share this view, and urge the Congress to fund and support the concept of a One Stop Shop Office, to streamline the process for the approval of and regulation of Indian oil and gas leases.

It is my understanding that the Obama Administration has requested an additional \$1 million in funding for energy development on our Reservation in Fiscal Year 2012, including a \$500,000 increase for staff support at the One Stop Shop Office. While this is a step in the right direction and worthy of support, I want to make sure that we are taking a comprehensive approach to the Fort Berthold staffing problems and are not just increasing Interior budgetary authority.

2. Better Communications. The Department of Interior has now detailed an employee from the Division of Energy and Mineral Development in Lakewood, Colorado to assist the BIA at the Fort Berthold Agency in New Town. This is a positive step. However, more resources are needed. In particular, the Department needs to improve the manner in which it interacts with the 8,000 allottee mineral owners on the Reservation. We have suggested that the Department create an allottee liaison function at the Fort Berthold Agency and also at the Great Plains Regional Office. People appointed as allottee liaisons would serve as the primary point of contact for individual mineral owners who have questions and need specific information about regulatory approvals.

Allottee owners also should be consulted by the Department on issues and specific approvals that affect their mineral interests.

As an additional step to improve communication and transparency, each of the four Interior agencies should issue a monthly report to interested parties on the status of approvals. Each Interior agency also should maintain a periodic in-person presence at the One Stop Shop Office, in order to answer questions from interested parties and to address outstanding regulatory issues.

3. Streamlined Regulatory Procedures. Over the past three years, we have identified a number of areas where the Department can streamline and improve its regulatory procedures. For example, the Interior agencies responsible for various oil and gas leasing activities will each apply a different lease number to the same parcel of allotted or tribal land on the Reservation. My understanding is that these Interior agencies all have different computer systems, with no standardization (or coordination) among these agencies on the assignment of a lease number. In my view, it makes no sense to have three different lease numbers for the same parcel of land under lease. It is confusing to

everyone and it slows down the process to have this lack of standardization within the Department on such a critical issue.

A second example of a lack of inter-agency coordination at Interior involves well completion reports. Energy companies have to notify the Department when a well is producing. For some reason, there is a lack of coordination between the Interior agency responsible for the well being drilled (the Bureau of Land Management) and the agency responsible for the royalty payments after the well begins producing (the Bureau of Ocean Energy Management, formerly the Minerals Management Service).

A third problem is the fact that there is significant duplication among the different Interior agencies regarding rental payments being paid on each parcel of leased land. Confusion exists about how these rental payments are to be made once a well moves from being drilled to one that is producing.

All of these coordination problems make it very complicated for an Indian mineral owner (or an energy company) to know what is going on. Royalty checks show up without any identification regarding which parcel is producing oil and natural gas. Approvals involving the Bureau of Land Management have a different lease number for a parcel than the number used by the Bureau of Indian Affairs in originally approving the lease for that same parcel. And there is no auditing process for an Indian mineral owner to verify that any of the payments being received are for the correct amounts. Remarkably, an Indian mineral owner receives a series of individual checks in the mail for each leased parcel, with no information about the purpose of each check or the calculations behind the amounts being disbursed.

4. Better Interior Recordkeeping. The Department needs to modernize its internal recordkeeping processes. The first problem involves the Land Title and Records Office at the Great Plains Regional Office. Numerous title mistakes are still being made by this Office, including life estate ownership, probate, and accounting errors. And the problem is only going to get worse, as oil exploration activities increase on the Reservation. We need an improved land title verification system and one that can function in the same manner and with the same electronic capabilities as a County land records office in North Dakota.

Second, the Department needs to upgrade its filing and tracking system at Fort Berthold for leases, applications, and other approval requests. There have been far too many situations in which Department officials can't locate paperwork or figure out the status of a pending approval request.

5. New Pipeline Infrastructure. The Fort Berthold Reservation has very little infrastructure to transport oil and natural gas through and outside the Reservation, from the many wells that are now operating on our lands. Since we have almost no pipeline capacity at Fort Berthold, energy companies are primarily using trucks to transport oil from the wells to market. Natural gas can only be transported through a

pipeline and so most of it is lost into the atmosphere instead of being gathered and transported to market.

Our lack of pipeline infrastructure is resulting in a significant loss of revenue, taxes, and royalty payments for everyone involved.

We need a comprehensive infrastructure solution that will serve all the Indian mineral owners on the Reservation, in gathering and transporting oil and gas from individual wells. The Department needs to partner with us to ensure that pipeline infrastructure is build on the Reservation as quickly as possible and that it offers a comprehensive solution to our needs in this area, both to ensure public safety and to maximize the use of our energy resources.

6. More Coordination with the State. In 2008, the now former Chairman of the MHA Nation signed a Regulatory Agreement with the State of North Dakota, to improve the coordination between our Nation and the State on certain oil and gas issues. This Agreement is important in that it provides certainty for energy operators on what the rules are and which governmental entity has responsibility for each oil and gas exploration function.

Unfortunately, the State insisted on several provisions that are inconsistent with our Tribe's sovereignty and also inconsistent with Federal standards. As a result, the Agreement has not been approved by the Department and has not been renegotiated. It is sitting on someone's desk at Main Interior, despite being signed almost 3 years ago.

This Regulatory Agreement needs to be renegotiated and approved by all the parties: the Three Affiliated Tribes, the State, and the Department. We should not have to wait so long for the Department to evaluate this Agreement and work with us to fix the problems regarding our sovereignty and how best to meet Federal standards.

7. Improved Interior Decision-making Processes. To improve coordination among the four Interior agencies responsible for different oil and gas regulatory functions, the Department should develop a written Memorandum of Understanding among the affected Interior agencies, outlining the specific authorities and responsibilities of the One Stop Shop Office at Fort Berthold. The purpose of this Memorandum of Understanding should be to create an internal process to resolve issues among Interior agencies and improve the coordination of responsibilities involving oil and gas approvals on the Reservation.

A second step that the Department should consider is the formation of a Fort Berthold Oil and Gas Advisory Committee, to provide the Department with the views of a broad spectrum of stakeholders involved with oil and gas exploration activities. You can see that we have a long list of outstanding regulatory issues at Fort Berthold and we need some type of forum or process to discuss and evaluate these unresolved issues. As energy exploration activities continue to increase rapidly, the pressures on the Interior regulatory system are only going to become worse. Everyone involved in oil and gas

activities at Fort Berthold needs an efficient and effective process to develop solutions to our regulatory problems.

8. Communitization Agreements. A further issue involves Communitization Agreements. Indian mineral owners are not being paid their royalties at the same time as non-Indian mineral owners. To remedy this problem, the Bureau of Land Management should require energy companies to apply for a Communitization Agreement at the same time they file an Application for Permit to Drill (APD).

9. EPA Minor Source Rule. My final point involves the proposal by the Environmental Protection Agency (EPA) to promulgate its minor source rule. The MHA Nation is concerned about the impact this new rule may have on oil and gas exploration and has urged the EPA to engage in government-to-government consultations regarding the implementation of this rule before it is finalized.

The Bakken Formation presents a very important opportunity to help improve the energy security of the United States by reducing our dependence on foreign—and volatile—sources for oil and natural gas. The Bakken Formation also can provide numerous benefits to the MHA Nation and its members. Exploration of this important resource is a true “win-win” proposition, as it will help our country increase its domestic energy supplies and it will provide needed financial resources to the MHA Nation and to the more than 8,000 allottee owners on our Reservation.

A Petroleum Refinery on the Fort Berthold Reservation

The MHA Nation has been working for the past eight (8) years to finalize the process under the National Environmental Policy Act (NEPA) to begin construction of its MHA Nation Clean Fuels Refinery Project (Project). Since publication of the Final Environmental Impact Statement (FEIS), the Environmental Protection Agency (EPA) has delayed issuance of a Record of Decision (ROD) for fear of litigation. This litigation fear stems from a few comments that EPA received during the project’s comment period which pointed out the absence of an EPA air permit for the Project. Although EPA concluded that the Project qualifies as a minor source which is currently not subject to air permitting requirements under the Clean Air Act (CAA), a handful of comments threatened suit against the EPA and called for further review of the Project. These concerns have halted EPA’s efforts to move forward with its issuance of the ROD.

Initially, feedstock for the Project was expected to consist of 10,000 barrels per stream day (BPSD) of synthetic crude oil via existing pipeline from Alberta, Canada; 3,000 BPSD of field butane from local suppliers; 6 million standard cubic feet per day of natural gas via existing pipeline; and 300 barrels of bio-diesel or 8,500 bushels per day of soybeans. However, since that time, advances in technology and development of the hydraulic fracturing process have created an abundant supply of Bakken crude produced on and near the Fort Berthold Reservation. Given the cost savings, the Tribe determined that it would be more feasible, and in its best interest, to change the feedstock for the Project from synthetic Canadian crude to Bakken crude. We notified EPA of our

decision in December of 2009. Unfortunately, this change raised further EPA questions regarding the air quality and emissions which would result from this change and the overall impact that the change would have on the air quality impact report.

From December 2009 to the present, the EPA withdrew its Prevention of Significant Deterioration (PSD) non-determination letter dated April 2005 and requested additional information from the Nation and its consultants regarding the air quality studies conducted for the Project. The Nation has worked diligently to respond to EPA's concerns, but as of yet, to little or no avail. Although the Nation has conducted an assay of the change in feedstock which clearly demonstrates that the emissions for Bakken are much lower and at times even better than synthetic Canadian crude, EPA is asserting that a complete supplement to the Final EIS may be necessary. This would delay the issuance of a ROD for an additional two (2) years. As a result of all of this EPA-created delay, the Tribe is now finding that it is likely going to face new and additional regulatory requirements before a ROD can be issued.

On March 9, 2011, the Nation met with representatives of the EPA – Region 8 Office, and was advised that issuance of a ROD would not be likely prior to implementation of the EPA's new greenhouse gas regulations which are scheduled to go into effect on July 1, 2011. The basis for the EPA's position is its continued fear of litigation for failing to comply with NEPA. As a result, the EPA – Region 8 Office proffered the following options for the Nation:

- Issue a ROD despite the change in feedstock and supplement the record;
- Supplement the final EIS which will require an additional two (2) years of review;
- Designate the Project as a minor source – which still requires more information; or
- Await implementation of the minor NSR rule for Indian Country to determine whether the Project can be classified as a minor source and therefore, subject to obtaining a minor source permit under the minor NSR rule.

The MHA Nation clearly expressed its support for issuing a ROD and supplementing the record so that it can begin construction of the Project and avoid application of the new EPA greenhouse gas regulations. However, the Region 8 Office indicated that it must defer to the EPA leaders in Washington, D.C., to make the final decision as to whether a ROD may be issued by supplementing the record.

Given all that we have gone through, we are now calling upon Congress to take charge over this matter by providing us with an exception to the greenhouse gas regulations scheduled to go into effect on July 1, 2011, and any other regulations that will likely subject the Project to further delay. We have worked long and hard to meet all of EPA's demands and we feel strongly that we should not have to go through a whole series of new steps simply because EPA has delayed its approvals and decided to change its regulations.

Wind Energy Opportunities in the Great Plains

Mr. Chairman, let me quickly present one final issue: wind energy. As you know, the MHA Nation and the other Tribes in the Great Plains have great wind potential. Unfortunately, many of us are simply too far from the grid to make such development cost effective. To address this problem, we need additional transmission lines and upgraded systems to allow the wind energy that we hope to develop to be moved to the areas where it is needed.

To insure our successful wind energy development, many of the Tribes in the Great Plains have joined together as members of the Intertribal Council On Utility Policy (COUP) Wind Project. This group is currently working with the Western Area Power Administration (WAPA), and views WAPA as its primary market. Today, WAPA is still purchasing coal fired power to meet its hydropower contracts. This does not make good environmental sense, as we have huge amounts of carbon-free wind blowing in our area every day.

In 2009, a Wind and Hydropower Feasibility Study (WHFS) was completed which found that tribal wind projects are feasible, but the study had several shortcomings. First, it failed to show how tribal wind energy will fit into the current purchase and transition systems, given the current contracts that groups like WAPA already have with other energy producers. Second, it did not adequately address new and better ways to integrate wind and hydropower generation in our area. Finally, it did not look carefully enough at ways to increase transmission capacity through the development and construction of a new and more efficient grid. Our Intertribal COUP Project has a team of wind energy and interconnection experts who are ready to complete this study. This additional research is already authorized. We simply need a \$1 million appropriation to complete the work this year.

I would also ask the Subcommittee to consider authorizing a 1000 mega watt Intertribal Wind Energy Demonstration Project in our area. The demonstration project that I am proposing would produce clean energy at market rates under long-term, rate-based, fixed price contracts. We believe that such a demonstration project will show that new well planned tribal wind energy systems can produce savings by minimizing or even eliminating the need for supplemental purchases from hydropower producers. If funded, this demonstration project will provide clean energy to WAPA customers, and allow an increased portion of the federal grid system to be used to meet the new clean energy standards that Americans are now demanding.

Conclusion

Chairman Young and members of the Subcommittee, thank you again for the opportunity to highlight for you some of the more significant regulatory issues we face at Fort Berthold and the wind energy opportunities that are before us.

At the appropriate time, I am happy to answer any questions you may have.