



## **UTE INDIAN TRIBE**

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September 9, 2015

The Honorable Rob Bishop  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Raul Grijalva  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

### **Re: In Support of H.R. 538 and Additional Measures to Advance Indian Energy**

Dear Chairman Bishop and Ranking Member Grijalva:

The Ute Indian Tribe generally supports H.R. 538, the Native American Energy Act, however, much more needs to be done to address the barriers to Indian energy development. During the Committee's mark up of H.R. 538 on September 9 and 10, 2015, the Tribe strongly requests that the Committee adopt a number of amendments to improve the bill. Proposed amendments can be found in the 32 legislative proposals and testimony that the Tribe has provided over the past four years.

In particular, we ask that H.R. 538 be amended to include an Indian Energy Regulatory Office in Denver, Colorado that would streamline and coordinate energy permitting on Indian lands. While the Administration is working on a similar proposal, legislation is needed to create a separate Indian Energy Regulatory Office, to provide a Director for this office, to combine Federal agency authorities and to restructure energy permitting on Indian lands. This new office needs to be led by a Director who has all the authority necessary to issue permits and approve energy development on Indian lands—everything from permitting oil and gas wells, to environmental review of renewable energy and transmission projects.

Legislation would also direct the office to be guided by basic Indian trust principles that have been lost in the current unorganized Federal system for overseeing energy development on Indian lands. In particular, Indian lands are not public lands. Over time, Federal agencies have attempted to apply public land management standards to Indian lands. Current examples include the application of NEPA to Indian lands, BLM's proposal to regulate hydraulic fracturing on Indian lands, and FWS's implementation of the ESA on tribal lands without considering tribal interests and the Federal government's trust responsibility. This office would end these practices, treat Indian lands according to trust management standards, and provide resources within Interior and BIA for the efficient processing of Indian energy permits and approvals.

The office we are proposing is long overdue. In recent years, Congress approved, expanded and made permanent BLM's Permit Processing Coordination Offices for energy development on Federal lands. The same should be provided for Indian lands where the benefits of energy development far exceed the benefits on Federal lands. Energy development on Indian lands provides jobs, economic development, revenues for tribal governments, and, if managed properly, long-term investment in our Reservation infrastructure.

In addition to the Indian Energy Regulatory Office described above, we request that the Committee amend H.R. 538 to address the full range of agencies and issues so that the Tribe can fully benefit from its resources. For example:

- ensuring that Communitization Agreements do not delay royalty payments;
- including tribes in well spacing decisions on Indian lands;
- ensuring that EPA's regulation of minor sources will not impede energy development;
- setting aside a portion of existing energy efficiency funding for Indian tribes;
- setting aside a portion of existing weatherization funding for Indian tribes;
- streamlining environmental reviews on Indian lands by providing tribes with "treatment as a sovereign" status under NEPA;
- clarifying that Indian lands are not public lands and therefore are not subject to NEPA;
- ensuring that the Department of Energy implement the Indian Energy Loan Guarantee Program authorized by Congress in 2005; and,
- supporting the capture and beneficial use of Indian energy in remote locations through distributed generation and community transmission on Indian lands.

As you know, GAO released a report entitled, "Indian Energy Development – Poor Management by BIA has Hindered Energy Development on Indian Lands." The report highlights what we have long known, "Indian energy resources are underdeveloped relative to surrounding non-Indian resources." GOV'T ACCOUNTABILITY OFFICE, INDIAN ENERGY DEVELOPMENT – POOR MANAGEMENT BY BIA HAS HINDERED ENERGY DEVELOPMENT ON INDIAN LANDS 2 (June 2015). However, the report does not just focus on BIA. GAO also cited BLM, FWS, EPA, NEPA, and the ESA as a part of the "complex regulatory framework" that limits Indian energy development, as well as a lack of access to capital, dual taxation of Indian energy resources by state governments, tribal capacity and infrastructure limitations.

H.R. 538 should go further to streamline energy permitting on Indian lands providing more revenues for tribal governments, on-reservation jobs and increased supplies of domestic energy resources. Please contact our Washington, D.C. counsel, Rollie Wilson, at (202) 340-8232 if you have any questions or need any other information.

Sincerely,



Shaun Chapoose, Chairman  
Ute Tribal Business Committee