

WRITTEN STATEMENT OF

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BEFORE THE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

To Amend “The Indian Tribal Energy Development and Self-Determination Act of 2005” and
Other Purposes (S. 2132)

April 30, 2014

Chairman Tester, Ranking Member Barrasso, and Members of the Committee, thank you for the opportunity to testify on behalf of the U.S. Department of Energy (DOE) on S. 2132, Indian Tribal Energy Development and Self-Determination Act Amendments of 2014. As Director of the Office of Indian Energy Policy and Programs (Office), I am responsible for promoting Indian self-determination and to provide, direct, foster, coordinate, and implement energy planning, education management, conservation, and delivery programs of the Department that promote Indian tribal energy development, efficiency and use and enhance energy infrastructure. In doing so, my Office has a unique perspective on energy development challenges and opportunities in Indian Country.

While the Department is still reviewing S. 2132 and does not have an official position on the bill at this time, I will provide an update to the various energy development and management programs under our purview where we believe we are making inroads in addition to identifying the continuing challenges facing tribal communities in energy and energy security.

The Department of Energy takes seriously its responsibilities and commitments to Sovereign Tribal Nations. We are committed to strengthening federal-tribal relationships to protect tribal rights and interests to promote tribal sovereignty and self-sufficiency. And the Department is also focused on doing what we can to reduce the serious threat of climate change and, with a heightened focus on resilience, doing what we can to prepare American communities, including tribal communities, for the impacts of a changing climate that are already being felt.

DOE Office of Indian Energy: Background and Executive Summary of Accomplishments

The U.S. Department of Energy Office of Indian Energy was directed by Congress in Title V of the Energy Policy Act of 2005 (“Act”), and in previous legislation enacted in 1992, to direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs that assist Tribes with energy development, capacity building, energy infrastructure, energy costs, and electrification of Indian lands and homes. This Office has specific statutory goals:

- Promote Indian tribal energy development, efficiency, and use;
- Reduce or stabilize energy costs;
- Enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and
- Bring electrical power and service to Indian land and the homes of tribal members.

To accomplish these goals, the Act conferred on the Office the authority to provide grants to assist eligible tribal entities in meeting energy education, research and development, planning, and management needs, which could include: Energy generation, energy efficiency, and energy conservation programs; Studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities; Planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities; Development, construction, and interconnection of electric power transmission facilities; Developing a program to support and implement research projects that provide opportunities to participate in carbon sequestration practices; and Encouraging cooperative arrangements between Indian Tribes and utilities that provide service to Tribes.

Since joining DOE three years ago, I have been fully committed to implementing the statutory goals for energy development in Indian Country which has included a commitment to continually collaborate with Indian Country. The results of that collaboration are opportunities to identify and address tribal priorities for energy development policies and programs and to fill gaps in current Department programs. More details about these efforts, as well as future plans, are provided below.

Pursuing Sustainable Energy Development in Indian Country

Our Office facilitates energy development in Indian Country – including renewable energy sources such as wind and solar, energy efficiency improvements, and fossil-fuel electric generation that uses carbon sequestration systems, as well as improving the infrastructure needed to deliver this energy. Tribes have shown a high motivation to pursue expanded clean energy development. It is our experience thus far that the DOE Office of Indian Energy Policy and Programs’ initiatives that are taking root in Indian Country are a direct reflection of the innovation and the promise of the next generation of tribal energy development. Our priority is focused on providing useful information and tools as well as designing and implementing innovative programs to accelerate clean energy and energy infrastructure development in Indian Country.

Our office tasked the DOE National Renewable Energy Laboratory (NREL) to update all the renewable resource estimates in Indian Country. Based on updated data provided by using updated analysis and modeling tools, the estimated maximum renewable energy resource potential on Indian lands is millions of megawatts (MW) of nameplate capacity. These comprehensive updated estimates can be found at <http://www.nrel.gov/docs/fy13osti/57748.pdf>. It is clear that further development of these energy resources in Indian Country can provide an opportunity to not only increase tribal energy reliability and self-sufficiency but also contribute to the President’s energy security goals and Climate Action Plan.

President Obama and Secretary Moniz have been extremely supportive of improving the economy of Tribal communities through enhanced clean energy development. At the 2013 White House Tribal Nations Conference, the President stated:

“The health of tribal nations depends on the health of tribal lands. So it falls on all of us to protect the extraordinary beauty of those lands for future generations. And already, many of your lands have felt the impacts of a changing climate, including more extreme flooding and droughts. That’s why, as part of the Climate Action Plan I announced this year, my administration is partnering with you to identify where your lands are vulnerable to climate change, how we can make them more resilient.”

Indian Tribes and Alaskan Native villages have made clear to us that resilient energy and energy infrastructure can, as a priority, go hand in hand with the vision of a cleaner energy future. Providing Indian Country with committed, collaborative technical assistance is a keystone of the programs and policies of the Office. Our guiding star is to work with Tribes as they implement their own strategic, long-term solutions – solutions with the potential to reduce energy costs, enhance energy security, promote tribal sovereignty and guide Native communities towards a sustainable energy future. To support this tribally articulated vision, we support a number of programs that provide energy policy information as well as practical, market-based tools to Tribes that are taking tribal projects past feasibility discussions and into investment and deployment decision-making.

The Indian Country Energy and Infrastructure Working Group was established in August 2011 to ensure these and future technical and financial assistance programs are responsive to Tribes. The working group provides critical advice and recommendations to the Secretary and to the Director of the DOE Office of Indian Energy Policy and Programs on the strategic planning and implementation of the Department’s energy resource, energy technology, and energy infrastructure development programs.

Promoting Strong Partnerships and Addressing Common Challenges

We also have taken time to survey, evaluate, coordinate and better leverage a variety of DOE energy programs, for example, the Office of Electricity Delivery and Energy Reliability, Western Area Power and Bonneville Power Administrations, and also including the grants offered through the Office of Energy Efficiency and Renewable Energy. Below are important lessons learned we would like to highlight:

Prior to 2011, efforts both by DOE and in Indian Country largely focused on commercial-scale projects, which are typically developed to export from Tribal areas into the broader energy marketplace. This focus is understandable, given the revenue potential of these large scale projects. In our view, however, the capacity-building and community energy issues highlighted in the Energy Policy Act of 2005 provisions which guide our Office’s mission and goals, there was a considerable opportunity and continuing need in community-scale and facility-scale energy generation, as well as energy efficiency. Community-scale and facility-scale projects are developed to provide electricity to the local community (housing) or on-site (government buildings, community buildings), usually in order to address fiscal challenges of high energy costs in Native communities. These types of projects allow tribes to marshal their resources to cleanly generate their own

energy and electricity; reduce and/or stabilize their energy costs; create jobs in the construction, operation, and maintenance of these systems; promote energy reliability and self-sufficiency; and promote reservation economic development.

Key obstacles which my Office continues to monitor with respect to commercial-scale energy development in Indian Country include:

- Cost to build projects and the financing and funding options available for projects, particularly renewable projects that use financial incentives not well suited to tribal governments or their enterprises;
- Frequent congestion on the transmission grid or difficulty working through interconnection and transmission service agreements with public electric entities whom are not FERC jurisdictional and/or open access compliant;
- Being located in markets that do not support, require or incentivize renewable energy portfolio standards or purchases or markets that are dominated by utilities whom are exempted from any renewable incentive programs; and
- Securing whole buyers who are willing to purchase renewable energy at the cost to produce the energy and whom are unfamiliar with the legalities of financing or contracting with tribal businesses.

Other recent or real-time observations in working closely with Tribes and Alaska Native communities on a variety of projects and issues include:

Much of the high visibility, celebrated commercial-scale energy development in Indian Country has been almost exclusively in the purview of third-party developers who lease land from Tribes to build renewable energy projects in Indian Country. There are three primary reasons for this: magnitude of upfront capital cost; tax and other financial incentives which promote third party development and ownership by taxable entities; and the extensive expertise required to build commercial-scale projects.

Tribes have become more interested in community-scale, facility-scale development for a number of reasons, including the success of the Energy Efficiency Community Block Grant program, state and utility companies' incentives that pay for on-site generation, newly emerging relative ease of tribal leasing and permitting for renewable projects under the HEARTH Act, and reducing or stabilizing costs.

The level of energy education and expertise remains a challenge for Tribes undertaking often complex energy projects, but we are making headway. And the lack of energy business acumen is not necessarily based on business capacity. The complexity of issues such as renewable energy tax structuring and technology risk and operational issues is difficult to navigate for even the most business-oriented Tribes, given the unique nature of these issues. This is particularly the case where Tribes wish to finance, own and operate their own systems without third party ownership or participation to address tax and related financial incentives. We have provided that training to Tribes which has led to affirmative decision making.

In many respects, there are several issues shared between Alaska Native villages and smaller tribes in the contiguous states, including: remote locations (cannot access transmission grids),

small land bases (insufficient for commercial-scale and even sometimes community-scale development), small populations (they lack the human resource capacity for comprehensive energy development), and scarce financial resources. Hence, we have refocused our efforts on the unique energy situation for Alaska Native villages.

Lastly, given this information, our primary short term goal has been to develop several programs to respond to the issues, obstacles, and opportunities in Indian Country so that we can see more implementation of successful, cost-effective projects.

DOE Office of Indian Energy Programs and Priorities

My Office has recently launched several programs and initiatives to promote energy development in Indian Country and address the challenges identified above:

DOE Indian Energy START Program

The Strategic Technical Assistance Response Team (START) initiative is a signature and unique DOE Office of Indian Energy program aimed at advancing next-generation energy development in Indian Country. The START program is focused on the 48 contiguous states and Alaska.

<http://energy.gov/indianenergy/resources/start-program>

For the 48 contiguous states, early-stage project development technical assistance will be provided through the START program to selected projects. The goals of the START programs are to bring targeted, strategic technical assistance to Tribes and Alaska Native governments whom have already committed resources and efforts to developing clean energy in their communities. This program is the next step in the development process as the Department has invested in early-stage feasibility in many Indian communities and this next-level development work is providing tribal communities with unbiased, expert technical assistance and information which is helping tribal decision makers to take the next step towards investments and deployment.

After being competitively selected, DOE and NREL experts work directly with tribal community-based teams as well as tribal legal and finance specialists to further develop market feasibility assessments; due diligence research, analysis, and documentation; and early pre-development work to prepare site control, verify resource, pre-qualify off-take agreements and strategy, and produce a permitting plan.

Our investments in the START Program are starting to already see returns. Several START projects have resulted in decision-making, tribal investment commitments, construction starts and deployment of clean technology solutions. <http://energy.gov/indianenergy/downloads/office-indian-energy-newsletter-springsummer-2014> In Alaska, we initially teamed up with the Denali Commission to specifically assist in the development of tribal energy planning for Alaska Native entities. Our Alaska START Program continues to actively seek programmatic and financial federal and state partners to ensure comprehensive collaboration and success for Alaska Native communities in need of stabilized energy costs. Alaska START Program Summary at <http://www.nrel.gov/docs/fy13osti/58879.pdf>

Energy Capacity Building & Tribal Energy Training

In three years, we have established a robust tribal technical assistance and training program which features in-person, in-depth training to tribal leaders and staff as well as web-based, on-demand training for those whom prefer to participate at their own pace and in their own offices.

Since launched in October 2012, our renewable energy web-based curriculum has had over 1,490 visitors and our resource library which hosts dozens of tribally-relevant documents and tools has had over 1,250 visitors. Since July 2013, we have hosted 49 tribal members for in-person renewable product development and finance forums. We have held numerous best practice and peer-to-peer forums—ranging from such topics as solar energy development to transmission and clean energy integration. Since December 2011, approximately 350 tribal leaders and staff have attended these in-person best practices forums.

Energy Transmission Training and Technical Assistance

Understanding the transmission grid, interconnection issues, and issues related to distribution of clean energy also are critical for successful development of energy projects, whether commercial or community scale. We are working with our partners in DOE's Office of Electricity Delivery and Energy Reliability, the Western Area Power Administration, and the Office of Energy Efficiency and Renewable Energy to offer a webinar series to address the range of issues associated to developing clean energy and transmission. Since January 2013, we have had over 2,050 participants in our webinar series. We have as a team also provided almost a dozen Tribes with pre-feasibility transmission study assistance and a range of other training and technical assistance.

Office of Indian Energy's Enhanced Coordination with the Office of Energy Efficiency and Renewable Energy's (EERE) Tribal Energy Program

EERE's Tribal Energy Program was originally established under the Energy Policy Act of 1992 to implement DOE's responsibilities under the Act. Since 2005, the program has been implementing the Office of Indian Energy's EPA Act Title V grant authority and has been providing funding related to renewable energy and energy efficiency. Since becoming fully operational, the Office of Indian Energy and EERE's tribal program have jointly offered coordinated energy programs to ensure against duplication, have leveraged grants into START projects to accelerate project successes, and have offered free technical assistance to Tribes (up to 40 hours) which has focused much of its efforts on energy strategic planning and hands-on prioritized technical analysis for clean energy projects.

Other DOE Office and Interagency Coordination

As stated earlier, one of our primary goals is to leverage existing DOE resources to promote and implement energy development in Indian Country. As one recent example, the Department highlighted tribal eligibility and inclusion in our \$15 million Solar Market Pathways funding opportunity announcement. This funding opportunity seeks to help state, tribal and local communities develop replicable multi-year strategies that spur significant solar deployment, drive down solar soft costs, and support local economic development efforts. Our experience is the Office's van-

tage point enhances DOE-wide coordination which facilitates more opportunities to leverage the considerable technical assistance mechanisms developed by our programs for government and community leaders. These programs also have created educational materials by working with and learning from government leaders on implementing renewable energy policies and programs at the community level. It is our goal to leverage those lessons and best practices in Indian Country, so that we do not have to recreate the wheel and can apply proven techniques and technical assistance.

We also intend to build on the many relationships and coordination efforts we have initiated with other federal agencies that provide support for energy development. Those agencies include the Department of the Interior (DOI), Department of Agriculture, Denali Commission in Alaska, Environmental Protection Agency, and the Department of Commerce. For example, in Alaska, we have been actively engaged in energy development and management activities over the last two years and as part of the National Strategy for the Arctic Region, and will take the lead on the implementation plan for promoting more renewable energy development in the Alaska Native villages in the Arctic Region. This plan includes continuing the Office of Indian Energy's Alaska START program, comprehensive strategic technical assistance to assist Alaska Native villages with community-wide energy issues and project opportunities. The Office of Indian Energy will also convene a renewable energy development forum in the summer of 2014 to bring together key stakeholders in renewable energy development and focused on building public-private partnerships as the means for structuring and financing renewable energy projects remote Alaska Native villages. Also, in support of its Alaska efforts, the Office of Indian Energy has stationed a full-time program manager in Anchorage.

Setting Priorities in Fiscal Year 2015 Budget and Future Efforts

The President's FY 2015 budget request, which includes \$16 million for Indian Energy Policy and Programs as a separate appropriation, reflects the consolidation of our tribal energy programs and Office of Indian Energy into a single office. This increased and consolidated budget request will enable DOE to maintain key initiatives while leveraging authorized tools and build on initiatives developed and executed since 2011. For example, we will continue: to support the Indian Country Energy and Infrastructure Working Group; the START Program; to expand our energy capacity building efforts; and to provide additional technical assistance to Tribes in support of tribal energy development projects.

Conclusion

Thank you for the opportunity to share the exciting things we are doing in collaboration and in partnership with Indian Country to promote energy development on Indian lands.