

**Raymond Maxx, Executive Director
Navajo-Hopi Land Commission Office, Navajo Nation
Testimony Before the
House Interior Appropriations Subcommittee**

Tuesday, March 27, 2012

Requests:

- Increase funding for housing and other improvements in the former Bennett Freeze Area of the Navajo Nation, with \$10 million out of the BIA Trust Natural Resources Account (Natural Resources Subactivity) and \$10 million out of the BIA Housing Improvement Funds, Department of Interior.
- Double funding to the Office of Navajo and Hopi Indian Relocation to accelerate completion of the relocation program to \$18 million.

Introduction. Thank you for this opportunity to provide testimony on what is one of the most vexing matters in modern Federal Indian policy and a true tragedy for the Navajo Nation. I am the executive director of the Navajo-Hopi Land Commission Office, an entity of the Navajo Nation.

Because my family was relocated twice by the Federal government, and now lives in the Bennett Freeze area where we have been subject to severe construction restrictions, we have unfortunately experienced every aspect of the issues we are here to discuss today. As a former Navajo Nation council delegate, I represented Tuba City and Coalmine Canyon, two communities in the Bennett Freeze Area. I can tell you that virtually every day, my constituents approached me to tell me of the hardships that they have suffered because of the relocation law and the construction freezes, including lots of young people whose families relocated and who now are homeless and landless. The impact of the Land Dispute and the Bennett Freeze will be with the Navajo Nation for many generations.

When I was just a toddler, my family lived in District Six, an area that was declared exclusively Hopi. Although we had lived there for generations, we were forced to leave. At the time, the Federal government provided no benefits for moving. You just had to move. We relocated to the Big Mountain area in what was known as the Joint Use Area, owned together by the Navajo and the Hopi according to a court decree.

In the late 1970's, when we had just about reestablished ourselves and our livelihood off the land, the Federal mediator divided the joint use area and we found ourselves again on Hopi land. We moved to the nearest portion of the Navajo Reservation, the Bennett Freeze, and there we have lived ever since. I don't think my parents fully understood at the time that you could not fix your home in the Bennett Freeze; that you could not make additions; that no Federal, Tribal or State programs could assist your community through the building of infrastructure essential to the health and well-being of any community.

As a result, the Bennett Freeze is locked into the poverty of 1966, when the freeze was imposed. It was only in the 111th Congress that the freeze legislation was finally repealed.

In 1934, the U.S. Government clarified the western boundary of the Navajo Nation identifying an area of land as for the Navajo and “such other Indians as may already be located thereon.” This language created ambiguity over ownership of the land, which was nearly entirely inhabited by Navajos. In litigation between the tribes, the Hopi sought extensive rights over the whole area. As a result, in 1966, Commissioner of Indian Affairs Robert Bennett ordered a “freeze” on development in a 1.5 million acre area in the extreme western portion of the Navajo Reservation, now called the Bennett Freeze Area. As a result of this construction freeze, the Bennett Freeze Navajos have become the “poorest of the poor.” While in theory development was possible with the permission of both tribes, in reality the area was principally occupied by Navajo families and the Hopis rarely granted permission for Navajo projects. Thankfully, the two tribes reached agreement on a settlement of their disputes and last year the Congress passed legislation striking from the U.S. Code the language which had authorized the Bennett Freeze. The agreement provided that most of the area belonged to the Navajo Nation. For the thousands of Navajo families who live there this means that the freeze served no real purpose other than to bring them misery and hardship.

Redeveloping the Former Bennett Freeze Area. In his proposed FY 2012 budget, the Administration notes that “[t]he Bennett Freeze was a product of a long-standing land dispute between the Navajo and Hopi reservation boundaries... more than 12,000 Navajo people living in the area were subjected to a 41-year freeze on development.... During the freeze era, the Navajo people were prohibited from building new homes, schools, health facilities, constructing (electricity, water, roads, etc.) and community and economic development projects.” The President’s FY 2013 budget does not provide a similar explanation of the dire situation in the Former Bennett Freeze Area, but does indicate that some funds will be allocated from the Natural Resources Subactivity (TPA), although the precise amount is unclear.

For the former Bennett Freeze area to recover there must be a sustained reconstruction program implemented over a decade or more. This would be consistent with the findings of the Interior Appropriations Subcommittee of the Senate Appropriations Committee in a field hearing held in Tuba City, Arizona on July 9, 1993. Going back four decades to the “War on Poverty” and the “Great Society Program,” and continuing through numerous Federal initiatives addressing poverty and economic hardship in general, as well as programs directed at Indians in particular, this area has been effectively ineligible for aid. The results have been devastating with most homes lacking electricity and running water, limited infrastructure, few schools and, therefore, no economic development.

The Navajo Nation asks that this Committee direct in the FY 2013 budget that substantial funds, on the order of \$10 million, be allocated to do the work necessary to begin the redevelopment of the Former Bennett Freeze Area.

In addition, the Navajo Nation asks that this Committee direct in the FY 2013 budget that substantial BIA Housing funds, on the order of an additional \$10 million, be allocated to address the decrepit housing situation in the Former Bennett Freeze Area.

Congress should also authorize the Office of Navajo and Hopi Indian Relocation (ONHIR) to oversee reconstruction activities, with the Navajo Nation having the option of assuming control of those activities that affect Navajo people and lands, as well as the option of assuming control of the trust fund proposed above.

Office of Navajo and Hopi Indian Relocation. ONHIR has had a very difficult job that has taken far longer and cost far more than originally expected. However, this is not the fault of the Navajo Nation, which opposed the relocation program but now must live with its awful consequences. We would ask that ONHIR budget, which in recent years has ranged from \$8 million to \$9 million, be doubled to \$18 million in order to accelerate the provision of benefits for those many families who relocated but have not yet received their benefits. In addition, ONHIR has several successful programs within the relocatee communities, including a successful livestock program. These programs should be supported and expanded.

Conclusion. Although the Navajo-Hopi Land Dispute and the Bennett Freeze are painful issues, I thank the Committee for this opportunity to provide testimony on a path forward to assure that the many Navajo families who have suffered under these Federal actions can have hope for a better life.