

**S. 2610, THE TRIBAL ENERGY REAUTHORIZATION  
ACT; AND S. 2891, THE TRIBAL WILDLIFE  
CORRIDORS ACT OF 2019**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**ONE HUNDRED SIXTEENTH CONGRESS**

**SECOND SESSION**

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**MARCH 4, 2020**  
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TRIBAL WILDLIFE CORRIDORS ACT OF 2019**

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**WEDNESDAY, MARCH 4, 2020**

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:34 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN HOEVEN,  
U.S. SENATOR FROM NORTH DAKOTA**

The CHAIRMAN. Good afternoon. We will call this legislative hearing to order.

Today, the Committee will consider two bills, S. 2610, the Tribal Energy Reauthorization Act, and S. 2891, the Tribal Wildlife Corridors Act of 2019.

On October 16th, 2019, Senator Murkowski introduced S. 2610, along with Senator Smith as an original cosponsor. Senator Sullivan is also a cosponsor.

The Department of Energy's Office of Indian Energy Policy and Programs is authorized to fund and implement a variety of programmatic activities that assist Indian tribes and Alaska Native villages with energy development: capacity building, energy cost reduction, and electrification of Indian lands and homes.

This bill would reauthorize the Office of Indian Energy and the Energy Loan Guarantee Program through 2030. The bill also amends definitions of the Energy Policy Act of 1992 in order to provide flexibility on electrifying Indian Country and Alaska. The bill mandates the Department of Energy submit a report to Congress on an Indian energy Arctic strategy.

On November 19th, 2019, Senator Udall introduced S. 2891, the Tribal Wildlife Corridors Act of 2019. Senators Booker, Harris, Blumenthal, Sanders, Tester, Smith, and Warren are original cosponsors. S. 2891 will increase the capacity of tribal communities to coordinate wildlife management strategies across tribal lands in the west. Tribes will work closely with the Department of Interior to establish and framework for advancing habitat connectivity in Indian Country. This bill will restore historical habitats and facilitate the movement of native species through tribal lands.

Before turning the bills, I want to ask Vice Chairman Senator Udall for his opening statement.

**STATEMENT OF HON. TOM UDALL,  
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Mr. Chairman, and thank you very much for scheduling today's hearing. I just want to note our fellow Senator that is here today, Senator Smith, it is her birthday.

The CHAIRMAN. Oh, my goodness.

Senator UDALL. She has been celebrated a lot, so I am not sure we need to sing Happy Birthday.

The CHAIRMAN. We certainly need to have the record reflect a hearty Happy Birthday.

Senator UDALL. Absolutely.

[Laughter.]

Senator UDALL. Thank you, Mr. Chairman.

I would like to welcome Santa Ana Pueblo's Governor, Lawrence Montoya. I commend the Pueblo's strong leadership to wildlife and cultural preservation. Governor Montoya has played an active role to amplify the importance of wildlife corridors. Welcome, Governor Montoya. His Lieutenant Governor, the Pueblo's Lieutenant also, Lieutenant Governor Sanchez, is in the audience. He is sitting right behind the Governor.

In the United States, we are losing habitat at an astounding rate, a football field's worth every 30 seconds. That is leading to a loss of biodiversity and fragmentation. The fragmentation of remaining habitat by roads and other development further threatens animal and plant species. Roadways supporting human migration often pose barriers to safe wildlife migration. I know the Pueblo is very interested in wildlife migration. Establishing fish and wildlife migration corridors is one of the most effective tools we have to maintain fish, wildlife, and plant species, at a time when the ecosystems are under threat like never before.

With over 1 million automobile accidents per year involving wildlife, costing more than \$8 billion in medical costs and medical repairs, supporting wildlife corridors has become a public health and safety issue. My bill, S. 2891, encourages tribes to identify, use, and expand wildlife migration corridors and habitat on tribal lands and in their communities. This new authority for tribes is critically important.

In 2018, the Secretary of Interior issued an order that directs Interior bureaus to partner with select western States to conserve and improve the quality of western big game migration corridors and winter range on Federal lands. But tribes were left out. My bill would fill that gap. It provides authority for tribes to establish, manage or expand a tribal wildlife corridor, and it compensates for another limitation in the Secretarial order by covering all native species, not just big game species.

Recognition of the importance of wildlife corridors across tribal, State and Federal boundaries is growing. Last year, my home State of New Mexico became the first State in the Nation to enact comprehensive legislation to require the State to develop a wildlife corridors action plan to identify wildlife corridors. Just a few weeks ago, the Virginia General Assembly passed legislation to adopt its

own comprehensive program, and the Governor of Wyoming issued an executive order designating wildlife corridors.

S. 2891 moves us toward addressing the movement of wildlife across multiple jurisdictional boundaries, and works to overcome the fragmentation of our landscape through roads, fences, and other barriers. Perhaps most importantly, it takes concrete steps to bolster the use of wildlife corridors on Indian lands and adjacent public lands in recognition of the importance and respect accorded to fish and wildlife by Native American people.

Turning to Senator Murkowski's bill, I look forward to hearing Mr. Frost's testimony. I am interested to find out why the Administration recommends a cut of over 50 percent to the Department of Energy's Indian Energy Planning and Management Assistance Program, a valuable program that has funded renewable energy projects for the tribes in New Mexico.

I just want to notify Senator Cortez Masto that has a birthday woman sitting to her left there. It's her birthday today.

[Laughter.]

Senator UDALL. And turning it back, thank you, Mr. Chairman. We really appreciate you here.

The CHAIRMAN. Thank you, Vice Chairman Udall.

Opening statements from Senator Smith or Senator Cortez Masto?

Senator CORTEZ MASTO. I will do it when I ask my questions. Thank you, Mr. Chairman.

The CHAIRMAN. All right, we will turn to our witnesses. First, Mr. Kevin Frost, Director, U.S. Department of Energy, Office of Indian Energy Policy and Programs here in Washington, D.C. Mr. Stephen Guertin, Deputy Director for Program Management and Policy, U.S. Fish and Wildlife Services here in D.C. The Honorable Lawrence Montoya, Governor of Pueblo Santa Ana, Santa Ana Pueblo, New Mexico. And the Honorable Raymond Auginaush, Sr., Councilman, White Earth Nation, Ogema, Minnesota.

Thank you, all of you, for being here. We appreciate it very much. I want to remind the witnesses that your full written testimony will be part of the official record, and if you would, please, keep your opening statement to no more than five minutes, so that will allow time for questions.

With that, Mr. Frost, if you would begin.

**STATEMENT OF KEVIN R. FROST, DIRECTOR, OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS, U.S. DEPARTMENT OF ENERGY**

Mr. FROST. Thank you, Senator.

Good afternoon, Chairman Hoeven, Ranking Member Udall, and members of the Committee. My name is Kevin R. Frost, and it is an honor and a privilege to serve at the Department of Energy as the Director of the Office of Indian Energy Policy and Programs. DOE is charged with, among other responsibilities, providing Indian Country with assistance for energy development activities.

Before I talk about the Office of Indian Energy, I would like to introduce myself to the members of the Committee. I am an enrolled member of the Southern Ute Tribe out of Colorado. Prior to

becoming first the Deputy Director and then the Director, I served as a councilperson for my tribe.

As some of you may know, the Southern Ute Tribe has been at the forefront of natural resource development both on and off the Southern Ute reservation. I have also lived without running water and electricity and lived a subsistence lifestyle. Growing up, I also busted coal, chopped wood, and hauled water.

This experience taught me to maximize limited resources. Although this isn't unique to Indian Country, I can say that I know the struggle. I understand how transformational it is to be able to have the luxury and privilege to flip a light switch, as well as setting a thermostat for warmth, in addition to having the financial ability to go down to the local grocery store or trading post to purchase food.

These lessons serve me well in the capacity as the Director. In my time as Director, a little over one year, the office has been solidifying its existing relationships across the Federal family to help tribes achieve their energy development goals.

The Office of Indian Energy has also been collaborating with several DOE offices as well. I have listened and learned from the offices' constituency about how the office's work benefits tribal communities. For a small office, much is accomplished on a daily, monthly and annual basis.

I would like to acknowledge the entire Indian Energy team, both Federal employees and contractors, for their tireless efforts and dedication to the office's mission. The mission of the Office of Indian Energy, or OIE, is to maximize the development and deployment of strategic energy solutions that benefit tribal communities by providing American Indians and Alaska Natives with the knowledge, skills, and resources needed to implement successful energy solutions.

The OIE uses a three-pronged approach to help its constituents harness their vast undeveloped resources through financial assistance, technical assistance, and education and capacity building. Financial assistance is in the form of competitive grants to accelerate the deployment of energy infrastructure on tribal lands. In addition, the OIE provides technical assistance to further recognize Indian tribes, including Alaska native villages, tribal energy development organizations, and other organized tribal groups, at no cost.

Finally, education and capacity building is accomplished by supporting tribal efforts to build internal capacity to navigate energy projects.

At this time, I would like to speak briefly about S. 2610. The department does not have a position on S. 2610, but I would like to highlight a few areas, if I may.

Cost sharing is a foundational element of responsible expenditure of taxpayer funds, and the department has concerns about completely removing the requirement. It is true that the requirement of 50 percent cost share for demonstration and commercial application activity has sometimes placed an unaffordable burden on many economically disadvantaged tribes. However, we do not believe that the wholesale elimination of the cost sharing requirement is the best tool to address such a situation.



Any reduction in cost sharing may significantly impact the OIE's ability to assist as many American Indian and Alaska Native communities as possible, as more generous Federal cost share for some projects would limit the total number of projects could fund. However, tribal cost share translates into increased OIE funding per grant, fewer tribal grants and therefore, fewer tribes benefitting from the same level of funding.

When it comes to technical assistance and as a best practice, the OIE currently strives to use local partnerships for technical assistance. For example, the OIE has an existing interagency agreement with the Denali Commission to deliver technical assistance in Alaska. This benefits the OIE's Alaska constituency by harnessing local knowledge and expertise, which also includes cultural knowledge and protocols to address a specific challenge or help move a project forward.

In terms of having a Federal government grant an opportunities liaison for Indian Tribes and Alaska Natives, the entirety of the OIE staff is tasked with this liaison function, including the dissemination of tribal energy-related funding opportunities to the extent practicable. Furthermore, information on tribal energy-related funding opportunities, regardless of source, and across all Federal agencies, continues to be posted on the OIE website and disseminated by email to over 28,000 subscribers.

With respect to the OIE's tribal energy mission, the function is currently deemed fulfilled with existing staff. Many Arctic issues, which include national interests in safety, security, and international affairs, are beyond the scope of Indian Energy's limited resources. As such, any strategy would need to be developed in coordination and with input from Alaska Native constituents, and would require more than 180 days to achieve.

Given these considerations, it may be more appropriate for a comprehensive Indian Energy in the Arctic Strategy to be developed by the Secretary's office, in coordination with the State of Alaska, and the Secretary of the Interior, and only after extensive engagement with and input from Alaska Native villages, Alaska Native Regional Corporations and village corporations. The Office of Indian Energy will, to the best of our abilities and within our limited resources, support any Arctic efforts the Secretary and the Department undertake.

Thank you again for the opportunity to testify today on behalf of DOE. The Department appreciates the ongoing bipartisan support for its successful efforts to address Indian Country's energy development challenges in the past, and looks forward to working with the Committee on the legislation on today's agenda and any future legislation.

The Office talks about partnerships, and I would like the Committee to know that it is not only the partnerships with Indian Country that make a difference, but also partnerships with committees such as this one, to help move Indian Country forward, and provide help and inspiration for the 574 federally-recognized tribes.

I welcome your questions.

[The prepared statement of Mr. Frost follows:]

PREPARED STATEMENT OF KEVIN R. FROST, DIRECTOR, OFFICE OF INDIAN ENERGY  
POLICY AND PROGRAMS, U.S. DEPARTMENT OF ENERGY

Good afternoon, Chairman Hoeven, Ranking Member Udall and Members of the Committee. My name is Kevin R. Frost, and it is an honor and a privilege to serve at the Department of Energy (DOE or the Department), as the Director of the Office of Indian Energy Policy and Programs. DOE is charged with, among other important responsibilities, providing Indian Country with assistance for energy development activities. Within this charge, the work being conducted by the Office of Indian Energy is setting the course for various advancements in tribal energy development. Issues such as energy storage, improving energy efficiency, and capacity building, create breakthroughs for how Indian Country is utilizing resources to address energy development goals.

Thank you for the opportunity to testify today on behalf of the Department regarding S. 2610, the Tribal Energy Reauthorization Act. I will highlight the work undertaken in delivering a mission that is providing access to electricity and energy development on tribal lands.

**The Office of Indian Energy's Mission**

The mission of the Office of Indian Energy is to maximize the development and deployment of strategic energy solutions that benefit tribal communities by providing American Indians and Alaska Natives with the knowledge, skills, and resources needed to implement successful strategic energy solutions. With 574 Federally recognized tribes, over 200 Alaska Native Village Corporations, and 13 Alaska Regional Corporations, the Office of Indian Energy uses a three-pronged approach to help its constituents harness their vast and undeveloped resources through: (1) financial assistance; (2), technical assistance ; and (3) education and capacity building.

Financial assistance is in the form of competitive grants to accelerate the deployment of energy infrastructure on tribal lands. To assist with deployment, and contingent upon Congressional Appropriations, the Office of Indian Energy provides what has been to date an annual Funding Opportunity Announcement (FOA). The annual FOA is consistent with the principles of tribal sovereignty and self-determination, with an all-of-the-above energy strategy that recognizes the breadth of energy resources on Tribal Lands, and each tribe's right to use them as they see fit. Projects sought under the FOA are fuel and technology neutral and intended to promote energy independence and economic development. Creating local employment is an ancillary benefit of annual FOAs through the installation and use of commercially available energy technologies that are best suited to meet the needs of the individual Tribes or Alaska Native organizations. From 2010–2019, DOE has invested nearly \$85 million in order to support more than 180 tribal energy projects valued at over \$180 million, including tribal cost-share.

In addition, the Office of Indian Energy provides technical assistance to federally recognized Indian tribes, including Alaska Native Villages, tribal energy development organizations, and other organized tribal groups at no cost. The goal of technical assistance is to address a specific challenge or fulfill a need that is essential to a current project's successful implementation. The intended result is a tangible product or specific deliverable designed to help move a project forward. Technical assistance is provided through technical analysis, financial analysis, and strategic energy planning.

Education and capacity building is accomplished by supporting tribal efforts to build internal capacity to navigate tribal energy projects by providing regional workshops, webinars, Tribal leader forums, Science, Technology, Engineering, and Mathematics (STEM) education, an online energy resource library and an annual Program Review in which recipients of grants are able to participate and share valuable lessons learned.

**S. 2610 Tribal Energy Reauthorization Act**

The Department does not have a position on S.2610 at this time.

*Cost Sharing*

Section 2(b)(2)(D) of this bill amends Section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) by removing the cost sharing requirements under Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352). Cost-sharing is a foundational element of responsible expenditure of taxpayer funds and the Department would have significant concerns about completely removing the requirement. It is true that the requirement under Section 988 for 50 percent cost share for demonstration and commercial application activity has sometimes placed an unaffordable burden on many economically disadvantaged Indian tribes, however,

we do not believe that a wholesale elimination of the cost-sharing requirement is the best tool to address such a situation. The Secretary already has the authority to reduce cost share when “necessary and appropriate, taking into consideration any technological risk relating to the activity”. If the Committee wishes to expand the Secretary’s authority to reduce cost share for economically disadvantaged tribes, then a narrower amendment to the Secretary’s exemption authority would be more appropriate.

Section 2(b)(2)(D) of this bill would, also require that the Director “take into consideration the fiscal ability of the Indian tribe, intertribal organization, or tribal energy development organization to meet a cost share requirement” and, “if appropriate, offer flexibility in the grant application process with respect to the amount of cost-sharing to be required.” Specifically, the bill requires that fiscal ability be taken into consideration “in determining any cost share requirements of an Indian tribe, intertribal organization, or tribal energy development organization”. As written, therefore, a case-by-case fiscal need determination would appear to be necessary for each Indian tribe, intertribal organization, or tribal energy development organization. This case-by-case analysis is extremely resource intensive as was demonstrated by the Office of Indian Energy’s previous experience in applying such a methodology. In addition, this previous experience demonstrated that the evaluation of financial indices was not necessarily an indicator of fiscal need. Therefore, we respectfully request that the Director be given the discretion to establish a methodology that meets the intent of the bill, without the requirement for an individual case-by-case analysis for each grant applicant.

Any reduction in cost share may significantly impact the Office of Indian Energy’s ability to assist as many American Indian and Alaska Natives communities as possible, as more generous Federal cost-share for some projects would limit the number of total projects the office could fund. Lower tribal cost-share translates into increased DOE funding per grant, fewer tribal energy projects, and therefore fewer tribes benefiting from the same level of funding.

#### *Local Partnerships for Technical Assistance*

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director, to the maximum extent practicable to, “give priority to partnering with State and local organizations that do not have comparable local experience, relationships, knowledge; and with respect to technical assistance provided to Indian tribes and Native Villages, partner with local and regional organizations.”

As a best practice, the Office of Indian Energy currently strives to use local partnerships for technical assistance. The Office of Indian Energy has an existing Inter-agency Agreement with the Denali Commission to deliver technical assistance in Alaska. This benefits the Office of Indian Energy’s Alaska constituency by harnessing local knowledge and expertise, which also includes cultural knowledge and protocols to address a specific challenge or help move a project forward. Technical assistance funding is spent locally and helps provide in-state economic benefits. Currently, the Office of Indian Energy is actively seeking technical assistance partnerships in the lower 48 as well.

#### *Federal Government Grants and Opportunities Liaison for Indian Tribes and Alaska Natives*

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director, “[t]o the maximum extent practicable,” to “designate appropriate staff to serve as liaison to Indian tribes and Native villages to ensure that Indian tribes and Native villages are aware of relevant grants and funding opportunities across all Federal agencies.”

We respectfully submit that this provision is not necessary. Currently, the Office of Indian Energy’s Alaska Program Manager is specifically tasked with this function for Alaska. A comparable position is currently in the process of being filled for the contiguous 48 United States, in the interim, the entirety of Office of Indian Energy’s staff is tasked with this liaison function, including the dissemination of tribal energy related funding opportunities to the extent practicable. Furthermore, information on tribal energy-related funding opportunities, regardless of source and across all Federal agencies, continues to be posted on the Office of Indian Energy website and disseminated via email to over 28,000 subscribers. With respect to the Office of Indian Energy’s tribal energy mission, this function is currently being fulfilled with existing staff.

#### *Indian Energy in the Arctic Strategy*

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director to “develop, and submit

to Congress a report describing, a strategy, to be known as the ‘Indian Energy in the Arctic Strategy’ within 180 days within enactment of this bill.

Many Arctic issues, which include national interests in safety, security, and international affairs, are beyond the scope of Indian Energy’s limited resources. The Office of Indian Energy’s relationship with Indian tribes, Alaska Native Villages, and Regional and Village corporations is in line with self-determination and tribal sovereignty and allows these entities the ability to utilize their resources as they see fit; any assistance is provided only upon request and with the consent of the Indian tribes. As such, any strategy would need to be developed in coordination and input from Alaska Native constituents, and would require more than 180 days to achieve. Given these considerations, it may be more appropriate for a comprehensive Indian Energy in the Arctic Strategy to be developed by the Secretary’s Office, in coordination with the State of Alaska, and the Secretary of the Interior, and only after extensive engagement with and input from Alaska Native villages, Alaska Native Regional Corporations and village corporations. The Office of Indian Energy, will, to the best of our abilities and within our limited resources, support any Arctic efforts the Secretary and the Department undertake.

#### **Conclusion**

Thank you again for the opportunity to testify today on behalf of DOE. The Department appreciates the ongoing bipartisan support for its successful efforts to address Indian Country’s energy development challenges in the past, and looks forward to working with the Committee to address these challenges now, and in the future.

I welcome your questions at this time.

The CHAIRMAN. Thank you, Mr. Frost.  
Now we will turn to Mr. Guertin.

#### **STATEMENT OF STEPHEN GUERTIN, DEPUTY DIRECTOR FOR PROGRAM MANAGEMENT AND POLICY, U.S. FISH AND WILDLIFE SERVICE**

Mr. GUERTIN. Good afternoon, Chairman Hoeven, Vice Chairman Udall, and members of the Committee. I am Steve Guertin, Deputy Director for the U.S. Fish and Wildlife Service. I appreciate the opportunity to testify on S. 2891, the Tribal Wildlife Corridors Act of 2019.

Our mission is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. It is a priority of the Service and of this Administration to increase access to outdoor recreational opportunities, reduce regulatory burdens, recover imperiled species, and ensure tribal sovereignty is respected.

Habitat loss and fragmentation are widely recognized as among the most significant threats to biodiversity. The viability of many wildlife populations is dependent on their ability to move. This includes daily movements for resources, migrations between seasonal ranges, long-range gene dispersal, and range shifts over time in response to changing conditions.

Migration patterns for some species can cover hundreds of miles and cross Federal, State, tribal, as well as private lands. Tribes are essential partners, and the Service recognizes how important tribes are to the conservation of our Nation’s wildlife and natural habitats.

S. 2891 would allow federally recognized tribes to nominate a habitat corridor for fish, wildlife, or plants on Indian lands for designation as a tribal wildlife corridor. That designation would be determined by the Service acting as the agent for Secretary of the Interior in consultation with the Bureau of Indian Affairs. Such a

designation would further enable tribes to consult with the department and coordinate with the U.S. Forest Service to improve habitat connectivity between tribal and public lands.

The bill also authorizes USDA, the Department of Agriculture, to prioritize the expansion a tribal wildlife corridor onto private lands under certain voluntary Farm Bill conservation programs, and the legislation requires the Service to provide technical assistance to tribes and to establish a new grant program to support tribal wildlife corridors.

The Department of the Interior supports the intent of S. 2891 to improve coordination between tribes and Federal agencies. Conserving wildlife corridors using a voluntary and non-regulatory approach is a priority for the Administration, as reflected in Secretarial Order 3362. The Secretarial Order was issued in 2018 to improve habitat quality in western big game winter ranges and migration corridors for pronghorn, elk, and mule deer.

While tribes are specifically not mentioned in the Secretarial Order, the department certainly supports projects and is providing technical assistance to several tribes. For example, the U.S. Geological Survey in Interior is leading a corridor mapping team that is working with the Southern Ute Indian Tribe and Jicarilla Apache Nation to map GPS collar data collected by the tribes from deer and elk in southern Colorado and northern New Mexico.

Additionally, through a partnership among the department, industry, the National Fish and Wildlife Foundation and others, tribes are eligible to apply for funding for projects, or for projects to be conducted on their land. In the first grant cycle, the foundation funded a project for the San Juan Basin of Colorado. That project facilitates the safe movement of deer and elk via two newly constructed overpass and underpass structures, so they can access summer and winter ranges on lands of the Southern Ute Tribe as well as Federal, State and private land.

The Service also administers our Tribal Wildlife Grants Program, which provides competitive grant awards to tribes for projects that benefit fish, wildlife, and habitats of cultural or traditional importance. Many of the projects we support address fish and wildlife corridors and habitat connectivity. For example, we recently awarded a grant to the Penobscot Indian Nation in Maine to protect and restore endangered Atlantic salmon within the Penobscot River watershed. The project involved population and habitat surveys, planting of eggs and stocking of adult fish, and removal of barriers to fish passage on tribal lands.

We appreciate the Committee's support of wildlife conservation on tribal lands and wildlife resources. The Administration is providing technical and financial support for the conservation of fish and wildlife habitat, including corridors on tribal lands.

To reiterate, we support the intent of S. 2891, and welcome the opportunity to work with the Committee to ensure any corridor legislation complements and does not deter from the ongoing and existing work of the Administration and our partners.

Thank you for the opportunity to testify. I look forward to answering any questions you might have.

[The prepared statement of Mr. Guertin follows:]

PREPARED STATEMENT OF STEPHEN GUERTIN, DEPUTY DIRECTOR FOR PROGRAM  
MANAGEMENT AND POLICY, U.S. FISH AND WILDLIFE SERVICE

**Introduction**

Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. I am Stephen Guertin, Deputy Director for Policy for the U.S. Fish and Wildlife Service (Service) within the Department of the Interior (Department). I appreciate the opportunity to present the Department's views on S. 2891, the Tribal Wildlife Corridors Act of 2019.

The Service's mission is "working with others to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people." The Service is the only agency in the Federal government whose primary responsibility is the conservation of fish and wildlife resources for the American public. The Service's work helps ensure a healthy environment, and provides affordable, accessible, and premier opportunities for Americans to enjoy outdoor recreation and our shared natural heritage. It is a priority of the Service and of this Administration to increase access to outdoor recreational opportunities, reduce regulatory burdens, recover imperiled species, and ensure that Tribal sovereignty is respected.

The Service is responsible for the conservation of wildlife resources, including endangered and threatened species, migratory birds, certain marine mammals, and certain native and interjurisdictional fish. The Service works closely with States, Tribes, other Federal agencies and private landowners through a variety of authorities to conserve fish, wildlife and plants and is committed to implementing proactive conservation measures in coordination with partners and stakeholders.

Habitat loss and fragmentation are widely recognized as among the most significant threats to biodiversity. The viability of many wildlife populations is dependent on the ability to move, including daily movements for resources, migrations between seasonal ranges, long-range gene dispersal, and range shifts over time in response to changing conditions. Migration patterns for some species can cover hundreds of miles and cross Federal, State, Tribal, and private lands. Tribal lands span 56 million acres in the continental United States, representing a significant land base. Tribes are important conservation partners, and the Service recognizes the valuable role they play in efforts to conserve our nation's wildlife and the habitat upon which they depend.

We appreciate the Committee's interest in wildlife conservation. We offer the following comments on S. 2891 and look forward to discussing these views with the Committee.

**S. 2891, Tribal Wildlife Corridors Act of 2019**

S. 2891 would allow federally recognized Tribes to nominate a habitat corridor for fish, wildlife, or plants on Indian land to be designated by the Service, in consultation with the Bureau of Indian Affairs, as a "Tribal Wildlife Corridor." In S. 2891, this designation would further enable Tribes to consult with the Department and coordinate with the U.S. Forest Service to improve habitat connectivity between the Tribal Wildlife Corridor and public lands. S. 2891 authorizes the U.S. Department of Agriculture to prioritize expansion of a Tribal Wildlife Corridor onto private lands under certain Farm Bill conservation programs. The legislation also requires the Service to provide technical assistance to Tribes and to establish a grant program to support Tribal Wildlife Corridors.

The Department supports the intent of S. 2891 to improve coordination between Tribes and federal agencies in efforts to conserve wildlife. Conserving wildlife corridors using a voluntary and non-regulatory approach is a priority for this Administration. For example, in 2018, the Secretary of the Interior issued Secretarial Order 3362 (S.O. 3362) to improve habitat quality in western big game winter range and migration corridors for pronghorn, elk, and mule deer.

While Tribes are not specifically mentioned in S.O. 3362, the Department is supporting projects and providing technical assistance to several Tribes. For example, the U.S. Geological Survey (USGS) is leading a Corridor Mapping Team that is working with the Southern Ute Indian Tribe and Jicarilla Apache Nation to map GPS collar data collected by the Tribes from deer and elk in southern Colorado and northern New Mexico. USGS is also conducting a GPS collar tracking study on deer and elk migrations across the Wind River Reservation. The project is a collaboration with the Eastern Shoshone and Northern Arapaho Tribal Game and Fish Department, the Service, and The Nature Conservancy. Additionally, through a partnership among the Department, industry, the National Fish and Wildlife Foundation (NFWF), and others, Tribes are eligible to apply for funding for projects, or for projects to be conducted on their land in support of S.O. 3362. In the first grant

cycle, NFWF funded a project in the San Juan Basin of Colorado to facilitate safe movement of deer and elk to access summer and winter range habitat on the Southern Ute Indian, Federal, State, and private lands via two newly constructed overpass and underpass structures.

The Service's Native American Program (Program) works to enhance Government-to-Government relations with federally recognized Indian Tribal governments by coordinating the consultation process between the Service and Tribes, ensuring that Native American interests are considered in project planning and implementation, and that national plans and actions implement the Service's Native American Policy. The Program supports training for Service employees to address Tribal trust responsibilities, and coordinates and supports workshop and training opportunities for Tribal members on the preparation of grant applications and other topics. The Program also administers the Tribal Wildlife Grants (TWG) Program, which provides competitive grant awards to Tribes for projects that benefit fish, wildlife, and habitat of cultural or traditional importance. Since its inception in 2003, the TWG Program has awarded more than \$94 million to Federally recognized Native American Tribes, supporting more than 456 conservation projects, many of which address fish and wildlife corridors and habitat connectivity.

For example, the Service awarded a grant to the Penobscot Nation in Maine to protect and restore its historic sustenance fisheries, including endangered Atlantic salmon, within the Penobscot River watershed. The project involved population and habitat surveys, planting of eggs and stocking of adult fish, and removal of barriers to fish passage on Tribal lands, among other activities. These are just a sample of the many grants the Service has awarded to Tribes across the country through the Tribal Wildlife Grants Program to address fish and wildlife corridors and habitat connectivity.

### **Conclusion**

The Service appreciates the Committee's interest in and support of wildlife conservation on Tribal lands. Habitat loss and fragmentation are among the most important threats to biodiversity, and the viability of many wildlife populations is dependent on the ability to migrate. Tribes are important conservation partners, and the Service recognizes the valuable role they play in efforts to conserve our nation's fish and wildlife and the habitat upon which they depend. The Administration is providing technical and financial support for the conservation of fish and wildlife and habitat, including corridors on Tribal lands. We support the intent of S. 2891 and welcome the opportunity to work with the Committee to ensure any corridor legislation complements, and does not deter, the existing work of the Administration as we continue to work with States, Tribes, and other partners to improve the habitat conditions in migration corridors.

Thank you for the opportunity to testify on S. 2891, the Tribal Wildlife Corridors Act of 2019.

The CHAIRMAN. Thank you, Mr. Guertin.  
Now, Governor Montoya.

### **STATEMENT OF HON. LAWRENCE MONTTOYA, GOVERNOR, PUEBLO OF SANTA ANA**

Mr. MONTTOYA. Good afternoon, Chairman Hoeven, Ranking Member Udall, and members of the Committee. On behalf of myself and the Santa Ana government, thank you for giving us this opportunity to testify on S. 2891.

Thank you for the opportunity to testify regarding the Tribal Wildlife Corridors Act of 2019. My name is Lawrence Montoya. I serve as the Governor of the Pueblo of Santa Ana, a community of approximately 950, located about 10 miles north of Albuquerque, New Mexico.

On behalf of the Pueblo, I would like to share our strong support for S. 2891. This bill would provide critically needed authorities to establish and support wildlife corridors on tribal lands and enhance coordination with Federal land use plans.

Since time immemorial, our people, the Tamayame, or the Pueblo of Santa Ana, have lived along the banks of the Rio Grande and

the Rio Jemez. We have endured through the centuries by maintaining our traditional, cultural, and spiritual ways, which we still adapt to today.

We are strongly influenced by our connection to the natural world and the wildlife resources it provides. The potential elimination of traditionally important wildlife on the land would directly threaten our ability to engage in important religious ceremonies that ensure the persistence of our cultural identity now and deep into the future.

Wildlife habitat connectivity is essential to the conservation of wildlife species such as, and I will use my language first, [phrase in Native tongue], deer, [phrase in Native tongue], elk, [phrase in Native tongue], turkey, [phrase in Native tongue], pronghorn. The fragmentation of this land, such as by roads, threatens this connectivity. For example, Interstate 25 and U.S. 550 are two major roadways that bisect the southern half of our lands. These roads are heavily traveled, create a barrier for animal migration and pose dangerous and often fatal wildlife crossings for animals that do not navigate them as well as putting human lives at risk.

Wildlife corridors are the solution to these problems. Santa Ana has moved forward with substantial investment in the wildlife corridor that passes through our lands. Specifically, we have restored habitat, constructed water drinkers to assure adequate water for wildlife, tagged certain animals with radio collars to track their movements, and installed news cameras at key locations.

We now enjoy an abundance of [phrase in Native tongue], elk, [phrase in Native tongue], mule deer, and have seen the return of natural predators, such as [phrase in Native tongue] mountain lions. In addition, we have reintroduced a population of wild turkeys as well as antelope.

Finally, we have acquired additional lands to extend the wildlife corridor and put in place a wildlife code, which, among other things, established hunting seasons for our people.

Although S. 2891 only applies to tribal lands, we do hope to connect our corridor in a continuous fashion to corridors on Federal lands, such as the BLM adjacent to our reservation, commonly referred to as Buffalo Tract. In our term, that is [phrase in Native tongue].

We would like to note for the record that S. 2891 does not restrict private activity or limit private landholders, also, our reservation boundaries. In order for the Pueblo of Santa Ana to ensure preservation of our cultural identity for current and future generations, we must find ways to ensure preservation of our cultural identity for current and future generations. We must find ways to maintain wildlife connectivity to our land both by protecting critical wildlife corridors inside and outside of our boundaries, and by finding ways to ensure safe passage for wildlife through existing and future urban encroachment.

S. 2891 would represent a significant step in furthering this goal.

Thank you for your time.

[The prepared statement of Mr. Montoya follows:]



PREPARED STATEMENT OF HON. LAWRENCE MONTOYA, GOVERNOR, PUEBLO OF SANTA ANA

### **Introduction**

Good afternoon Chairman Hoeven, Ranking Member Udall, and Members of the Committee. Thank you for the opportunity to submit testimony for the record regarding the “Tribal Wildlife Corridors Act of 2019” (Act). My name is Lawrence Montoya and I serve as the Governor of the Pueblo of Santa Ana (Pueblo or Tamaya), a community of approximately 900 enrolled tribal members, which is located about 10 miles north of Albuquerque, New Mexico.

On behalf of the Pueblo, I would like to share our strong support for S. 2891. This bill would provide critically needed authorities to establish and support wildlife corridors on tribal lands and enhance coordination with Federal land use plans. Wildlife habitat connectivity is essential to the conservation of wildlife species such as deer, elk, wild turkey, and pronghorn antelope. Yet, ever increasingly, we are seeing the fragmentation of New Mexican land due to unsustainable development practices, including roadways. For example, Interstate 25 and US 550 are two major roadways that bisect the southern half of our lands. These roads receive heavy daily vehicular traffic loads, create a barrier for pronghorn emigration, and pose dangerous, and often fatal, wildlife crossings for animals that do navigate them, as well as putting human lives at risk. Wildlife corridors are a way to address the fragmentation caused by roads and related development which further fragments the landscape and degrades the quality of wildlife habitat.

As I describe below, the Santa Ana Pueblo has invested much time and effort already in the protection of wildlife and the maintenance of a wildlife corridor between the Jemez and Sandia mountains which passes through our lands. Although, S. 2891 only applies to tribal lands, we do hope to connect our corridor in a continuous fashion to corridors on federal lands, such as the BLM land adjacent to our reservation, commonly referred to as the “Buffalo Tract.” We would like to note for the record that S. 2891 does not restrict private activity or limit private landholders outside our reservation boundaries.

### **Tamaya’s Existence is Intrinsically Connected to Our Land, Wildlife, and Natural Resources**

Since time immemorial, the Tamayame, or the people of the Pueblo of Santa Ana, have lived along the banks of the Rio Grande and Rio Jemez. We have endured through the centuries by maintaining our traditional, cultural, and spiritual ways that are strongly influenced by our connection to the natural world and the wildlife resources it provides. The importance of these resources to the Tamayame cannot be understated; the potential elimination of traditionally-important wildlife on our land would directly threaten our ability to engage in important religious ceremonies that ensure the persistence of our cultural identity, now, and deep into the future.

Historically, we maintained our culture by gathering important plant and wildlife resources from a large ancestral homeland that extended across approximately 1.8 million acres. However, since European establishment in New Mexico in the sixteenth century, the Tamayame homeland has been drastically reduced.

Today, we persist on a relatively small land base, but we maintain approximately 98 percent of our lands as undeveloped to try and help provide enough open space for wildlife and plants to thrive. However, for traditionally- important species such as mule deer, pronghorn, elk, black bear, and mountain lion-which require large home ranges to meet their annual requirements-our land base remains too small.

### **Santa Ana’s Investment in a Wildlife Corridor**

Santa Ana has already moved forward with substantial investments with regard to the wildlife corridor that passes through our lands. Specifically, we have restored habitat, constructed water drinkers to assure adequate water for wildlife, tagged certain animals with radio collars to track their movements and installed and used cameras at key locations. We now enjoy an abundance of elk and mule deer and have seen the return of natural predators, such as mountain lions. In addition, we have reintroduced a population of wild turkeys, as well as antelope. Finally, we have acquired additional lands to extend the wildlife corridor and have put in place a wildlife code, which among other things, establishes hunting seasons for our people.

As an attachment to this testimony, I have provided a short description of Santa Ana’s wildlife corridor efforts, especially with regard to our desire to see the Buffalo Tract, currently managed by the U.S. Bureau of Land Management (BLM), also protected as a wildlife corridor. Currently, the BLM parcel is threatened by potential development that would ultimately destroy the corridor itself and negatively impact

wildlife movement throughout this part of New Mexico. Protecting these two parcels together in an integrated manner—as could be facilitated under S. 2891—would assure the preserved vitality of this corridor and protect the vital link between the mountain ranges.

**Conclusion—The Pueblo of Santa Ana Strongly Supports S. 2891 and Its Furtherance of Wildlife and Seascape Connectivity on Tribal Lands**

In order for the Pueblo of Santa Ana to ensure the preservation of our cultural identity for current and future generations, we must find ways today to maintain wildlife connectivity to our land by both protecting critical wildlife corridors inside and outside our boundaries and by finding ways to ensure safe passage for wildlife through existing and future urban encroachment along our boundaries. S. 2891 would represent a significant step in furthering this goal.

Therefore, on behalf of the Pueblo of Santa Ana, I am here to say that we are encouraged by the benefits the Tribal Wildlife Corridors Act of 2019 could have on our culture, and I would like to share the Pueblo's strong support of the bill. Thank you.

**Attachment**

**THE SANTA ANA PUEBLO WILDLIFE CORRIDOR PROPOSAL**

Since time immemorial, the people of the Santa Ana Pueblo have lived along the banks of the Rio Grande and Rio Jemez. In accordance with our traditions and beliefs, we seek to preserve and protect an existing wildlife corridor connecting the Jemez and Sandia mountains. This corridor passes through 14 miles of our land, and another 1.5 miles of land currently managed by the U.S. Bureau of Land Management (BLM “Parcel A”)—land which we seek to acquire. Adding BLM Parcel A to Santa Ana's conservation lands would assure a near-continuous link between the federal lands in and around the Sandia Mountains and the federal and Indian lands surrounding the Jemez Mountains. However, the BLM parcel is now threatened by potential future development, which would ultimately destroy the corridor itself and negatively impact wildlife movement throughout this part of New Mexico.

The people of Santa Ana Pueblo (“Tamaya”) place a high value on the conservation and responsible stewardship of the Santa Ana Indian Reservation's environment and natural resources. In 1996, the Tribal Government created the Santa Ana Department of Natural Resources (SADNR), whose mission is to develop and implement natural resource management programs which protect, preserve and enhance the natural living environment for current tribal members and future generations. The SADNR also works to develop programs which assess the condition of air, water, and land resources and to develop and maintain technical expertise within the tribe for managing environmental and natural resources. In 2005, the Pueblo adopted a comprehensive Wildlife Code, and the Pueblo has also initiated a variety of habitat improvement projects to address habitat loss or modification resulting from environmental threats. These efforts have achieved successful, quantifiable results on our reservation lands. For more information, visit [www.santaanadnr.org](http://www.santaanadnr.org).

Despite Santa Ana's conservation achievements, efforts within the boundaries of our relatively small reservation will not be enough to ensure the long-term persistence of wildlife species such as deer, elk, wild turkey, and pronghorn antelope that are wide-ranging and require large expanses of wildlands to forage, migrate, and breed. Wildlife habitat connectivity is essential to the conservation of these species, but is in danger of being lost forever on ancestral lands that have passed from the Santa Ana Pueblo's control over the centuries and are now being transformed from open space to urban development. Therefore, the Pueblo is committed to reacquiring and protecting a small piece of BLM land that represents a critical piece of the puzzle—BLM Parcel A—that will help contribute to the Pueblo's wildlife population objectives while at the same time preserving land that will benefit not only the wildlife that depend on it, but all New Mexicans as well.

We want to hear from you! Please direct your questions or letters of support to: Attn: Governor, Pueblo of Santa Ana, 2 Dove Road, Santa Ana Pueblo, NM 87004, or send by email to [wildlifecorridor@santaana-nsn.gov](mailto:wildlifecorridor@santaana-nsn.gov).

The Pueblo's proposal includes the following measures and activities on BLM Parcel A:

- Vegetation and Watershed Assessment
- Rehabilitation of mined lands
- Restrictions on future development and mining
- Release from livestock grazing

- No vehicles permitted except on existing easements
- Closure and rehabilitation of non-essential roads
- Additional public safety measures
- Wildlife water development

The Pueblo is opposed to the following activities on BLM Parcel A:

- Urban development
- Any new roads
- Sand/Gravel/Precious Metal Mining
- Livestock Grazing

Over-grazing of feral horses that results in the total destruction of the natural habitat. The Pueblo advocates the humane relocation of the horses to a protected area as the environmentally responsible course of action.

The CHAIRMAN. Thank you, Governor Montoya.  
Now, Councilman Auginaush.

**STATEMENT OF HON. RAYMOND AUGINAUSH, SR., COUNCIL  
MEMBER, WHITE EARTH NATION**

Mr. AUGINAUSH. Good afternoon. Thank you, Chairman Hoeven, Vice Chairman Udall, and all the distinguished members of the Indian Affairs Committee.

My name is Raymond Auginaush, District I Representative of the White Earth Nation. It is an honor and a privilege to stand before you today with testimony on the need for increased Federal resources to support tribal energy projects.

I want to thank Senator Smith for submitting our request to testify. She has been a true friend to our Native people in Minnesota and throughout this Nation.

I have made the trip to Washington, D.C. to speak strongly in favor of S. 2610, the Tribal Energy Reauthorization Act. This legislation is critical to the future of all Native people. We believe energy issues will be the basis for future economic development on tribal lands. This legislation will continue the excellent programs of the past and expand this critical area for Native people in the future.

I, and all members of the White Earth Reservation Business Committee appreciate today's scheduled hearing on this important matter for all Native people. Much like other Minnesota Chippewa Tribe members, White Earth Reservation residents have suffered from the effects of energy poverty which results from extremely high energy costs in relation to minimal household income levels and poor energy efficiency. The factors contributing to this include poorly insulated homes, expensive fuel oil, propane and electric bills, frequent power disconnects, and high shutoff and reconnection fees.

For the past 16 years, White Earth has worked with the Department of Energy to combat the reservation's energy crisis as we recognized economic opportunity comes from sustainably addressing this situation. The DOE has been supportive of our strategic energy planning, including conducting feasibility studies and renewable energy deployment for solar, biomass and wind projects. Specific DOE projects include wind energy deployment, solar energy deployment, a biomass feasibility study for our tribal casino, and

Tribal Energy Program First Steps funding to develop a comprehensive strategic energy plan.

Without DOE assistance, our limited resources would not have allowed the progress White Earth has achieved to this date. Energy is an emerging economic opportunity for White Earth and its people.

Presently, the two largest employers on the reservation are the tribal casinos and the tribal government offices. When renewable energy is deployed, a vast number of new career opportunities are created in many different segments, including engineering, management, administration, accounting and customer service, thus increasing economic diversity for the people of White Earth.

In August 2019, the White Earth Reservation Business Committee passed a resolution launching the Renewable Energy Independence Initiative directed at taking control of the energy economy within the reservation boundaries, as well as seeking potential renewable energy investment opportunities that advance investment priorities.

The White Earth RBC is resolved to develop a comprehensive, clean energy independence master plan and to set forth a strategic vision for the production, distribution, consumption, and conservation of energy within the service delivery area of White Earth Reservation. The plan being developed will strive to stabilize energy costs for White Earth residents, create greater control of energy imports, grow community capacity for self-generation by solving the community development process, and sustain and grow existing energy renewables.

White Earth is currently focusing on maximizing the development of wind and solar energy; however, other energy opportunities are emerging. White Earth anticipates pursuing additional DOE funding, including utilizing DOE tribal loan guarantees for future projects such as solar farms, natural gas, hydro energy, and the creation of a tribal utility commission and electric utility.

Presently, an energy utility feasibility study is being developed that will guide leadership regarding organization and prioritizing projects throughout the decision-making process.

In closing, I would like to say Miigwech for the opportunity to speak on behalf of White Earth. The White Earth Reservation Business Committee appreciates being included on this important matter and is happy our voice was heard today. Miigwech to the members of the Committee for your hard work and dedication to improving the lives of all tribal members.

[The prepared statement of Mr. Auginaush follows:]

PREPARED STATEMENT OF HON. RAYMOND AUGINAUSH, SR., COUNCIL MEMBER,  
WHITE EARTH NATION

Thank you Chairman Hoeven, Vice Chairman Udall and all the distinguished Members of the Indian Affairs Committee. My name is Raymond Auginaush, District I Representative of White Earth Nation. It is an honor and a privilege to stand before you today with testimony on the need for increased federal resources to support tribal energy projects. I want to thank Senator Smith for submitting our request to testify. She has been a true friend to native people in Minnesota and throughout this nation.

I have made the trip to Washington, D.C. to speak strongly in favor of S. 2610, the Tribal Energy Reauthorization Act. This legislation is critical to the future of all native people. We believe energy issues will be the basis for future economic de-

velopment on tribal lands. This legislation will continue the excellent programs of the past and expand this critical area for native people in the future.

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For the past 16 years, White Earth has worked with the Department of Energy to combat the reservation's energy crisis as we recognized economic opportunity comes from sustainably addressing this situation. The DOE has been supportive of our strategic energy planning, including conducting feasibility studies and renewable energy deployment for solar, biomass and wind projects. Specific DOE projects include:

- wind energy deployment in the form of one 750 kW and two 50 kW wind turbines,
- solar energy deployment ranging in size from 1.8 kW to 40 kW in 3 community facilities
- a biomass feasibility study for our tribal casino,
- and Tribal Energy Program First Steps funding to develop a comprehensive strategic energy plan.

Without DOE assistance, our limited resources would not have allowed the progress White Earth has achieved to this date.

Energy is an emerging economic opportunity for White Earth and its people. Presently, the two largest employers on the reservation are the tribal casinos and the tribal government offices. When renewable energy is deployed, a vast number of new career opportunities are created in many different segments including engineering, management, administration, accounting and customer service; thus, increasing economic diversity for the people of White Earth.

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The White Earth RBC is resolved to develop a comprehensive, clean energy independence master plan and to set forth a strategic vision for the production, distribution, consumption, and conservation of energy within the service delivery area of White Earth Reservation. The plan being developed will strive to:

- stabilize energy costs for White Earth residents,
- create greater control of energy imports,
- grow community capacity for self-generation by solving the community development process
- sustain and grow existing energy renewables.

White Earth is currently focusing on maximizing the development of wind and solar energy; however, other energy opportunities are emerging. White Earth anticipates pursuing additional DOE funding, including utilizing DOE tribal loan guarantees for future projects such as:

- Solar farms—White Earth is presently vetting developers with successful experience in developing 1 MW solar farms in Minnesota. Potential solar projects have been identified and include powering the tribal casino, constructing solar farms along existing power grids within the reservation boundaries and investing in off-reservation facilities throughout the state.
- Natural gas—White Earth has previously collaborated with multiple partners to bring natural gas to the city of Mahanomen and, more specifically, the tribal casino. This effort has made a substantial difference to the energy costs of the casino, which is one of the largest energy consumers on the reservation. Plans are currently being developed to bring natural gas to other reservation communities with the goal of considerable cost savings to individual households and other tribal facilities.

- Hydro energy—Opportunities are being explored that would allow White Earth to exert its sovereignty and delve into clean, renewable and cost competitive hydro energy.
- The creation of a tribal utility commission and electric utility—White Earth is committed to creating a tribal electric and natural gas utility commission. The efforts of the tribal utility commission would likely include acquisition of major components of the existing electrical distribution system and rebuilding as necessary for the needs of the community as it transitions to locally generated power and renewables.

Presently, an energy utility feasibility study is being developed that will guide leadership regarding organization and prioritizing projects throughout the decision-making process.

In closing, I would like to say Miigwech for the opportunity to speak on behalf of the people of White Earth. The White Earth Reservation Business Committee appreciates being included on this important matter and is happy our voice was heard today. Miigwech to the members of the Committee for your hard work and dedication to improving the lives of all tribal members.

The CHAIRMAN. Thank you, Councilman.

At this point, we will turn to questions. I will begin with Mr. Frost.

S. 2610 intends to provide electricity to Native American homes that are located on Indian lands. Your testimony indicated that your office has concerns with the removal of the cost sharing requirement. However, you also indicated that the Secretary of Energy has the authority to reduce cost share when necessary.

How often has the Secretary intervened on behalf of economically disadvantaged tribes to remove the cost sharing?

Mr. FROST. Thank you for the question, Senator.

To the best of my knowledge, in 2015, there was a cost share reduction for the Washoe Tribe. In 2013, the Office assessed cost share on a case by case basis. There were six requests, and I believe, to the best of my recollection, four or five of those were granted in the past.

But again, that is a request that has to come from the tribes. And that is also elucidated within our funding opportunity announcements, to alert tribes of that option as well.

The CHAIRMAN. Thank you.

Mr. Guertin, the term corridor in S. 2891 is defined as “a distinct component of a landscape or seascape that a, provides habitat or ecological connectivity, and b, allows for fish, wildlife or plant movement.” Does the U.S. Fish and Wildlife Service envision a circumstance in which it may approve the establishment of a tribal wildlife corridor solely for plant movement?

Mr. GUERTIN. Thank you, Senator. We anticipate there may be some interest on behalf of some of the tribes to prioritize such a corridor. We believe, based on past experience, the preponderance of any type of designation or proposal will probably more likely be centered on either animals or fishery species, birds and things like that. That is just looking back at similar programs we fund through our Tribal and State Wildlife Grants Program and other technical assistance that is provided.

Past experience would show it would probably be more focused on fisheries and wildlife resources.

The CHAIRMAN. Describe a plant corridor.

Mr. GUERTIN. Plants, when people talk about migration, a model of deer walking across a landscape doesn't apply. Plants disperse

themselves through the distribution of seeds. Insects pick it up, the wind carries them, a watershed may float it. Scat carries a lot of seeds across the landscape.

The rate of growth for a plant to expand is measured probably in meters or yards, rather than a herd of elk or big game moving across hundreds of miles. So it is a different kind of biological phenomenon, but a colonization can take place over greater ranges in some occurrences as well.

The CHAIRMAN. Do you do something to create that corridor for plant movement?

Mr. GUERTIN. Would we actively do something, Senator?

The CHAIRMAN. Yes.

Mr. GUERTIN. There are ways to plant vegetation. An example may be after a wildland fire, coming through, trying to reestablish native vegetation and things like that.

The CHAIRMAN. How does the U.S. Fish and Wildlife Service believe the bill will affect private landowners adjacent to Indian lands as it relates to the use and enjoyment of their properties?

Mr. GUERTIN. Our read of the bill, Senator, is that it would not impact any use of private landowners. This is written, from our read, as a vision for voluntary, non-regulatory efforts within land managed and owned by our tribal partners. It would be up to any surrounding landowners if they wanted to partner up with the tribes to make that connection. But the bill, from our read, does not put any nexus onto private landowners.

The CHAIRMAN. You don't anticipate that it would have negative impacts on surrounding landowners?

Mr. GUERTIN. Not to our read, no, sir.

The CHAIRMAN. That is something that would be managed according to avoid something like that.

Mr. GUERTIN. Yes. The vision is to develop a partnership with a shared vision on these landscapes. It is in the leadership wheelhouse for the tribes to make that determination their land. If their surrounding neighbors want to partner up with them, that is up to the decisions of individual landowners.

The CHAIRMAN. All right. Thank you.

Vice Chairman Udall.

Senator UDALL. Thank you, Mr. Chairman.

Your description reminds me, Mr. Guertin, of what a climatologist told me, this is with regard to plants. We were in an area on a river trip. He said, if you have a certain pine tree in the area that grows at a certain temperature, and we have, as we know, global warming and climate activity, the trees then move up the hill, as you were saying, at a very low rate.

The problem for the tree in extinction is that when the tree reaches the top of the mountain and the heat is all the way there, then the tree disappears. So I think you gave a pretty good example there. Trees don't move very quickly, but it can happen that they try to migrate for climate or other reasons.

Governor Montoya, we agree there is a need to increase the capacity of tribal communities to coordinate wildlife management strategies across entire landscapes, and to establish a framework to enhance the use of wildlife corridors. But I want to focus on the public health and safety advantages of wildlife corridors. For exam-

ple, the New Mexico Department of Transportation reported 15,213 animal-vehicle collisions between 2001 and 2016.

Can you talk about the benefits of wildlife corridors from a public health and safety perspective, and the perspective of your Pueblo, also?

Mr. MONTROYA. Thank you, Senator. Yes, an example would be the interstate that crosses through our reservation, which is probably about two miles long. But the wildlife coming off the Sandia Mountains from the east to the west, it is pretty dangerous. We have a uniformed police department and so on the reservation, again, the wildlife is really important for our religion. So if a bear gets hit, an owl gets hit, or a mountain lion gets hit, we are first informed as to knowing. Because on the reservation land, we take them and we use them for ceremonial purposes.

But to the question regarding the safety, we have been talking to the department of transportation. There are corridors within the United States that have been built to actually help the wildlife go through those corridors alive, and to have that impact on human lives and dangerous crossings. Most of the accidents that do happen are, our data is because they are nocturnal, they are in early morning or after midnight or early morning hours. People traveling at night, visibility is limited.

So there is again, we have seen it, the impacts are really significant. I think it is going to take a collaboration of this bill and having to deal with other entities, public landowners and the highway department to make things work. We are only a small component to try and establish that goal. But there is a significant impact.

Senator UDALL. Thank you, Governor.

Mr. Guertin, the rationale for Secretarial Order 3362 recognizing the adverse impact of population growth in the west on fish and wildlife habitat aligns with the need to increase the use of wildlife corridors for the benefit of all species. It seems like there is a real opportunity for us to work together, not only to benefit big game hunters and States, but to benefit all species and interested Indian tribes.

Does the Fish and Wildlife Service support broadening the use of wildlife corridors beyond the beneficiaries mentioned in the Secretarial Order, whether through more direct engagement with tribe to establish wildlife corridors on tribal lands, or to expand the application beyond big game species?

Mr. GUERTIN. Yes, Senator, we are very interested in working with the Committee as you frame up the final language for the bill. The Secretary's order focused on those three iconic big game species, and our initial efforts focused, with our State partners, on those. Tribes were certainly part of the mix as we moved forward to implement that.

But the Secretary's Order really builds on our larger ongoing work, where we are working with the North American Waterfowl Management Plan, where we are essentially managing several concurrent corridors for migratory birds and neotrops. Our ongoing partnership work with Monarch butterflies and these big corridors, our work with interjurisdictional fisheries, that fish passage and opening up habitat for spawning and rearing. So it is building on that.



The Service's interest is to work with the Committee as you step down into the operational details of making this go live, as it comes online, sir.

Senator UDALL. Thank you.

Governor Montoya, can you elaborate on the importance of wildlife to the Pueblo from a religious and cultural perspective, and discuss how 2981 could build upon the progress that has been made with existing wildlife corridors?

Mr. MONTOYA. Thank you, Senator. I will say it is really, really relevant in terms of the culture that we know. In the new millennium, we have not changed. The one thing that has changed is that we had ancestors coming from back here forward. So we sit here as a testimony of keeping that tradition going.

So I guess to your question, because of the bureaucracy and the process, for instance, when we work with the State on the antelopes and the turkey, sometimes there is a difficulty. Because there is a limited amount that has to be distributed. But we have had a pretty good relationship with them.

Again, those are things that we couldn't do ourselves. It has to be a collaboration with agencies. We really appreciate that the State game and fish in New Mexico has worked with us diligently on doing that.

The other way that it will work, going back to our earlier discussion on corridors, wildlife really don't know boundaries. They will follow a true hot spot to get from point A to point B. That is a reflection of your concern right now, the encroachment of homes, roads. They are not going to change their mind in terms of where they are going to go, and that is the reason why we have fatalities with those large animals.

Just to reiterate, our data shows that we do collar a lot of the big game, mountain lion, bear, antelope, deer. So basically, as of today, we can tell where the animals are going. All those hot spots that show up on the radio collars indicate that nothing has changed. This is just probably going to get worse because of community growth.

So again, it is really important for us that we try to save whatever species are going to be available in those corridors.

Senator UDALL. Thank you, Governor Montoya. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Smith.

**STATEMENT OF HON. TINA SMITH,  
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Thank you so much, Chair Hoeven and Vice Chair Udall for my birthday greetings, and also for holding this hearing today, including on S. 2610, the Tribal Energy Reauthorization Act.

The CHAIRMAN. You get extra time.

[Laughter.]

Senator SMITH. Thank you.

I am really so delighted to be able to work on this bill with Senator Murkowski. I am also just so happy to see Councilmember Auginaush here with us today from the White Earth Nation. I am so grateful for your leadership and the leadership of the White

Earth Nation on energy and your work to move toward energy independence.

So today we are considering this bill, the Tribal Energy Reauthorization Act, which as I said, Senator Murkowski and I are working on together. This bill would reauthorize and improve the Department of Energy's Office of Indian Energy, as well as the Tribal Energy Loan Guarantee Program. These programs would be reauthorized with increased authorized appropriations through 2030.

I also would like to just note, apropos of Mr. Frost's comments, that this bill would not eliminate cost sharing. We would be happy to continue to work with you and to continue the conversation on that aspect of the bill as well.

Councilmember Auginaush, you and I have had a chance to talk a lot about how important this project is to White Earth Nation. It really grows out of this understanding that we all share that clean energy is not only good for the environment, but it is good for the economy and good for the economic opportunities that are present on White Earth, as would be the case on tribal nations everywhere.

As you said in your testimony, these energy projects have the opportunity to be a great foundation for economic development for the tribe. So I am wondering if you could just say a little bit more about how White Earth has benefited from the work that you have already done to develop clean energy and what this means to the Tribe in terms of economic development and workforce development, and also what it means to the region.

Mr. AUGINAUSH. Yes, thank you, Senator Smith. In the two years I have been on this council, we have been very actively working with our tribal energy. We have set up solar panels on our buildings. We are also looking into wind energy and different other things that we are moving right along with.

Mainly our solar panels have really made a significant difference on our tribal buildings. We hope to set them up where we could set them up with our housing to help our people in our housing bills. But not only for our people, but we are also looking at all people on the reservation which are non-Natives, who are also struggling with the same problems we have, as far as high energy bills and fuel bills.

So we are not only looking out for ourselves, we are also looking out for people who live on the reservation who are within our boundaries to help them out also. But we are, as was said, money is short, but we are always looking out, and I very much appreciate this bill that is being pushed through here, or I shouldn't say pushed through, but being brought through.

Senator SMITH. You can say pushed through.

Mr. AUGINAUSH. If it were up to me, I would push it through.

[Laughter.]

Mr. AUGINAUSH. But that is beside the point. Anyway, this is an excellent opportunity for us to grow, and we are looking at bringing in companies onto the reservation. We can give them tax breaks; we can give them this and that. At the same time, we are looking at gaining more for our people for job opportunities. Right now, our

biggest opportunities are at casinos, and some people, that just doesn't fit them. They work there so long, then they are done.

So we are looking at different job opportunities into this energy deal. We can bring in a lot of jobs here that will actually help a lot of our people. But again, not only our people, non-Native people.

Senator SMITH. Certainly it benefits White Earth Nation, but it also benefits the broader region as well, because of the economic activity.

Mr. AUGINAUSH. Exactly. It would certainly benefit the White Earth Nation, but as we say, we like to share. So we are looking at our counterparts who live within our reservations to include them in with us. We are not doing this just for the sole purpose of White Earth Reservation. We are doing it for also those who live on the reservation, so we can help them out also.

Senator SMITH. Thank you very much. Again, thank you for making the long trip from White Earth Nation.

Mr. AUGINAUSH. You are welcome. Again, I appreciate you very much for helping us out there, and I appreciate you for having us here today. I hope you have safe travels in your next travels home. Especially you, Mr. Hoeven, I know you live in that cold country where we live.

[Laughter.]

The CHAIRMAN. Thank you.

Mr. AUGINAUSH. Miigwech.

The CHAIRMAN. Thank you, Councilman, we appreciate it very much. Thank you for being here.

Senator SMITH. Miigwech. Thank you.

The CHAIRMAN. Thanks, Senator. Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Senator Hoeven and Ranking Member.

I am pleased that we have this bill in front of the Committee today. I thank Senator Smith for her leadership, her teamwork on this. I think we recognize that there is great potential here.

I think it is somewhat timely that as we are on the Floor right now with an updated Energy Bill, we recognize that this Office, OIE, was established by the Energy Policy Act of 2005. So we are now a dozen plus years beyond that and I think we recognize that the good work of the Office of Indian Energy can be tweaked or encouraged. I think that is what our legislation really does seek to do, and kind of leveling that playing field for project grants, regardless of tribal landownership structure, allowing non-profit electric co-ops that serve our tribal communities to apply for OIE funding.

Recognizing that OIE should take into consideration the fiscal ability of a grant applicant to meet the cost share requirements, we have had discussion about that. I know that that is very important.

Also, what more can be done to utilize OIE as really this clearinghouse. I think we recognize that for some of our tribal entities, DOE is pretty imposing, it is pretty intimidating, and it is a tough thing to navigate. So to really allow OIE to help facilitate that I think is an important part of what we are trying to do within this legislation.

I will ask you, Director Frost, on that. But before we get into the details of that specifically, I wanted to ask about the staffing within the Alaska office. I believe that there are two positions that you have recently noticed as open for the Alaska office. Can you give me an update on where we might be with filling those two positions, and the timeline for bringing folks on board?

Mr. FROST. Thank you for the question, Senator Murkowski.

In terms of an update, the Office of Indian Energy is actively working on recruitment. We expect to have a replacement for the general engineer in Alaska by the end of April.

We are currently reviewing candidates for the new senior advisor position in Alaska. Both of those have also closed as well.

Senator MURKOWSKI. They have closed.

Mr. FROST. Yes, they have closed.

Senator MURKOWSKI. Okay, so we would at that time period, I know it has been a frustrating process for you in terms of the timelines. It is certainly a frustrating process for those who are waiting to have the expertise that these individuals will provide. I am glad that we have at least gotten through that part, and hopefully we are going to have good folk accept these positions.

I wanted to speak to this aspect of information clearinghouse. The language in the bill is intended to have your office serve as a liaison with the rest of the Department of Energy, so that if, for instance, you have a funding opportunity that comes up through EERE, that might be appropriate for one of the tribes, you have been brought up to date in terms of what the needs of the tribes are.

The design of all this is that your office then can act as the liaison for the tribe to that other office within DOE. This is not unlike what the Office of Technology Transitions does between the private sector and the national labs. They basically help to facilitate these opportunities.

So do you think that this is something that your office can explore to serve as an information and support clearinghouse for tribal entities all across the department?

Mr. FROST. Senator, earlier in my oral testimony I did provide and state that the entirety of OIE staff kind of already performs that function. We gather not only tribal opportunities as well, in terms of funding opportunities, but also within DOE and across the entire Federal family. We house all that information on our website.

So we are already presently doing that. We will continue to do that in the future, because not only is it a best practice, but we want to make sure that in terms of the non-DOE Federal cost share that tribes avail themselves to a lot of other opportunities which may help them stand up their energy development projects.

Senator MURKOWSKI. We want to help facilitate that, so that this is truly operational. I know that there have been some opportunities that have been limited by narrow application of OIE's authorities in Alaska under existing law. So I would like to think that if we are able to identify where those choke points are that we can work to address them so that the opportunities that this office presents can be fully made available.

I know that we have had conversations together where I have expressed my frustration. I think part of it is you have small, often-times unsophisticated tribal entities that are trying to navigate something that is just so foreign to them. We send them to you, and it has been another level of bureaucracy.

So all that we can do to better integrate and better act as that liaison, I think this is ultimately what we are all trying to do. Same goal: we just have to make sure that we are all working together to make that happen.

Mr. FROST. Senator, the Office definitely looks forward to continuing a conversation with you as well, so that we can find that common ground and work in the best interests of Indian Country and Alaska Native villages. We welcome that conversation.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cortez Masto.

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,  
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, Chairman Hoeven and Ranking Member Udall. Thank you to the panelists for being here today.

Mr. Frost, I would like to start with you. In Nevada, we have the Desert Research Institute. DRI has joined the University of Arizona in partnering with the Hopi community leaders to help alleviate the energy insecurity that has resulted within the Hopi community after that Kayenta coal mine in Navajo Generating Station closed in 2019, which restricts the Hopi Tribe's access to its primary energy resource.

Together, the University of Arizona, DRI and the Hopi community leaders are working to deploy community-based energy security solutions which include affordable household level off-grid residential systems. It is the hope of this partnership that these renewable energy solutions will provide energy security to the community.

So my question to you is, is the Office of Indian Energy aware of the urgent need to help these Hopi families as they transition off the grid to sustainable energy solutions? What is the Office of Indian Energy and other Federal agencies doing to ensure energy security solutions for the Hopi communities are community-based, incorporate community workforce training and are respectful of the Hopi culture and traditions?

Mr. FROST. Thank you for the question, Senator.

While I can't speak on behalf of the other members of the Federal family, but I can speak on what we do within the Office of Indian Energy, as well as utilizing and leveraging a lot of the resources as well within the department in general.

One thing we have been doing, yes, I am aware of the issue that the Hopi are dealing with as well as that collaboration with the University of Arizona. I did have some discussions on that this morning. The one thing that the office can do, we are kind of what is known as an opt-in office. Tribes kind of have to step through our door as well, even though we have some understanding of what is going on within Indian Country.

Senator CORTEZ MASTO. So in other words, just so I understand this, you may have knowledge of something that is happening within the community, but until they ask you, don't take any action, is that right?

Mr. FROST. Yes. Let me rephrase. Yes, we do that, but we also adhere to the tenets of tribal sovereignty and self-determination in our office.

Senator CORTEZ MASTO. Okay.

Mr. FROST. With our office, if that is the tribe's goal, we always make ourselves available at any and all times to have discussions with any one of the 574 federally recognized tribes. Up until that point, the Hopi Tribe has not come directly to our office.

Senator CORTEZ MASTO. Okay. No one within this partnership has come to your office to seek assistance on behalf of the tribe, the Hopi Tribe.

Mr. FROST. The only one that we have had come through here was the University of Arizona. We did respond to them today, just for your edification as well.

Senator CORTEZ MASTO. Okay, thank you.

Mr. FROST. But what we also have the ability to do, as I know Hopi, a lot of their economic base is well-nestled within coal. So we also partner with what we call our Fossil Energy Office within the department. We also work to utilize not only their budget but their expertise in terms of subject matter experts, and their staff as well, to kind of look at a lot of these wide-ranging issues in general, issues that affect, at least I should say that go beyond the borders of the Hopi Reservation as well.

But we can also harness technical assistance, and the tribe itself can also make that request to us, through our technical assistance page, on our web page, which we always respond to tribes. But in the event that we are unable to fill that need by having strong partnerships and collaboration across the entire Federal family, we can get them in front of the right office.

For example, if they were looking for something in the realm of a feasibility study, if the Fossil Energy Office isn't able to accommodate, then we could also utilize the Division of Energy Mineral Development within BIA, as well, or even the Indian Energy and Economic Development Office as well. These are some of our strong partners we have had in the past. Since I have become the director, we have solidified those relationships. Right now, we have a great working relationship with those offices.

So any time we hear some of these issues, they will collaborate with us and they will kind of give us some heads up and situational awareness. Then we will continue those discussions.

But as always, when it comes to some of the cultural relevancy for the tribe as well, as an example, the tribe was going to look to use some technical assistance, or if they were actually going to look to stand up an energy project through one of our funding opportunities, the tribe has the ability to site that project where they wish to site the project. That is taken into account all the tribe's cultural, historical and traditional knowledge and references as well.

We don't impose anything on the tribes as an office. We allow the tribes to tell us where they want the project, what type of technology they wish to use. By maintaining and keeping the Office of

Fuel and Technology neutral, that gives the office the ability, one, to allow its entire suite of services to be available for all 574 federally recognized tribes. We honor every tribe's individual energy development goals and utilize our small staff and our limited amount of resources to the best of our ability to efficiently and effectively help them overcome any obstacles.

Senator CORTEZ MASTO. So do you engage in workforce training as well?

Mr. FROST. At this time, we do not engage in any workforce training.

Senator CORTEZ MASTO. Okay. So let me ask you then, because I think I heard in your statement with respect to S. 2610 that you didn't think there was a need for the liaison for the tribes. If you could, explain this to me. That is work that you are already engaging in, the staff is.

Mr. FROST. Yes.

Senator CORTEZ MASTO. So you didn't need an additional person to do that work?

Mr. FROST. No. Our staff already handles that in terms of looking at all the different funding opportunities, whether we are going out to a specific tribal event, whether that is a ribbon cutting for a project, or whether we are looking more on a regional event or working on some of the other inter-tribal organizations around the Country. We go out and also bring that message with us about what we are doing in the office, some of those funding opportunities as well.

As an example, quite recently, we have had a team member from our Golden field office go to Seminole's renewable energy conference in Florida. There, they talked about a brief overview of the office, talked about some of the funding opportunities that are available, and actually answered questions in real time, some of the Q&A from the audience members as well.

We also do that on a national basis, because the office articulated within the language for the office, we do have a biannual national tribal energy summit. So during that time every two years, we do get a lot of these funding opportunity announcements available, and we also pull together a lot of the Federal family that works collaboratively with Indian Country when it comes to energy development.

Senator CORTEZ MASTO. Okay. Thank you very much.

The CHAIRMAN. Thank you to all the witnesses. The hearing record will be open for two weeks. Again, we appreciate your being here, and your testimony.

With that, our hearing is adjourned. Thanks so much.

[Whereupon, at 3:33 p.m., the hearing was adjourned.]





## A P P E N D I X

### PREPARED STATEMENT OF HON. VICTOR JOSEPH, CHIEF/CHAIRMAN, TANANA CHIEFS CONFERENCE

Chairman Hoeven, Vice Chairman Udall, and members of the Senate Committee on Indian Affairs (“Committee”), I am submitting this testimony on behalf of the Tanana Chiefs Conference (TCC) for the record of the Committee’s March 4, 2020 Legislative Hearing on S. 2610, the Tribal Energy Reauthorization Act. TCC supports S. 2610 with an amendment to ensure that Alaska Native Villages can take full advantage of the opportunities provided by the Energy Policy Act.

The Tanana Chiefs Conference is a non-profit intertribal consortium of 37 federally recognized Tribes and 41 communities located across Alaska’s vast interior. Headquartered in Fairbanks, AK, TCC serves approximately 18,000 tribal members in Fairbanks, and in the rural villages. TCC aims to meet the health and social service needs of tribes and tribal members throughout the region, which is nearly the size of Texas.

TCC would like to thank Senator Lisa Murkowski, Senator Dan Sullivan, and Senator Tina Smith for introducing S. 2610, which would amend the Energy Policy Act. We appreciate the bill’s attempt to ensure that Alaska Native Villages can take full advantage of the grant opportunities provided by the Department of Energy’s Office of Indian Energy Policy and Programs (“OIE”). While TCC shares this goal, the bill may still not allow Alaska Native Villages to fully benefit from those opportunities. In addition, the bill would not clarify that Alaska Native Villages are eligible to access certain tribal energy programs at the Interior Department.

The Energy Policy Act of 2005 (Public Law 109–58) (“Act”) created opportunities at both the Department of Energy and the Department of the Interior to help support the development and use of tribal energy resources. Section 502 of the Act created the Office of Indian Energy Policy and Programs (OIE) within the Department of Energy (42 USC 7144e). Further, Section 503 of the Act, codified at 25 USC 3502(b), states that the OIE Director “shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.” Section 503 also states that the OIE Director may provide certain grants to an Indian tribe or tribal energy resource development organization.

Furthermore, Section 503 of the Act, codified at 25 USC 3502(a), provides that the Interior Secretary “shall establish and implement an Indian energy resource development program” designed to assist Indian tribes and tribal energy resource development organizations. In addition, the Section states that the Interior Secretary shall provide certain grant opportunities to Indian tribes and tribal energy resource development organizations, including grants related to developing or obtaining the managerial and technical capacity to develop energy resources; and carrying out projects to promote the integration of energy resources.

The tribal programs authorized under the Act at both the Energy Department and the Interior Department promote tribal self-determination and grant Indian tribes greater authority over energy resources. Unfortunately, the Act’s conflicting definitions of “Indian land” and “Indian tribe” compromises the ability of Alaska Native Villages to take full advantage of those opportunities. While the Act’s definition of “Indian tribe” (25 USC 5304) is inclusive of Alaska Native Villages, it does not take into account the fact that Alaska Native Villages largely do not hold “Indian land” (25 USC 5301(2)) as defined by the Act.<sup>1</sup>

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<sup>1</sup> The Act defines “Indian land” as: “(A) any land located within the boundaries of an Indian reservation, pueblo, or rancharia; (B) any land located within the boundaries of an Indian reservation, pueblo, or rancharia, the title to which is held—(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian; (ii) by an Indian tribe or an individual Indian, subject to a restriction against alienation under laws of the United States; or (iii) by a dependent Indian community; and (C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement

Continued

The Alaska Native Claims Settlement Act (ANCSA) vested land ownership in Alaska's forprofit, regional and village corporations, rather than the tribes. As a result, Alaska tribes own essentially none of the 44 million acres of land transferred to Native entities under ANCSA. Unfortunately for Alaska Native Villages, the Interior and Energy Department tribal programs authorized under the Act are primarily tied to "Indian land."

The Tanana Chiefs Conference appreciates the fact that some Alaska Native Villages have had the opportunity to utilize the tribal programs authorized under the Energy Policy Act. However, we are aware of others being denied participation due to the fact that they do not hold "Indian land." In order to provide clarity and certainty, TCC recommends amending the definition of "Indian land."

TCC supports S. 2610's attempt to address the "Indian land" situation for the Alaska Native Villages. The bill would amend current law to include the definition of "Native," as defined in the Alaska Native Claims Settlement Act. Further, the bill would delete the term "Indian land" from multiple provisions of current law, which outline the types of grants which the OIE Director may provide.

While this effort is greatly appreciated, TCC is concerned about the complexities stemming from the bill's usage of the definition of "Native," as defined by ANCSA, which requires  $\frac{1}{4}$  blood quantum. In addition, the bill would not resolve the "Indian land" issue for Alaska Native Villages when it comes to fully participating in the Interior Department's tribal programs authorized by the Energy Policy Act.

In order to address these concerns, TCC recommends a slightly different approach through the following amendment to S. 2610, the Tribal Energy Reauthorization Act:

Sec.—. TECHNICAL AMENDMENT. Amend Section 2(a) of S. 2610 by adding a new paragraph at the end:

(6) in paragraph (2)(C) by adding the following before the period:

" , or that is located in an Alaska Native Village Statistical Area as determined by the Bureau of the Census."

TCC believes that this straightforward amendment would ensure that Alaska Native Villages can take full advantage of the valuable opportunities afforded by the Energy Policy Act. In closing, the Tanana Chiefs Conference once again thanks Senators Murkowski, Sullivan, and Smith for introducing S. 2610, the Tribal Energy Reauthorization Act. We also applaud the Senate Committee on Indian Affairs for holding a hearing on the bill and allowing us the opportunity to submit testimony on the bill. TCC urges the Committee to support our proposed amendment to S. 2610 and approve the bill.

THE WILDERNESS SOCIETY  
March 3, 2020

Hon. John Hoeven, Chairman;  
Hon. Tom Udall, Vice Chairman,  
Senate Committee on Indian Affairs,  
Washington, DC.

Dear Chairman Hoeven and Vice Chairman Udall and Members of the Committee:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express our support for S. 2891, the Tribal Wildlife Corridors Act of 2019, being heard before the Senate Committee on Indian Affairs on March 4, 2020. We respectfully request that this letter be included in the hearing record.

**S. 2891, Tribal Wildlife Corridors Act of 2019**

TWS supports S. 2891, the Tribal Wildlife Corridors Act of 2019, sponsored by Senator Udall. Ecological connectivity of wildlife habitats is necessary for the survival and success of many species across the country. S. 2891 would establish a process for tribal governments to protect wildlife corridors on tribal land to facilitate the movement of native species. Through this bill, the Department of the Interior would provide assistance in establishing, managing and expanding Tribal Wildlife Corridors to improve wildlife habitat and connectivity on tribal land and for these corridors to be officially designated by the Secretary of the Interior. S. 2891 would also create the Wildlife Movements Grant Program to provide funding to tribes in establishing corridors. Indigenous communities have often led the way in environ-

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Act (43 USC 1601 et seq), or that was conveyed by the United States to a Native Corporation in exchange for such land."

mental stewardship, and this bill would allow those communities to have the necessary resources to create and maintain wildlife corridors. Given this, TWS urges all Members of the Committee to support S. 2891.

Thank you for considering our views.

Sincerely,

DREW McCONVILLE,  
*Senior Managing Director, Government Relations*

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
KEVIN R. FROST

*Question 1.* A review of recent grant awards awarded by your office shows that awards primarily go to renewable energy projects such as biomass, energy efficiency, solar, and wind power projects. Section 2(b) of S. 2610 incorporates additional criteria from the Department of Energy Organization Act, including criteria to “reduce or stabilize energy costs.” Under existing authority, could DOE award a grant to support the installation of diesel fuel generators? Does Section 2(b) change that eligibility in anyway?

Answer. Funding Opportunity Announcements (FOAs) issued by the Office of Indian Energy since 2018 have been fuel and technology neutral and have explicitly sought energy generating systems which, for purposes of the FOAs, include: (1) combined heat and power system(s), (2) conventional distributed generation system(s) and (3) renewable energy system(s). As defined in the FOA, conventional distributed generation system(s) include, but are not limited to: gas turbines (combustion engine), generators, reciprocating engines, stirling engines, microturbines, or combustion steam turbines. Therefore, the installation of diesel fuel generators are eligible under the current and recent FOAs. Based on the language of Section 2(b) of S. 2610, that eligibility would not change in anyway.

*Question 2.* Section 2 of the S. 2610 modifies the definition of “tribal energy development organization” to include Alaska Native Corporations. That phrase is also used in 25 U.S.C. 3504, which deals with leases, business agreements, and rights of way involving energy development and transmission. Alaska Native Corporations are expressly excluded from the definition of “Indian tribe” for purposes of 25 U.S.C. 3504. Under S. 2610, is it correct that Alaska Native Corporations would continue to be excluded from the provisions in 25 U.S.C. 3504?

Answer. The provisions of 25 U.S.C. 3504 are specific to the Department of Interior and outside the purview of the Department of Energy’s Office of Indian Energy Policy and Programs.

*Question 3.* Please list tribes that have applied for or received a cost-share waiver under 42 U.S.C. 16352(c)(2) and indicate the nature and extent of the cost-share reduction approved by the Secretary. Please also list tribes that were denied such a waiver and the reasons for such denial.

Answer. In 2015, the Office of Indian Energy Policy and Programs (OIE) initially offered the ability of applicants to request cost share reductions under Funding Opportunity Announcement DE-FOA-0001021. Per the FOA, DOE evaluated the cost share reduction requests based on financial need, economic benefits, and environmental benefits. Of the forty-eight applications received, nine included requests for a reduction of cost share; however, only four of those applications were forwarded for comprehensive technical review. Of those four, only two were determined to have financial need through an assessment of: (1) net worth; (2) liquidity; (3) capital structure and solvency; (4) cash flow; and (5) grant funding (amount of income from Federal grants) using twelve financial indices, and only one of those was selected for negotiation of an award. As a result, a request for a cost share reduction from 50 percent to 10 percent for the Washoe Tribe of Nevada and California was processed and approved. Below is a list of the nine applicants who requested a cost share reduction and the nature and extent of the cost-share reduction approved or denied and the reasons for such denial: Chippewa Cree Tribe (application deemed ineligible and therefore not considered for an award or a cost share reduction); Fort Belknap Indian Community (recommended for a cost share reduction; however, the application was not selected for negotiation of an award); Klamath Tribes (application deemed ineligible and therefore not considered for an award or a cost share reduction); Klamath Tribes (separate application deemed ineligible and therefore not considered for an award or a cost share reduction); Native Village of Tanacross (application deemed ineligible and therefore not considered for an award or a cost share reduction); Tuntutuliak Community Services Association Electrical Services (application deemed ineligible and therefore not considered for an award or a cost share

reduction); Warm Springs Power Enterprises (application deemed ineligible and therefore not considered for an award or a cost share reduction); Washoe Tribe of Nevada and California (selected for funding and granted a cost share reduction from 50 percent cost share to 10 percent); and the Yurok Tribe (application deemed ineligible and therefore not considered for an award or a cost share reduction).

In 2016, under DE-FOA-0001390, OIE again offered the ability for applicants to request a cost share reduction and evaluated those requests based on financial need, economic benefits, and environmental benefits. Of the forty-seven (47) applications received, 11 included a request to reduce cost share. Of those applications with cost share reduction requests, four were selected for negotiation of award and three cost share reductions were recommended and ultimately granted to Alaska Native Tribal Health Consortium (reduction from 50 percent cost share to 32 percent), Little Big Horn College (reduction from 50 percent cost share to 25 percent), and Hughes Village Council (reduction from 50 percent cost share to 16.2 percent). The White Earth Reservation Tribal Council application was selected for negotiation of an award but the Tribe was not provided a cost share reduction due to the lack of documented financial need. Below is a list of the 11 applicants who requested a cost share reduction and the nature and extent of the cost-share reduction approved or denied and the reasons for such denial: Alaska Native Tribal Health Consortium (selected for funding and granted the requested cost share reduction from 50 percent cost share to 32 percent); Association of Village Council Presidents, Inc. (not recommended for a cost share reduction due to insufficient information needed to determine financial need; regardless, the application was not selected for an award or a cost share reduction); Hughes Village Council; (selected for funding and granted the requested cost share reduction from 50 percent cost share to 16.2 percent); Kokhanok Village Council (application deemed ineligible and therefore not considered for an award or a cost share reduction); Little Big Horn College (selected for funding and granted the requested cost share reduction from 50 percent cost share to 25 percent); Mesa Grande Band of Mission Indians (not recommended for a cost share reduction as the economic and environmental benefits required as part of the request were not adequately addressed; regardless, the application was not selected for an award or a cost share reduction); Navajo Nation, Cameron Chapter (application deemed ineligible and therefore not considered for an award or a cost share reduction); Paiute Indian Tribe of Utah (application deemed ineligible and therefore not considered for an award or a cost share reduction); Port Graham Village Council (not recommended for a cost share reduction due to lack of documented financial need; regardless, the application was not selected for an award or a cost share reduction); TDX Power, Inc. (not recommended for a cost share reduction as the economic and environmental benefits required as part of the request were not adequately addressed; regardless, the application was not selected for an award or a cost share reduction); White Earth Reservation Tribal Council (not recommended for a cost share reduction due to lack of documented financial need; however, selected for negotiation of an award and agreed to provide the required 50 percent cost share).

In summary, of the ninety-five applications received under the two FOAs offering cost share reductions, twenty requests for reduced cost share were received. Of the five applications requesting cost share reductions and selected for negotiation of award, four cost share reductions were granted and only one request was denied due to the lack of documented financial need.

*Question 4.* The Tribal Energy Loan Guarantee Program was authorized in 2005 and was first appropriated funding in FY 2017. What has prevented OIE from awarding a single tribal energy loan guarantee?

Answer. OIE does not administer the TELGP. Authority to administer the Tribal Energy Loan Guarantee Program (TELG) was delegated to the Department's Loan Programs Office (LPO) in February 2018. LPO issued a draft solicitation in March 2018 and then a final solicitation in July 2018. Since the draft solicitation was issued, LPO has reached out to tribal nations and affiliated organizations to make them aware of TELGP. Based on LPO's experience with financing energy infrastructure under other authorities, the origination process leading up to the issuance of a loan guarantee, including pre-application consultation, application review, due diligence, and final negotiation of terms, can take several months or years.

*Question 5.* Why does the Administration support eliminating the Tribal Energy Loan Guarantee program and propose to cancel the \$8.5 million appropriated for the cost of loan guarantees?

Answer. The President's Fiscal Year (FY) 2021 budget request proposes to eliminate the Tribal Energy Loan Guarantee Program because the private sector is better positioned to finance the deployment of commercially viable energy and advanced vehicle manufacturing projects.

Authorized by the Energy Policy Act of 2005, funding was first appropriated for the TELGP in FY 2017. In FY 2018, the Department issued the first Tribal Energy loan guarantee solicitation to support tribal energy development. Since the draft solicitation was issued, LPO has reached out to tribal nations and affiliated organizations to make them aware of TELGP. Based on LPO's experience with financing energy infrastructure under other authorities, the origination process leading up to the issuance of a loan guarantee, including pre-application consultation, application review, due diligence, and final negotiation of terms, can take several months or years. To date, TELGP has not issued a tribal energy loan guarantee.

*Question 6.* What changes, if any, to the Tribal Energy Loan Guarantee program authorization would allow DOE to support its reauthorization as proposed in Section 2(c) of S. 2610?

Answer. The President's FY 2021 Budget eliminates the Tribal Energy Loan Guarantee Program (TEGP) and proposes to cancel the \$8,500,000 appropriated for credit subsidy.

*Question 7.* Does the reduction of carbon dioxide emissions in any way factor into the criteria of "energy efficiency" with regard to DOE decisions to award competitive grants under the Indian Energy Education Planning and Management Assistance program?

Answer. The evaluation criteria for FOAs issued by the Office of Indian Energy Policy and Programs include consideration of the extent to which the proposed project provides economic (e.g., money saved, jobs, etc.) or other benefits to the Indian Tribe(s) and tribal community, as well as the outcomes of the proposed project, both of which include environmental benefits. The "reduction of carbon dioxide emissions", however, is not a specifically identified factor in the criteria of "energy efficiency" with regard to DOE decisions to award competitive grants under the Indian Energy Education Planning and Management Assistance program.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
STEPHEN GUERTIN

*Question 1.* Please provide a list of Tribes who have received funding for wildlife corridors in the last five years out of U.S. FWS' Tribal wildlife grants program, along with a brief summary of each project.

Answer. The requested information is not compiled.

*Question 2.* Please provide an update on the implementation of Secretarial Order 3362 and discuss efforts to collaborate or work cooperatively with Tribal wildlife agencies as part of that implementation.

Answer. Secretarial Order 3362 (Order) was signed in February 2018, and a Coordinator was hired in May 2018. In less than two years, the Department has made considerable progress working cooperatively and collaboratively with eleven State fish and wildlife agencies. In the first year of implementation, the Department developed State Action Plans based on information provided by the eleven respective States. These plans were updated in year two with new information and analysis. The Department has provided funding and technical support to help the States gather data to identify big game migration corridors or winter range areas. The Department has also provided funding, through an internal and external grant process, for habitat projects within the migration corridors or winter range areas.

If Tribal land is identified within one of the State-defined priority migration corridors or winter range areas, those lands are eligible for project support under the Order. Partners, including Tribes, State agencies, non-profit organizations, then develop projects within these priority areas to address the needs identified in the State Action Plans.

*Question 3.* Has climate change played any role in reducing the quantity or quality of biggame winter range and migration corridor habitat on federal lands under the management jurisdiction of the Department of the Interior? If so, how can wildlife corridor protection help to address the effects of climate change on wildlife?

Answer. Of the States that have completed the process for identifying their priority big game migration corridors and winter range areas pursuant to Secretarial Order 3362 none have noted climate change as a direct risk factor.

*Question 4.* Has the U.S. Fish and Wildlife Service observed any benefits of wildlife corridors in the protection of endangered or threatened wildlife?

Answer. Yes, since habitat loss is one of the key factors affecting a majority of endangered or threatened species, connecting areas of suitable habitat is beneficial to many listed species. For example, the Recovery Plan for the Eastern Indigo Snake (2019), a federally threatened species, lists protection of habitat as the number one

recovery action for the species, particularly where it provides connectivity between populations. Utilizing authority under the Cooperative Endangered Species Conservation Program, the Service recently approved a Recovery Land Acquisition grant to help connect tracts of suitable habitat for the eastern indigo snake, gopher tortoise (a candidate species), and other species along the Canoochee River in Bryan County, GA. The parcel provides a connected, protected corridor of habitat suitable for eastern indigo snakes, gopher tortoises, and other high-priority species associated with this ecosystem.

*Question 5.* How would the Tribal Wildlife Corridor Act support current and future efforts to protect wildlife corridors on state and federal lands?

Answer. S. 2891, the Tribal Wildlife Corridors Act, would allow Tribes to nominate a habitat corridor for fish, wildlife, or plants on Indian land to be designated as a "Tribal Wildlife Corridor." This designation would further enable Tribes to consult with the Department and coordinate with the U.S. Forest Service to improve habitat connectivity between the Tribal Wildlife Corridor and federal public lands. The legislation would complement existing efforts of the Department and the U.S. Fish and Wildlife Service to protect wildlife corridors, including Secretarial Order 3362, to improve habitat quality in western big game winter range and migration corridors for pronghorn, elk, and mule deer; the North American Waterfowl Management Plan and migratory bird joint ventures, which are partnerships to conserve birds and habitats within certain geographic areas; Neotropical Migratory Bird Conservation Act grants, which conserve migratory bird habitat on a continental scale; and the National Fish Passage Program, which works with partners to improve fish habitat, remove barriers to fish movement, and reconnect aquatic habitats.

