



COLORADO RIVER INDIAN TRIBES

Colorado River Indian Reservation

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July 20, 2006

Attn: Section 1813 ROW Study
Office of Indian Energy and Economic Development
1849 S St. NW, Mail Stop 2749-MIB
Washington, D.C. 20240

Re: Section 1913 Study Process

To Whom It May Concern:

The Colorado River Indian Tribes provide the following comments on the Section 1813 study process as well as the attached set of general principles supporting the rights-of-way protocol currently in place.

(1) Historic Rates of Compensation

The Colorado River Indian Tribes anticipates that an examination of historical rates of compensation for energy rights-of-way will reflect repeated instances of underpayment largely through transactions negotiated between the Federal government and third party energy interests. As such, historic patterns substantiate the need to maintain tribal authority to negotiate future rights-of-way grants.

(2) Appropriate Standards and Procedures

The Colorado River Indian Tribes supports the current procedures as they are defined in 25 CFR §169 et seq.

The Colorado River Indian Tribes supports the current valuation system as set out in CFR §169.12 which requires a minimum "fair market value... plus severance damages" where they occur unless the landowners waive such minimum in writing. This process allows tribes to be energy market participants and energy business ventures like that launched by the Southern Ute Tribe have generated significant benefits for many consumers; imposition of an overarching valuation or other protocol will only impede this type of outcome.

(3) Self-determination and Sovereignty Interests

Tribes must maintain the right of consent with respect to the uses of their lands. (See 25 CFR §169.3)

Arguments that tribal consent is a threat to national security are unfounded. On the contrary, the nation's utilization of natural resources from Indian lands has significantly bolstered the country's economic security and has created a service grid on which tribes also rely.

(4) National Energy Transportation Policies

Federal law and policy should foster partnerships between tribes and industry, encouraging alignments of economic interests related to energy development, transmission and distribution. Current policies relating to energy transportation across Indian lands accomplish this goal, as tribes across the country increasingly act as energy retainers, developers and regulators.

No policy changes are needed with respect to energy transportation on Indian lands.

Thank you for your attention.

Sincerely,

COLORADO RIVER INDIAN TRIBES

A handwritten signature in black ink, appearing to read "Daniel Eddy Jr.", written in a cursive style.

Daniel Eddy Jr.
Tribal Council Chairman

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL

A Resolution Supporting Tribal Sovereignty, the Continuation of Tribal Consent of Indian Energy Right-of-Ways and the Incorporation of the Statement of Principles in the Section 1813 Right-of-Way Study

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in ~~regular~~ special meeting assembled on July 7, 2006

WHEREAS, the Colorado River Indian Tribes ("Tribe") is a federally recognized Indian tribe; and;

WHEREAS, the Colorado River Tribal Council is empowered and authorized to act on behalf of the Tribe by the Constitution and By-Laws of the tribe; and

WHEREAS, Section 1813 of the Energy Policy Act of 2005 requires the Departments of Energy and Interior to prepare a study on the compensation practices and policy implications associated with the issuance of tribal consent for energy-related rights-of-way crossing tribal lands ("Rights-of-Way Study"); and

WHEREAS, the Right-of-Way Study is a matter of great importance to the tribe and to all tribes and may have significant implications regarding future legislation and tribal sovereignty; and

WHEREAS, under longstanding law, the consent of the governing body of a tribe must be obtained as a condition for the grant or renewal of a right-of-way across tribal lands; and

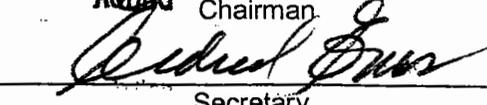
WHEREAS, the tribal consent requirement is a critical aspect of tribal sovereignty that allows tribal governments to negotiate acceptable terms, including those related to duration and compensation, for the use of tribal lands; and

WHEREAS, the Tribal Council has reviewed the attached statement of principles and has determined that these principles should be incorporated in the Right-of-Way Study and maintained as a matter of federal law and policy.

The foregoing resolution was on July 7, 2006 duly approved by a vote of 5 for, 0 against and 0 abstaining, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1.a., Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (46 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

 Chairman
 Secretary

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NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby approves the attached statement of principles and authorizes distribution of this Resolution as an official policy statement of the Tribe.

BE IT FURTHER RESOLVED that the Tribal Council directs that a copy of this resolution be forwarded to the Departments of Energy and Interior for inclusion in the record related to the Right-of-Way Study.

BE IT FURTHER RESOLVED that the Tribal Council recommends that the Department of Energy and Interior request a one-year extension from Congress on the Section 1813 Energy Rights-of-Way Study deadline date of August 7th, 2006.

BE IT FURTHER AND FINALLY RESOLVED that Tribal Council Chairman and Secretary, or their designated representatives, are hereby authorized and directed to execute any and all documents necessary to implement this action.

ATTACHMENT:

INDIAN TRIBES-PARTNERS IN AMERICA'S ENERGY FUTURE SECTION 1813 RIGHT-OF-WAY STUDY-TRIBAL PRINCIPLES

1. **Tribal Sovereignty and Consent.** The power of tribes to prevent third parties from using tribal lands without tribal consent is a critical element of tribal sovereignty that has been established in Federal law and policy for over 200 years. The tribal consent requirement for the use of tribal lands should be honored and preserved.
2. **Conditions to Consent.** The tribal consent requirement includes the power of tribes to place conditions on the use of tribal lands, including conditions related to tribal jurisdiction, preservation of environmental and cultural resources, duration of use, and compensation.
3. **No Negative Effects.** Adherence to the tribal consent requirement has resulted in greater energy production in Indian country and lower energy costs to consumers. The tribal consent requirement for rights-of-way has not had a noticeable negative effect on the availability or cost of energy to consumers.
4. **Preservation of Tribal Jurisdiction.** No right-of-way agreement or other business arrangement that permits third party use of tribal land should reduce the sovereign power of a tribe over its lands or the activities conducted on its lands in the absence of the specific consent of the tribe.
5. **Restricted Duration of Rights-of-Way.** Federal law and policy should not be changed to require perpetual rights-of-way or automatic renewals of rights-of-way because such changes would deprive tribes of management and control of their lands. Perpetual land use agreements should be declared unfair and subject to termination.
6. **Negotiated Compensation.** Tribes should continue to have the right to negotiate compensation for the use of tribal land that gives tribes a fair share of the economic benefits produced by use of their lands. Such revenues sustain tribal governments. Land use agreements that award service franchises on tribal lands must be distinguished from energy rights-of-way across such lands.
7. **National Security.** Indian nations are an integral component of energy security of the United States, not a threat to that security. History demonstrated that tribes have permitted critical energy facilities to be used pending compensation negotiations even in cases where tribal rights-of-way have expired.
8. **Industry Partnerships-Best Practices.** Federal law and policy should provide positive incentives to tribes and industry to foster partnerships and the mutual alignment of economic interests related to energy development, transmission and distribution.
9. **Appropriate Deference.** As reflected in the Indian Tribal Energy Development and Self Determination Act of 2005, deference to tribal decision-making should remain a fundamental component of Federal Indian energy policy.

10. **Allottee Experience.** The creation of a federal administrative valuation process for fixing tribal right-of-way compensation would be an affront to tribal sovereignty and, as shown by the disastrous federal management of Indian allotted resources, would be a mistake.