

Rosebud Sioux Tribe

SICANGU OYATE

ROSEBUD, SOUTH DAKOTA 57570

P.O. BOX 430

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Secretary
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Sergeant-at-Arms

May 15, 2006

Bob Middleton
U.S. Department of Interior
1849 C Street, N.W.
Mail Stop 2749-MIB
Washington, D.C. 20240

David Meyer
U.S. Department of Energy
1000 Independence Avenue, S.W.
Room 8H033
Washington, D.C. 20585

RE: Comments on Section 1813 Study of Indian Energy Rights of Way.

Dear Mr. Middleton and Mr. Meyer:

On behalf of the Rosebud Sioux Tribe ("Tribe") in South Dakota, I am submitting the information and comments set forth in this letter for your respective consideration in conducting the Indian Energy Rights of Way Study ("ROW"), required by the Energy Policy Act of 2005, Public Law 109-58, Title XVIII, Section 1813 (referred to as the "Section 1813 Study"). These comments supplement and incorporate earlier submissions from the Tribe regarding this matter.

I. Introduction

To preface the information and comments submitted herein, it should be noted that under our Tribe's retained treaty rights, our Constitution and governmental organization pursuant to the Indian Reorganization Act of 1934, as well as our duty to provide for the welfare of our tribal members, our Tribe will exercise retaining our sovereign rights to control and protect our tribal lands and resources. Therefore, the official position of our Tribe, by Resolution No. 2006-97 of the Rosebud Sioux Tribal Council, is to strongly oppose *"any removal or weakening of the tribal consent requirement for rights of way"* over tribal lands. We also strongly opposes *"any efforts by Congress to grant utility companies and others the right of eminent domain over tribal lands; and all other lands held in trust by the United States for individual Indians or the Rosebud Sioux Tribe."*¹

I also take the opportunity to express some of our overall concerns with regard to the Section 1813 Study. Through officials from the Rosebud Utility Commission and legal counsel for the Tribe, we have participated in some of the Departments' scoping meetings on the Section 1813 Study, and we are deeply concerned with the anecdotal approach espoused by the energy industry and their representatives. For example, industry has been unable to point to any specific instances or verifiable information in support of its contention that tribal consent authority is a "problem" that the federal government must address due to the alleged, adverse implications to the ultimate consumer.

¹ See Attachment 1 – Rosebud Sioux Tribe Resolution No. 2006-97 certified on April 13, 2006.

It is quite evident that the current ROW renewal dispute between the Navajo Nation and the El Paso energy company was largely responsible for the authorization of the Section 1813 Study. However, we believe the Departments should inform Congress that this particular dispute is not representative of all of the energy related ROW in Indian country.

We are similarly concerned with industry's general assertion that historically, Tribes have been fairly compensated for energy ROW over their lands. Yet, on the asserted basis of "confidentiality" and/or sensitivity to the concerns of energy companies not wanting to spoil or otherwise harm their respective relationships with their tribal partners, industry representatives have not provided specific information in support of this generalization.

Furthermore, industry is calling for the use of a "fair market value" methodology used for private lands as the basis for determination compensation for Indian energy ROW. The Departments must reject this notion. There is simply no comparison, as a legal or policy matter, to equate the valuation methodology for the disposal or encumbrance of private lands to that of tribal trust lands. Tribal trust lands are set aside for the purpose of making a permanent and viable homeland for the respective Indians. Moreover, the Federal Government has a legal trust responsibility to protect tribal trust lands and resources, a legal and morale obligation that does not extend to private, state and federal lands which are been interpreted to exist for the "public benefit."

For these reasons, the Rosebud Sioux Tribe respectfully requests that the Departments be extremely diligent and careful in evaluating information submitted by industry to support their general assertions. As raised during the scoping meetings, our Tribe joins the call from Indian country in urging the Departments to ensure and confirm both the validity and reliability of all information and data upon which the Section 1813 Study is based, and we further request that the Departments expressly share their methodology in verifying such information and data.

Our Tribe also participated with the tribal workgroup in developing fundamental Tribal Principles that should govern and inform the Departments' efforts in conducting this study.² Recognition and adherence to these principles is wholly appropriated and consistent with both of the Departments roles obligations as federal trustee of Indian lands and resources.

II. Rosebud Sioux Tribe – ROW Case Study

The specific congressional direction with respect to the Section 1813 Study requires the Departments of Interior and Energy to conduct a study on the following issues and to report findings and recommendations back to Congress within one year, or by August 7, 2006:

² See Attachment 2 – entitled "Indian Tribes – Partners In America's Energy Future Section 1813 Right-Of-Way Study – Tribal Principles" dated April 11, 2006.

- *Historic rates of compensation paid for energy ROW on tribal land;*
- *Appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy ROW on tribal land;*
- *Tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy ROW on tribal land; and*
- *Relevant national energy transportation policies relating to grants, expansions, and renewals of energy ROW on tribal lands.*

The Rosebud Sioux Tribe does not have the time or the resources to develop a comprehensive report that would be responsive to the broad scope of information and related analysis, as set forth in Section 1813. To do so would require hundreds of hours in research and compilation of information on all of the ROW granted on our lands, as well as an integrated analysis of the compensation paid. Of course this assumes that all relevant information is readily available and catalogued either at our tribal or the Bureau of Indian Affairs ("BIA") offices. Not surprisingly, we have found that this is not the case.

In recognition of these types of challenges, departmental officials have requested Tribes to submit information in the form of a "case study." We are submitting information about a particular ROW granted by the BIA to the Nebraska Electric Generating and Transmission Co-Op (NEGTCO).

A. Factual Background

In the early 1970s, NEGTCO originally sought the easements across tribal trust and allotted lands in order to construct an 115KV transmission line through the Rosebud Sioux Reservation traversing nearly 15 miles.³ In April 1974, the acting Superintendent for the BIA Rosebud Agency signed a grant of an easement to NEGTCO, each for "tenure so long as said easement shall be actually used for the purposes" specified in the conveyance instrument.⁴ In April 1976, the acting Superintendent signed another grant of an easement to NEGTCO covering additional tracts of land for the same purpose.⁵ By resolutions adopted and approved in January

³ See Attachment 2 – (a) Department of Interior Map of Rosebud Sioux Reservation; (b) Map showing Pine Ridge Reservation Rosebud Sioux Reservation in relation to location of ROW near State Highway 83 – source www.blackhillsbadlands.com; (c) Composite map detailing siting of ROW on the Rosebud Sioux Reservation – source Todd County Platt Ownership Maps (due to its size, this map will be provided with the hard copy submission).

⁴ See Attachment 2 – Grant of Right Of Way Easement to Neb. Elec. Generating and Transmission Co-Op, Inc., File No. 345 35201, signed on April 25, 1974.

⁵ See Attachment 3 – File No. 345 36107, Nebraska Electric Generating and Transmission Co-Op, Inc., Columbus Nebraska, signed on April 16, 1976.

1974⁶ and September 1975⁷, the Rosebud Sioux Tribal Council consented to BIA's grants of ROW to NEGTCO. In December of 1980, the BIA granted a third easement to NEGTCO over allotted lands for the same purpose.⁸

The Tribal Council consented to these ROW based on the understanding that the transmission line would supply an additional source of electric energy throughout the area, which would benefit both "Indian home owners on the Reservation," and "the adequate maintenance of the hospital, school systems, tribal and bureau offices" since all provide services to the Indian people on the Reservation. According to the relevant conveyance instruments, NEGTCO agreed to pay the BIA the consideration agreed to in the conveyance instruments (\$14,484, \$10,520.00 and \$600.00), which in turn, the BIA was obligated to pay either the Tribe or individual landowners, respectively.

B. Relevant ROW Valuation, Compliance and Oversight Issues.

Several pertinent issues implicated by our example could be addressed in the Section 1813 Study. Specifically, the circumstances surrounding the BIA's granting of the ROW to NEGTCO, the appraising or valuation of the ROW, and the BIA's oversight of the interest conveyed, including any transferring or selling of the interests are issues directly relevant to the Section 1813 Study. I wish to briefly address each of these issues below, with the understanding that the Tribe will be submitting additional supporting data as it becomes available on these and related issues.

1. Treaty Compliance.

Article XI, Section 6 of the Fort Laramie Treaty of 1868 governs, among other things, the construction of utility works through our Reservation. According to our Treaty terms, the government agreed to pay for the amount of damages for said construction, to be assessed and determined by "three disinterested commissions to be appointed by the President for that purpose, one of the said commissioners to be a chief or headman of the tribe." The Tribe did not locate or otherwise find documentation that demonstrates compliance with the mandate of Section 6.

2. Statutory Compliance.

U.S. Code Title 43, Section 961.6, the statutory provision governing the consideration and approval for granting Indian ROW requires, *inter alia*, that the federal department head with

⁶ See Attachment 4 – Resolution NO. RB 74-52 certified on January 8, 1974.

⁷ See Attachment 5 – Resolution RB 75-99 certified on September 11, 1975.

⁸ See Attachment 6 – Grant of Right Of Way Easement to Nebraska Electric Generation and Transmission Cooperative, Inc. File No. 345 39705, signed on December 17, 1980.

jurisdiction over the lands in which the interest is to be transferred may grant a ROW over reservation lands but only for a period of time not to exceed fifty (50) years.

In contravention to this provision, the BIA approved three separate ROW grants to NEGTCO for perpetual terms. Furthermore, the preceding statutory provision states that the chief department officer for the reservation upon which the easement is to be granted must approve such grant and make a finding that doing so is not incompatible with the public interest. The Tribe was unable to locate or secure any information from the BIA to support that such a finding was made prior to the granting of the ROW to NEGTCO.

3. Regulatory Compliance.

The relevant provisions of the Code of Federal Regulations, in effect at the time of the BIA's granting of the ROWS in 1974, are now found at 25 C.F.R. Part 169 (previously designated as 25 C.F.R. Part 161). These regulations require the applicant to file a written application to conduct a survey of the lands for purposes of securing a ROW on Indian lands. 25 C.F.R. § 169.4. The regulations also require the applicant to submit a written application to the Secretary for the actual ROW. 25 C.F.R. § 169.5. Both of these processes require an extensive submission of documentation demonstrating, for example, the purpose, legal authority, location, as well as evidence of good faith, credibility as a business, and financial responsibility. The showing of financial responsibility required the submission of a check, money order or surety bond, if applicant is licensed to do business in the state, in the amount covering at least twice the cost of estimated damages that may result from the undertaking the survey. Because the Tribe did not secure any documentation from the BIA with regard to these requirements, we were unable to assess and evaluate compliance with these requirements.

25 C.F.R. § 169.27 requires that all applications for electric power generation, or the transmission or distribution of electrical power of 66 kV or greater, on government-owned lands, including tribal lands, shall be referred to the Office of the Assistant Secretary of the Interior for Water and Power Resources or another designated agency for the area at issue in order to consider the relationship of the proposed project to the U.S. power development program. Only if supported by a determination that the project does not conflict with such program may the Secretary proceed to consider the application. We did not receive any documentation from the BIA demonstrating compliance with this requirement.

25 C.F.R. § 169.27(c) restates the statutory prohibition of the granting of a ROW for a period of time exceeding fifty (50) years. The section also require that the easement grantee make provisions for avoiding inductive interference between any project transmission line or other portion of the project on the ROW with any federal communications facility. The Tribe found no documentation that any of the preceding conditions have been adhered to as to the ROW that was originally granted to NEGTCO.

Furthermore, the federal regulations require that a ROW grantee execute and file with its application a stipulation agreeing to accept the ROW subject to certain conditions, including the

process for determining the value of the right-of-way should the U.S. government have to acquire the line over the right-of-way and allowance by the Department of the Interior to utilize excess capacity on the line. Again, the Tribe was unable to locate or obtain a copy of any such stipulation filed by NEGTCO or to even determine if one was actually filed by NEGTCO.

4. Compliance with the terms of the ROW conveyance instrument.

In the relevant conveyance instruments, the grants of the ROW were subject to additional conditions, which if not satisfied, would be a basis for termination. One condition required NEGTCO to file with the BIA an affidavit of completion upon its completion of the underlying project. This requirement is also required by 25 C.F.R. § 169.16. The Tribe requested a copy of such an affidavit from the BIA. The BIA verbally responded that no such affidavit is on file in their records. The Tribe requested the BIA to respond in writing, but the BIA has not yet provided such response.

5. Standards for Determining Compensation of Indian ROW.

Apparently, one of the main components of the Section 1813 Study is the consideration of the standards and procedures for determining fair and appropriate compensation to tribes for the grants, expansions, and renewals of energy ROWS on tribal lands. In our Tribe's case, we were unable to find any documentation regarding whether or how the BIA carried out its trust responsibility to the Tribe or affected Indian allottees whose lands were encumbered by the easements granted to NEGTCO. We have no documentation of how the BIA conducted an appraisal of the property, nor do we have documentation that the payments were actually made by the grantee, received by the BIA and distributed to the Tribe and the allottees.

6. Transfer of Easement Interest.

We understand that the NEGTCO is in the process of selling or otherwise transferring its interests in the easements to another party. The original easements granted by the Tribe state that the easements are to be binding on subsequent heirs and grantees. It is unclear, however, whether the conditions attached to the original grant of easements have been incorporated as part of the transfer to the original or any subsequent third-party grantees. Furthermore, the Tribe has no documentation describing what role, if any, the BIA will have in protecting the Tribe's and tribal members' welfare and best interest in accordance with its trust responsibilities.

C. Implications on the Self-Determination and Sovereignty Interests of the Rosebud Sioux Tribe.

As demonstrated by this example, we have serious concerns about the process by which the BIA grants easements over Rosebud tribal lands. Our examination of this particular set of easements, based on the limited documentation and records made available to us, uncovered glaring deficiencies and shortcomings that directly impact our Tribe's self-determination and sovereignty. In particular, the granting of perpetual ROW over our lands with apparently little to

no oversight to ensure ongoing compliance with the terms of the conveyance as well as regulatory requirements severely undercuts and diminishes our self-determination and self-government rights. Therefore, before the Departments entertain the notion of recommending amendments or any changes to existing law, you should first recommend to Congress to direct a more thorough study and investigation of the federal government's past and current practices and policies with regard to enforcing and implementing existing statutory, regulatory and specific lease terms and conditions.

D. Relevant national energy transportation policies relating to grants expansions, and renewals of energy ROW on tribal lands.

As part of the Energy Policy Act of 2005, signed into law by President Bush on August 7, 2005, Title V – the Indian Energy Title recognizes and incorporates the relevant national policies relating to Indian energy ROW. For example, Title V authorizes tribal governments, who decide to do so, to assume primacy in the approval of energy related leases, agreements, and specifically ROW through the development and approval of Tribal Energy Resource Agreements. This provision is an extension and enhancement of the current consent authority Tribes now have under current law. It would make no sense for the Departments to recommend any changes to the law that would undercut the national energy legislation. Moreover, Congress enacted a specific title to encourage and promote the energy development in Indian country and authorized tribal governments to take part in many other programs and initiatives throughout the entire legislation. Congress sought to provide these resources and opportunities to Tribes based on the recognition that Indian people living on Indian lands continue to suffer from the highest unemployment levels in the country, the highest levels of diabetes, heart disease and other illnesses, and many lack basic utility services, including running water, electricity, roads, etc. Our people know first hand the severe deprivation and challenges we face on a daily basis being located in the poorest or next poorest county in America. We implore the Departments to consider these specific factors and considerations affecting Indian country in the context of describing or weighing "relevant national energy policies" in this study.

III. Conclusion

The Tribe wishes to make sure its voice is heard in the current debate regarding Indian energy ROW, especially as pertains to the Section 1813 Study. Therefore, our intent was to inform you, by way of an example, of the main issues we experienced with regard to energy related ROW granted on the Rosebud Sioux Reservation. We may also be submitting additional data and information, if located, relevant to these comments for inclusion in the Section 1813 Study. As you can see, our review and evaluation of just one set of ROW granted over our lands illustrates the challenges in conducting a full, comprehensive study of energy related ROW in Indian country. At a minimum, we hope that the Departments will recommend that Congress not take any further legislative action on this matter until the Tribes and the Departments can gather, analyze and study the questions posed in Section 1813 in a more comprehensive and deliberative manner.

Rosebud Sioux Tribe
Comments Section 1813 Study
May 15, 2006
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Thank you for the opportunity to submit these comments. Please contact me at (605) 747-2381 if you have any questions or need additional information.

Sincerely yours,



Rodney M. Bordeaux, President
Rosebud Sioux Tribe

Cc: U.S. Senator Tim Johnson
U.S. Senator John Thune
U.S. Representative Stephanie Herseth

Attachments

ATTACHMENT 1

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2006-97**

- WHEREAS,** the Rosebud Sioux Tribe is a federally recognized Indian Tribe pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and
- WHEREAS,** the Rosebud Sioux Tribe is governed by a Tribal Council made up of elected officials who act in accordance with the powers granted to it by its Constitution and By-Laws; and
- WHEREAS,** Section 1(a) of Article IV of the Rosebud Sioux Tribe Constitution authorizes the Tribal Council "to negotiate with the Federal, State, and local governments on behalf of the tribe and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Rosebud Sioux Reservation"; and
- WHEREAS,** Section 1(c) of Article IV of the Rosebud Sioux Tribe Constitution authorizes the Tribal Council "To... manage, permit, assign, lease, sell, exchange, encumber, or otherwise deal with tribal lands and property as authorized by law ... and to prevent the sale, disposition, lease or encumbrance of tribal lands, interests in tribal lands or other tribal assets **without the consent of the Tribe**" (bold added); and
- WHEREAS,** Section 1(j) of Article IV of the Rosebud Sioux Tribe Constitution authorizes the Tribal Council "to exclude by ordinance from the restricted lands of the reservation persons not legally entitled to reside therein"; and
- WHEREAS,** Section 1(m) of Article IV of the Rosebud Sioux Tribe Constitution authorize Tribal Council "to safeguard and promote the peace, safety, morals and general welfare of the tribe by regulating... the use and disposition of property upon the reservation. . ."; and
- WHEREAS,** when the Energy Policy Act of 2005 was being drafted, utility companies and their lobbyists asked Congress to authorize them to take right of ways on Indian land through an eminent domain process, without requiring consent of the Indian tribe or individual Indian landowner, as is now required by federal and tribal law; and
- WHEREAS,** in response to concerns expressed by utility companies, Congress added Section 1813 to the Energy Policy Act of 2005, which requires the Departments of Energy and Interior to prepare a study on:
1. Historic rates of compensation paid for energy rights of way on tribal land;
 2. Recommendations for appropriate standards and procedures for determining fair and appropriate compensation for grants, expansions, and renewals of energy rights of way on tribal land;

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2006-97**

3. An assessment of tribal self determination and sovereignty interests related to rights of way on tribal land; and
4. An analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights of way on tribal land; and

WHEREAS, the Right-of-Way Study is a matter of great importance to the Rosebud Sioux Tribe and to all tribes and may influence future legislation; and

WHEREAS, under longstanding federal law, and according to the Rosebud Sioux Tribe Constitution, the consent of the Rosebud Sioux Tribe must be obtained as a condition for the grant or renewal of a right-of-way across tribal lands; and

WHEREAS, this legal requirement of tribal consent for rights of way is consistent with the Fort Laramie Treaties of 1851 and 1868, which establish permanent homelands for the bands of the Great Sioux Nation; and

WHEREAS, historically, before this right to tribal consent was fully recognized in United States law, rights of way were frequently obtained from individual Indian landowners and Indian tribes without compensation, or in exchange for compensation that was a small fraction of the fair market value of the land; and

WHEREAS, absent this right of tribal consent for the granting of rights of way, this shameful exploitation would occur again; and

WHEREAS, the relationship between the Rosebud Sioux Tribe and its members and the land within the Rosebud is of a cultural, spiritual nature, and any weakening of the Tribe's right to govern its own land would substantially damage that relationship; and

WHEREAS, the tribal consent requirement is also a critical aspect of tribal sovereignty, as it recognizes the right of tribal governments to negotiate acceptable terms, including those related to duration and compensation, for the use of tribal lands; now

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribe strongly opposes any removal or weakening of the tribal consent requirement for rights of way, and strongly opposes any efforts by Congress to grant utility companies and others the right of eminent domain over tribal lands; and all trust lands held by the United States for individual Indians or the Rosebud Sioux Tribe.

BE IT FURTHER RESOLVED that the Rosebud Sioux Tribe 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.

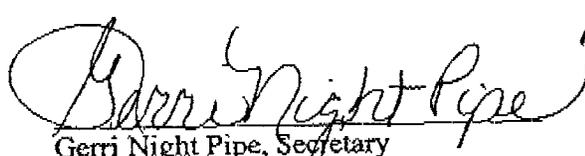
**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2006-97**

BE IT FURTHER RESOLVED that the Rosebud Sioux Tribe directs that a copy of this resolution be forwarded to our South Dakota Congressional delegation, Senators Johnson and Thune and Congresswoman Herseth.

CERTIFICATION

This is to certify that the above Resolution Number 2006-97 was duly passed by the Rosebud Sioux Tribal Council in session on April 13, 2006, by a vote of thirteen (13) in favor, none (0) opposed and none (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:


Gerri Night Pipe, Secretary
Rosebud Sioux Tribe


Rodney M. Bordeaux, President
Rosebud Sioux Tribe

ATTACHMENT 2

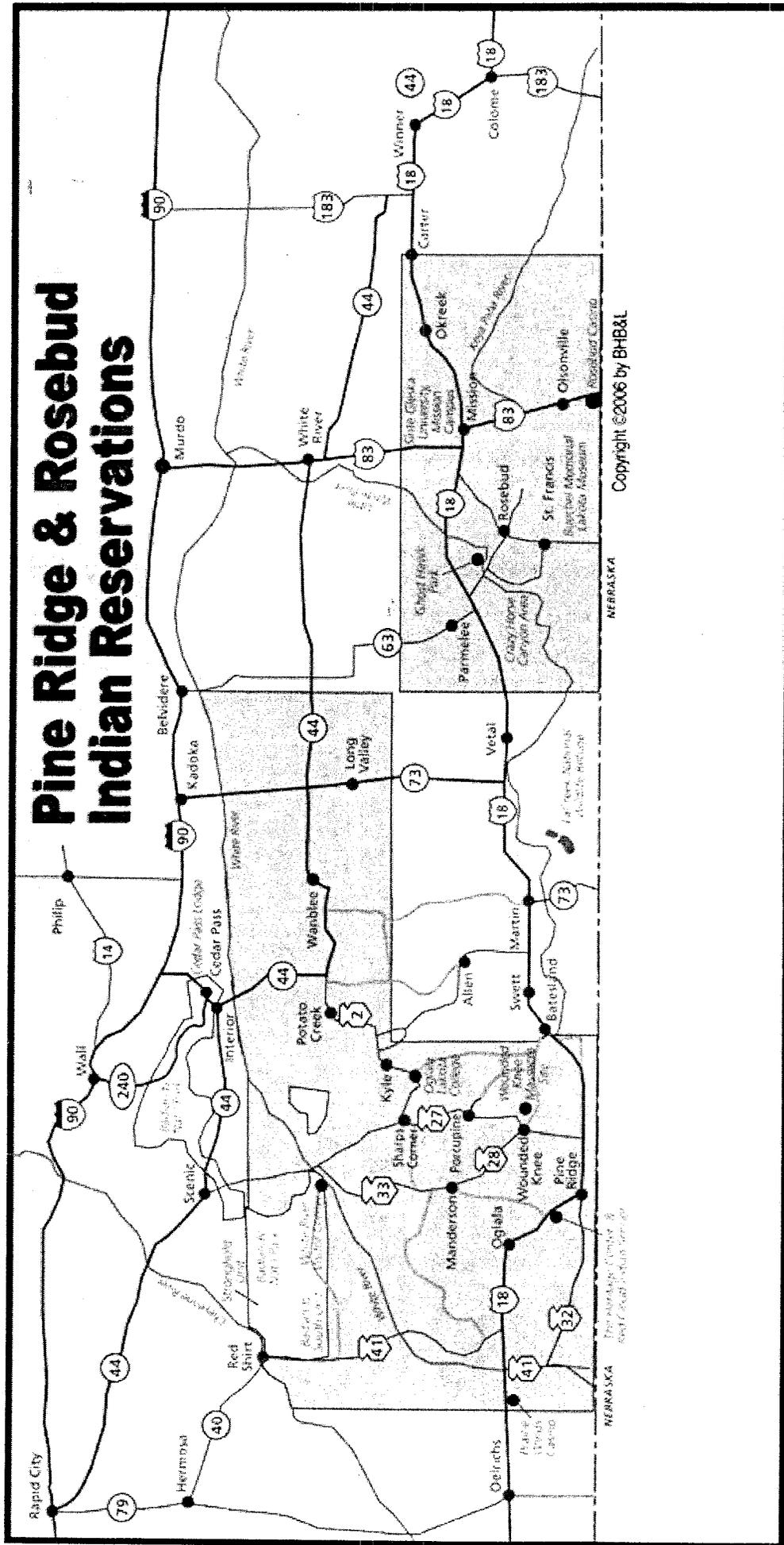
April 11, 2006

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

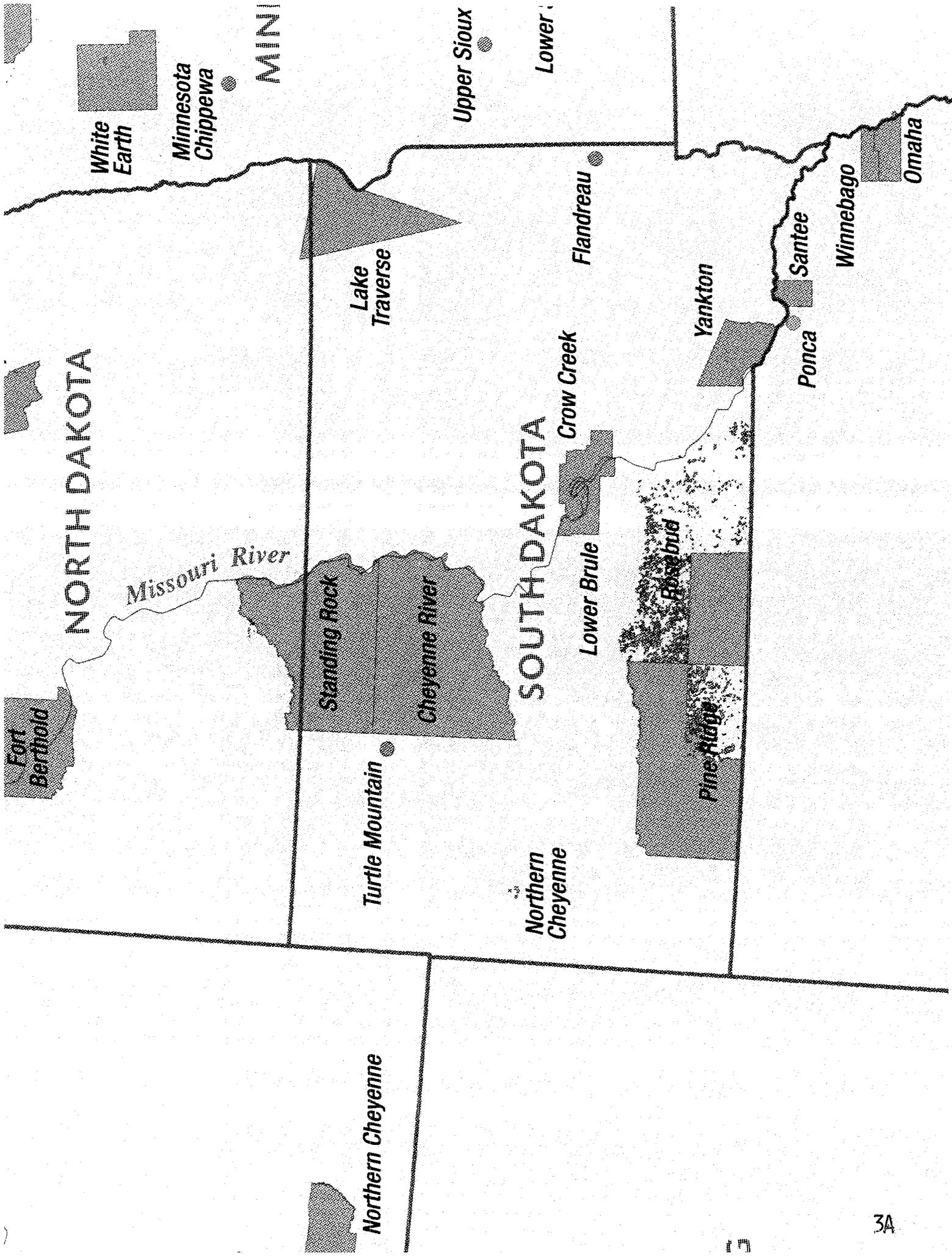
1. **Tribal Sovereignty and Consent.** The power of tribes to prevent third parties from using tribal lands without tribal consent is a critical element of tribal sovereignty that has been established in Federal law and policy for over 200 years. The tribal consent requirement to the use of tribal lands 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.
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 and cultures.
7. **National Security.** Indian nations are an integral component of energy security of the United States, not a threat to that security. History demonstrates 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 allottee resources, would be a mistake.

ATTACHMENT 3

Pine Ridge & Rosebud Indian Reservations



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ATTACHMENT 4

received

4-20-66

TRIBAL 114.23 acres
INDIVIDUALLY OWNED 50.83 acresGOVERNMENT OWNED
FILE NO. Nebr. Elec. Generating
and Transmission Co-Op
Inc. Segment No. 1

GRANT OF RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America, acting by and through the Superintendent of the Rosebud Agency, Bureau of Indian Affairs, Department of the Interior, Rosebud, So. Dak., Hereinafter referred to as "GRANTOR" under authority contained in Order No. 2508 of the Secretary to the Interior (14 F.R. 258) and BIAM 3 (34 F.R. 637), and pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17, 25 U.S.C. 323-328), and Part 161, Title 25, Code of Federal Regulations, in consideration of \$14,484.00 and other good and valuable consideration, the receipt of which is acknowledged, does hereby grant to the Nebraska Electric Generation & Transmission CO-OP Inc., of Columbus, Nebraska, hereinafter referred to as "GRANTEE" an easement for a 100' right of way (50' either side of centerline) for the construction and maintenance of a 115 KV Transmission line over, across, in and upon the following described lands, located in the County of Todd, State of South Dakota more specifically described as follows:

T. 39 N., R. 29 W., 6th P.M.

T-6	A-464	Rosebud Sioux Tribe	SEX, Sec. 26.	5.92 acres
T-7	RS-5229	Rosie Boneshirt	NEX, Sec. 35.	1.21 acres
T-9	RS-7256	Lilly Larvie	NEX, Sec. 34.	3.06 acres
T-10	RS-3067	Carrie Rea	SEX, Sec. 34.	6.86 acres

T. 38 N., R. 29 W., 6th P.M.

T-11	RS-5320	Reuben No Belly	Lots 1,2, SYSEX, Sec. 3.	.52 acres
T-13	RS-3069	Hugh Rea	SUM, Sec. 3.	6.24 acres
T-16	REF.2195	Rosebud Sioux Tribe	SEX, Sec. 9.	2.89 acres
T-19	REF.1581	Rosebud Sioux Tribe	E½, Sec. 17.	9.14 acres
T-20	T-9156	Rosebud Sioux Tribe	Sec. 20, E½, Sec. 19, Sec. 30, NW¼, Sec. 31 & E½, Sec. 36, T. 38 N., R. 29 W.,	42.63 acres
T-21	REF.424	Rosebud Sioux Tribe	SYSEX, Sec. 36, T. 38 N., R. 30 W.,	.15 acres

T. 37 N., R. 30 W., 6th P.M.

T-22	REF.431	Rosebud Sioux Tribe	NW¼, Sec. 1.	7.01 acres
T-23	REF.430	Rosebud Sioux Tribe	SUM, Sec. 1.	3.87 acres
T-24	REF.65	Rosebud Sioux Tribe	SEX, Sec. 2.	3.58 acres
T-25	RS-1770m	John Medicine Lodge	NEX, Sec. 11.	7.34 acres
T-26	REF.87	Rosebud Sioux Tribe	SEX, Sec. 11.	.09 acres
T-27	REF.86	Rosebud Sioux Tribe	SUM, Sec. 11.	7.17 acres
T-28	REF.422	Rosebud Sioux Tribe	NW¼, Sec. 14.	4.13 acres
T-29	REF.421	Rosebud Sioux Tribe	NEX, Sec. 15.	2.97 acres
T-30	REF.1575	Rosebud Sioux Tribe	SEX, Sec. 15.	7.31 acres
T-31	REF.2590	Rosebud Sioux Tribe	NEX, Sec. 22.	.56 acres
T-32	RS-1787	Good Elk	W½, Sec. 22.	10.98 acres
T-33	REF.941	Rosebud Sioux Tribe	SEX, Sec. 21.	2.81 acres
T-34	RS-1018	Animal Black Buffalo	E½NEX, Sec. 28.	2.90 acres
T-35	RS-1017	Kate Black Buffalo	W½E½, W½, Sec. 28.	10.17 acres
T-36	T-9146	Rosebud Sioux Tribe	NW¼, Sec. 33.	5.23 acres
T-37	T-9146	Rosebud Sioux Tribe	S½, Sec. 32.	8.77 acres

The said easement, as shown on the map and plate attached hereto and made a part hereof, does not include any non-trust property, but applies to trust lands only and may be described in general as follows:

Beginning at a point 248.3' west and 251' north of the east quarter corner of Sec. 29 T. 39 N., R. 28 W., 6th P.M. on a line of route within a 100' R/W COMMENCING at PI-1, Bearing 85°01'33"W. THENCE west 650' to PI-2, Bearing 04°52'24"LT. THENCE west 11,935.96' to PI-7, Bearing 31°51'53"LT. THENCE southwesterly 10,595.82' to PI-8, Bearing 30°13'38"LT. THENCE southwesterly 8,247.92' to PI-9, Bearing 06°29'32"RT. THENCE southwesterly 31,320.94' to PI-10, Bearing 01°28'33"LT. THENCE southwesterly 36,155.93' to PI-11, Bearing 14°44'30"RT. THENCE southwesterly 14,484.08' to PI-12 Bearing 47°51'11"RT. a total distance of 102,390.65'.

And to construct, inspect, reconstruct, operate and maintain on the above described right of way an electric transmission line and related communications circuitry, consisting of poles, towers, wires, guys, anchors, equipment and fixtures with the right to alter, repair and remove the same in whole or in part at any time.

Grantee shall also have the right of ingress and egress to cut trim by topping or removing trees which in falling would come within fifteen (15) feet of the nearest electric line conductor. All refuse from such tree cutting or trimming shall be removed by the Grantee.

The owners of trust lands, which are traversed by this transmission line, their lessees or permittees, may cultivate, use and enjoy the land within the right of way area, provided that such use shall not endanger or be a hazard to or interfere with the survey, construction, reconstruction, repair, maintenance, inspection, operation, alteration, relocation and removal of the Grantee's transmission line. It is further agreed that the owners of trust properties, traversed by this line,

PAGE 2, OF GRANT OF RIGHT OF WAY EASEMENT, TO THE NEBRASKA ELECTIC GENERATION AND TRANSMISSION CO-OP., INC., OF COLUMBUS, NEBRASKA.

their lessees or permittees, may be allowed to place and maintain buildings, structures, hay or straw in the stack or baled within the right of way area only after obtaining express written permission from the Grantee.

The Grantee agrees to pay to the Grantor, for disbursement to the owners of trust properties traversed by this transmission line, for any damage to property, fences livestock and to growing crops caused by the survey, original construction or damages occurring after initial construction and resulting from operation, maintenance inspection, repair, removal, alteration, relocation and reconstruction of the transmission lines.

The grantee agrees to take all reasonable steps to restore, as nearly as possible to the condition it was prior to the original construction, all land contained in this grant of right of way easement for any damages that maybe incurred during the tenure of this grant of right of way easement.

This easement is subject to any valid existing right or adverse claim and is without limitation as to tenure so long as said easement shall be actually used for the purpose above specified; PROVIDED THAT this grant of easement shall be terminable in whole or in part by the Grantor for any of the following causes upon 30 days written notice and failure of the Grantee within said notice period to correct the basis for termination (25 CFR 161.20):

- A. Failure to comply with any term or condition of the grant or the applicable regulations.
- B. A nonuse of the right of way easement for a consecutive two-year period for the purpose for which it was granted.
- C. An abandonment of the right of way easement for a transmission line.
- D. Failure of the Grantee, upon completion of construction, to file with the Grantor an affidavit of completion, pursuant to 25 CFR 161.16.
- E. The right is reserved to Indian landowners and to the Rosebud Sioux Tribe, their lessees, permittees, successors and assignees to utilize for their benefit, undisturbed use and occupancy, the premises affected by the right of way for sound management practices and said occupants or users to assume full responsibility for avoiding, or repairing damages to the right of way area or improvements attached thereto, which may be occasioned by such occupancy.

The conditions of this grant of right of way easement shall extend to and be binding upon and shall inure to the benefit of the heirs, representatives, successors and assigns of the Grantee.

IN WITNESS WHEREOF, Grantor has executed this Grant of right of way easement on this 25th day of April 1974.

UNITED STATES OF AMERICA

BY Laura M. Behrens
 City Superintendent
 U.S. Department of the Interior
 Bureau Of Indian Affairs
 Rosebud Agency
 Rosebud, South Dakota 57570

State of South Dakota)SS
County of Todd)

BE IT REMEMBERED, That on this 25th day of April 1974, A.D. before the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Laura M. Behrens to me personally known to be the identical person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year last hereinabove written.

Mary Ann Young
 NOTARY PUBLIC STATE OF S.D. DAK.

ABERDEEN AREA OFFICE REALTY MY COMMISSION EXPIRES 7-20-79

This document and supporting records have been reviewed for adequacy by Robert C. M. [Signature] Chief, Acquisition & Disposal Section Land Resources, Bureau of Indian Affairs

74 AUG 27 PM 1:42

RECEIVED B. I. A.

ATTACHMENT 5

Allotted Acres 63.00 Tribal Acres 14.95 Government Acres 0.0 File Segment No. 2
Nebraska Electric Generating and Transmission Co-op., Inc., Columbus, Nebraska

KNOW ALL MEN BY THESE PRESENTS:

That the United States Of America, acting by and through the Superintendent of the Rosebud Agency, Bureau Of Indian Affairs, Department Of The Interior, Rosebud, South Dakota. Hereinafter referred to as "GRANTOR" under authority contained in Order No. 2508 of the Secretary Of The Interior (14 FR 258) and BIAM 3 (34 FR 637), and pursuant to provisions of this Act of February 5, 1948, (62 Stat., 17 25 USC 323-328), and Part 161, Title 25, Code of Federal Regulations, in consideration of \$10,520.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Nebraska Electric Generating and Transmission Co-op., Inc., hereinafter referred to as the "GRANTEE" an easement for a 100' right-of-way, (50' either side of centerline) for the construction and maintenance of a 115 KV transmission line over, across, in and upon the following described lands, located in Todd County, State of South Dakota:

T. 36 N., R. 30 W., 6th P.M.

T-39,	RS-1009,	Kills Him Alive	Lots 1,2,3,4,	Sec. 6,	8.1 acres
T-40,	RS-1009,	Kills Him Alive	Lot 1,	Sec. 5,	3.0 acres
T-41,	RS-3916,	Nellie Noisey Owl	Lots 2,3,4,	Sec. 5,	10.0 acres
T-42,	A - 128,	Rosebud Sioux Tribe	SE $\frac{1}{4}$	Sec. 5,	0.50 acres
T-48.	RS-1805,	Shaving Woman	NE $\frac{1}{2}$, SE $\frac{1}{4}$	Sec. 14,	14.72 acres

T. 36 N., R. 29 W., 6th P.M.

T-53,	RS-2934 $\frac{1}{2}$,	Elizabeth Bull	SW $\frac{1}{4}$	Sec. 29,	7.62 acres
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T. 35 N., R. 29 W., 6th P.M.

T-58-A,	RS-1429,	Fannie Long Pumpkin	NW $\frac{1}{4}$	Sec. 4,	0.4 acres
T-59,	Ref. 1331,	Rosebud Sioux Tribe	NE $\frac{1}{4}$	Sec. 4,	8.0 acres
T-62,	RS-5038,	Julia Hawk Chasing In Daylight	SE $\frac{1}{4}$	Sec. 3,	1.02 acres
T-67,	RS-1424,	Samuel White	NW $\frac{1}{4}$	Sec. 13,	1.57 acres
T-68,	RS-1443 C,	Cane or Fatty's Widow	NE $\frac{1}{4}$	Sec. 13,	6.63 acres

T. 35 N., R. 28 W., 6th P.M.

T-69,	RS-1443-A,	Cane or Fatty's Widow	Lots 1,2, E $\frac{1}{2}$ NW $\frac{1}{4}$	Sec. 18	6.44 acres
T-70,	Ref. 1213,	Rosebud Sioux Tribe	E $\frac{1}{2}$	Sec. 18,	6.45 acres
T-72,	RS-3261,	Effie Kills The Omaha	Lot 1,	Sec. 20,	3.5 acres

The line of route may be described in general, as follows:

Commencing at the St. Francis Substation site PI 13, thence S89°39'56"E, a distance of 7,295.70 feet to PI 14, thence S51°13'19"E, a distance of 18,417.91 feet to PI 15, thence S58°53'31"E, a distance of 7,091.89 feet to PI 16, thence S36°01'17"E, a distance of 5,745.49 feet to PI 17, thence S52°19'09"E, a distance of 11,253.05 feet, ending at the west boundary line, a point 1665 feet South of the North West quarter corner of Sec. 33, T. 36 N., R. 29 W., 6th P.M. Commencing 50 feet South of the North quarter corner of Sec. 4, T. 35 N., R. 29 W., 6th P.M. PI 18 A thence 89°27'28"E, a distance of 1,364.17 feet to PI 18 B, thence S38°39'02"E, a distance of 8,744.32 feet to PI 19, thence S65°58'52"E, a distance of 18,444.03 feet to PI 19 A, thence 00°04'21"W, a distance of 3,168.06 feet to PI 19 B located on the South Dakota-Nebraska State line a distance of 15.44 miles 11.7 miles of which traverses trust properties

and to construct, inspect, reconstruct, operate and maintain on the above described right of way, an electric transmission line and related communications circuitry, consisting of poles, towers, wires, guys, anchors, equipment and fixtures with the right to alter, repair and remove the same in whole or in part at any time.

Grantee shall also have the right of ingress and egress to cut or trim by topping or removing trees, which in falling would come within fifteen (15) feet of the nearest electric line conductor. All refuse from such tree cutting or trimming shall be removed by the Grantee.

The owner of trust lands, which are traversed by this transmission line, their lessees or permittees, may cultivate, use or enjoy the land within the right of way area provided that such use shall not endanger or be hazard to or interfere with the survey, construction, reconstruction, repair, maintenance, inspection, operation, alteration, relocation and removal of the Grantee's transmission line.

received
4-7-06

Page 2 of Grant of Right of Way Easement, to the Nebraska Electric Generating and Transmission Co-Op., Inc., of Columbus, Nebraska.

It is further agreed that owners of trust properties, traversed by this line, their lessees or permittees, may be allowed to place and maintain buildings, structures, hay or straw in the stack or baled within the right of way area, only after obtaining express written permission from the Grantee.

The Grantee agrees to pay to the Grantor, for disbursement to the owner of trust properties traversed by this transmission line, for any damage to the property, fence, livestock and to growing crops caused by the survey, original construction or damages occurring after initial construction and resulting from operation, maintenance, inspection, repair, removal, alteration, relocation and reconstruction of the transmission line.

The Grantee agrees to take all reasonable steps to restore, as nearly as possible to the condition it was prior to the original construction, all land contained in this grant of right of way easement, for any damages that may be incurred during the tenure of this grant of right of way easement.

This easement is subject to any valid existing right or adverse claim and is without limitation as to tenure so long as said easement shall be actually used for the purpose above specified; PROVIDED that this grant of easement shall be terminable in whole or in part by the Grantor for any of the following causes upon 30 days written notice and failure of the Grantee within said notice period to correct the basis for termination (25 CFR 161 20):

- A. Failure to comply with any term or condition of the grant or the applicable regulations.
- B. A nonuse of the right of way easement for a consecutive two-year period for the purpose for which it was granted.
- C. An abandonment of the right of way easement for a transmission line.
- D. Failure of the Grantee, upon completion of construction to file with the Grantor an affidavit of completion, pursuant to 25 CFR 161 16.
- E. The right is reserved to Indian landowners and to the Rosebud Sioux Tribe, their lessees, permittees, successors and assigns to utilize for their benefit undisturbed use and occupancy, the premises affected by the right of way for sound management practices and said occupants or users to assume full responsibility for avoiding or repairing damages to the right of way area or improvements attached thereto, which may be occasioned by such occupancy.

The condition of this grant of right of way easement shall extend to and be binding upon and shall inure to the benefit of the heirs, representative, successors and assigns of the Grantee.

IN WITNESS WHEREOF, GRANTOR HAS EXECUTED THIS GRANT OF RIGHT OF WAY EASEMENT ON THIS 16th DAY OF April 1976.

United States of America

James S. McNeely, Jr.
 Superintendent
 U.S. Department Of The Interior
 Bureau Of Indian Affairs
 Rosebud Agency
 Rosebud, South Dakota

Instrument and supporting records have been reviewed for adequacy by *Robert C. McElroy*
 Chief, Acquisition & Disposal Section
 Land Resources, Bureau of Indian Affairs

State of South Dakota }
County of Todd } SS

Be it remembered that on this 16th day of April 1976, A.D. before me the undersigned a notary public in and for the County and State aforesaid, personally appeared *James S. McNeely, Jr.* personally known to be the identical person who executed the within instrument of writing and such person duly acknowledged execution of the same.

In testimony whereof I have hereunto subscribed my name and affixed my seal on the day and year last hereinabove written - *Paul Halliday*

ATTACHMENT 6

RESOLUTION NO. RB 74-52

WHEREAS, The Nebraska Electric Generation and Transmission Cooperative Inc., of Columbus, Nebraska has applied for a 100' right of way easement 14.1 miles in length, beginning at the Mission sub-station site and ending at the St. Francis sub-station site, traversing 17 tracts of Tribal land and taking 114.23 acres more or less; and

WHEREAS, This transmission line will supply an additional source of electric energy to the Cherry Todd Electric Cooperative of Mission, South Dakota for distribution throughout this area; and

WHEREAS, This additional source of energy is much needed to supplement other sources of electric energy in this area and will be beneficial to Indians of the Reservation who reside and conduct business operations in this area. It will also be beneficial to the adequate maintenance of our hospital, school systems and business offices; therefore, be it

RESOLVED, That the Rosebud Sioux Tribal Council hereby gives its consent to the construction of a 115 KV transmission line, over, across in and upon the following described tracts of Tribal land:

TRACT NO.	IDENTIFICATION NUMBER	LEGAL LAND DESCRIPTION	RIGHT OF WAY ACRES
T-6	EX. A 464	SE $\frac{1}{4}$ Sec. 26, T. 39 N., R. 29 W., 6th P.M.	5.92
T-16	Ref. 2195	SE $\frac{1}{4}$ Sec. 9, T. 38 N., R. 29 W., 6th P.M.	2.89
T-19	Ref. 1581	E $\frac{1}{2}$ Sec. 15, T. 36 N., R. 29 W., 6th P.M.	9.14
T-20	Tribal 9156	Sec. 20, E $\frac{1}{2}$ Sec. 19, Sec. 30 NW $\frac{1}{4}$ Sec. 31, T. 38 N., R. 29 W., 6th P.M.	
T-21	Ref. 424	E $\frac{1}{2}$ Sec. 36, T. 38 N., R. 30 W., 6th P.M.	42.63
T-22	Ref. 431	S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 36, T. 38 N., R. 30 W., 6th P.M.	.15
T-23	Ref. 430	NW $\frac{1}{4}$ Sec. 1, T. 37 N., R. 30 W., 6th P.M.	7.01
T-24	Ref. 65	SW $\frac{1}{4}$ Sec. 1, T. 37 N., R. 30 W., 6th P.M.	3.87
T-26	Ref. 87	SE $\frac{1}{4}$ Sec. 2, T. 37 N., R. 30 W., 6th P.M.	3.56
T-27	Ref. 86	SE $\frac{1}{4}$ Sec. 11, T. 37 N., R. 30 W., 6th P.M.	.09
T-28	Ref. 412	SW $\frac{1}{4}$ Sec. 11, T. 37 N., R. 30 W., 6th P.M.	7.17
T-29	Ref. 421	NW $\frac{1}{4}$ Sec. 14, T. 37 N., R. 30 W., 6th P.M.	4.13
T-30	Ref. 1575	NE $\frac{1}{4}$ Sec. 15, T. 37 N., R. 30 W., 6th P.M.	2.97
T-31	Ref. 2590	SE $\frac{1}{4}$ Sec. 15, T. 37 N., R. 30 W., 6th P.M.	7.31
T-33	Ref. 941	NE $\frac{1}{4}$ Sec. 22, T. 37 N., R. 30 W., 6th P.M.	.56
T-36	Tribal 9146	SE $\frac{1}{4}$ Sec. 21, T. 37 N., R. 30 W., 6th P.M.	2.81
T-37	Tribal 9.46	NW $\frac{1}{4}$ Sec. 33, T. 37 N., R. 30 W., 6th P.M. S $\frac{1}{2}$ Sec. 32, T. 37 N., R. 30 W., 6th P.M.	5.23 8.77

BE IT RESOLVED FURTHER, That the President and Secretary of the Rosebud Sioux Tribal Council are hereby empowered to sign rights of way documents on behalf of the Rosebud Sioux Tribe

CERTIFICATION

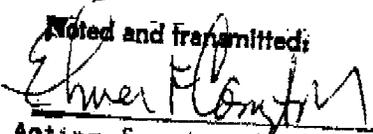
This is to certify that the above Resolution No. RB 74-52 was duly passed by the Rosebud Sioux Tribal Council in session January 8, 1974, by a vote of 23 in favor and none opposed. The said resolution was adopted pursuant to authority vested in the Council by provisions of paragraph (t) of Section 1 of Article IV of the Constitution. A quorum was present.


Robert Burnette, President
Rosebud Sioux Tribe

ATTEST:


Norman L. Knox, Secretary
Rosebud Sioux Tribe

DATE SUBMITTED 3-12-74
TO ROSEBUD AGENCY SUPT.

Noted and transmitted:

Acting Superintendent MAR 12 1974

TRIBAL COUNCIL MEETING
TRIBAL LAND CONCERNED:

JANUARY 8, 1974

ATTACHMENT #1

TRACT NO.	TRIBAL NO.	2-POLE WOODEN STRUCTURES	LEGAL DESCRIPTION	RIGHT OF WAY ACRES	RIGHT OF WAY PAYMENT	CONST. DAMAGE PAYMENT	TOTAL PAYMENT
6	A464	3	SE¼, Sec 26, T 39 N, R 29 W	5.92	\$ 356.00	\$ 150.00	\$ 506.00
16	Ref. 2195	1	SE¼, Sec 9, T 38 N, R 29 W	2.89	174.00	73.00	247.00
19	Ref. 1581	5	E½, Sec 15, T 38 N, R 29 W	9.14	550.00	230.00	780.00
20	Ref. 9156	26	All of Sec 20, E½ of Sec 19, All of Sec 30, NW¼ of Sec 31 T 38 N, R 29 W. The E½ of Sec 36, T 38 N, R 30 W	42.63	2,558.00	1,066.00	3,624.00
21	Ref. 424	0	S½ of the SW¼ of Sec 36, T 38 N, R 30 W	0.15	20.00	5.00	25.00
22	Ref. 431	4	NW¼ of Sec 1, T 37 N, R 30 W	7.01	424.00	176.00	600.00
23	Ref. 430	2	SW¼ of Sec 1, T 37 N, R 30 W	3.87	233.00	97.00	330.00
24	Ref. 65	2	SE¼ of Sec.2, T 37 N, R 30 W	3.58	215.00	90.00	305.00
26	Ref. 87	0	SE¼ of Sec.11, T 37 N, R 30 W	0.09	20.00	5.00	25.00
27	Ref. 86	4	SW¼ of Sec.11, T 37 N, R 30 W	7.17	430.00	180.00	610.00
28	Ref. 412	2	NW¼ of Sec.14, T 37 N, R 30 W	4.13	248.00	104.00	352.00
29	Ref. 421	2	NE¼ of Sec.15, T 37 N, R 30 W	2.97	179.00	75.00	254.00
30	Ref. 1575	5	SE¼ of Sec.15, T 37 N, R 30 W	7.31	439.00	183.00	622.00
31	Ref. 2590	0	SE¼ of Sec.22, T 37 N, R 30 W	0.56	20.00	5.00	25.00
33	Ref. 941	1	SE¼ of Sec.21, T 37 N, R 30 W	2.81	169.00	71.00	240.00
36	Ref. 9146	3	NW¼ of Sec.33, T 37 N, R 30 W	5.23	314.00	134.00	448.00
37 B	Ref. 9146	4	S½ of Sec. 32, T 37 N, R 30 W	8.77	877.00	220.00	1,097.00
		1 of 3					
		2 of 3					

ATTACHMENT 7

345-36107

RESOLUTION RB 75-99

WHEREAS: The Nebraska Electric Generating and Transmission Cooperative Inc., of Columbus, Nebraska, has applied for a 100' wide right of way easement. Said right of way to commence at the St. Francis, South Dakota sub-station site thence in a southeasterly direction to the Nebraska line, traversing five tracts of tribal land and two tracts of trust allotted lands which contain tribal interests.

WHEREAS: this transmission line will supply an additional source of Electric energy to the Cherry Todd Electric Cooperative of Mission, South Dakota for distribution throughout this area.

WHEREAS: this additional source of energy is much needed to supplement other sources of electric energy in this area and will be beneficial to Indian home owners on the Reservation. It will also be beneficial to the adequate maintenance of the hospital, school systems, tribal and bureau offices all of whom provide services to the Indian people of the Reservation.

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council gives its consent to the construction of a 115 KV transmission line, over, across, in and upon the following described tracts of tribal land and interests in trust allotted lands and by this action accepts the offer made for right of way taking and construction damages or the Bureau appraisals, whichever are higher.

TRACT NO.	IDENTIFICATION NUMBER	LEGAL LAND DESCRIPTION	RIGHT OF WAY ACRES
T-42 ✓	Ex. A. 128 ✓	SE $\frac{1}{4}$ Sec. 5, T. 36 N., R. 30 W., ✓	0.5 ✓
T-53 ✓	Ref. 1292 ✓	SW $\frac{1}{4}$ Sec. 29, T. 36 N., R. 29 W., ✓	7.62 ✓
T-59 ✓	Ref. 1331 ✓	NE $\frac{1}{4}$ Sec. 4, T. 35 N., R. 29 W., ✓	8.0 ✓
T-70 ✓	Ref. 1213 ✓	E $\frac{1}{2}$ Sec. 18, T. 35 N., R. 28 W., ✓	6.45 ✓
T-72 ✓	Ref. 1574 ✓	Lot 1, Sec. 20, T. 35 N., R. 28 W., ✓	3.5 ✓
T-58 ✓	RS-1429 ✓	NW $\frac{1}{4}$ Sec. 4, T. 35 N., R. 29 W., ✓	0.4 ✓
T-68 ✓	RS-1443 ✓	NE $\frac{1}{4}$ Sec. 13, T. 35 N., R. 29 W., ✓	6.63 ✓

BE IT FURTHER RESOLVED, that the President and Secretary of the Rosebud Sioux Tribal Council are hereby authorized to sign right of way documents on behalf of the Rosebud Sioux Tribe.

received
4-7-06
[Signature]

345-36107

RESOLUTION RB 75-99
PAGE TWO

FURTHER RESOLVED, that nothing herein granted shall be included as affecting tribal jurisdiction, laws or sovereignty.

CERTIFICATION

This is to certify that the above Resolution RB 75-99 was duly passed, as amended, by the Rosebud Sioux Tribal Council in session, September 11, 1975, by a vote of 21 in favor, 1 not voting and none opposed. The said Resolution was adopted pursuant to authority vested in the Council by provisions of paragraph (o) of Section 1 of Article IV of the Constitution. A quorum was present.

Robert P. Burnette, Vice Pres
for Robert P. Burnette, President
Rosebud Sioux Tribe

ATTEST:

DATE SUBMITTED 10-3-75
TO ROSEBUD AGENCY SUPT.

Norman L. Knox
Norman L. Knox, Secretary
Rosebud Sioux Tribe

received

4-7-06

[Signature]

ATTACHMENT 8

ALLOTTED ACRES 5.15

345 39705

GRANT OF RIGHT-OF-WAY EASEMENT

FILE: Nebraska Electric Generation and Transmission Cooperative, Inc. Columbus, Nebraska

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America, acting by and through the Superintendent of the Rosebud Agency, Bureau of Indian Affairs, Department Of The Interior, Rosebud, South Dakota. Hereinafter referred to as "GRANTOR" under authority contained in Order No. 2508, of The Secretary Of The Interior (14 FR 258) and BIAM 3 (34 FR 637), and pursuant to provisions of this Act of February 5, 1948, (62 Stat. 17; 25 U.S.C. 323-328), and Part 161, Title 25, Code of Federal Regulations, in consideration of \$600.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Nebraska Electric Generation and Transmission Cooperative, Inc., hereinafter referred to as the "GRANTEE" an easement for a 100' right-of-way, (50' either side of centerline) for the construction and maintenance of a 115 KV transmission line over, across, in and upon the following described land, located in Todd County, State of South Dakota:

T. 36 N., R. 29 W., 6th P.M.

T-56	RS-1678½B	Lays On The Ground	NW¼	Sec. 33	3.65 acres
T-58	RS-1678A	Growling Running Bear	SE¼	Sec. 33	1.50 acres

The line of route may be described in general, as follows:

Commencing at the West boundary line, a point 1665 feet south of the Northwest quarter corner of Sec. 33, T. 36 N., R. 29 W., 6th Principal Meridian, thence S52°19'09"E, a distance of 1,590 feet ending at a point 1,272 feet east of the West quarter corner of Sec. 33. Commencing at a point 50 feet East of the South quarter corner, thence North 1320 feet, parallel with the West boundary line and ending 50 feet East of the Northwest corner of the Southwest quarter of the Southeast quarter of Sec. 33.

and to construct, inspect, reconstruct, operate and maintain on the above described right-of-way, an electric transmission line and related communications circuitry, consisting of poles, towers, wires, guys, anchors, equipment and fixtures with the right to alter, repair and remove the same in whole or in part at any time.

Grantee shall also have the right of ingress and egress to cut or trim by topping or removing trees, which in falling would come within fifteen (15) feet of the nearest electric line conductor. All refuse from such tree cutting or trimming shall be removed by the Grantee.

The owner of trust lands, which are traversed by this transmission line, their lessees or permittees, may cultivate, use or enjoy the land within the right-of-way area provided that such use shall not endanger or be hazard to or interfere with the survey, construction, reconstruction, repair, maintenance, inspection, operation, alteration, relocation and removal of the Grantee's transmission line.

It is further agreed that owners of trust properties, traversed by this line, their lessees or permittees, may be allowed to place and maintain buildings, structures, hay or straw or baled within the right-of-way area, only after obtaining express written permission from the Grantee.

The Grantee agrees to pay to the Grantor, for disbursement to the owner of trust properties traversed by this transmission line, for any damage to the property, fence, livestock and to growing crops caused by the survey, original construction or damages occurring after initial construction and resulting from operation, maintenance, inspection, repair, removal, alteration, relocation and reconstruction of the transmission line.

The Grantee agrees to take all reasonable steps to restore, as nearly as possible to the condition it was prior to the original construction, all land contained in this grant of right-of-way easement, for any damages that may be incurred during the tenure of this grant of right-of-way easement.

received
4-7-04

[Handwritten signature]

Grant of Right-of-Way Easement

FILE: Nebraska Electric Generation and Transmission Cooperative, Inc.

This easement is subject to any valid existing right or adverse claim and is without limitation as to tenure so long as said easement shall be actually used for the purpose above specified; PROVIDED that this grant of easement shall be terminable in whole or in part by the Grantor for any of the following causes upon 30 days written notice and failure of the Grantee within said notice period to correct the basis for termination (25 CFR 161.20):

- A. Failure to comply with any term or condition of the Grant or the applicable regulations.
- B. A nonuse of the right-of-way easement for a consecutive two-year period for the purpose for which it was granted.
- C. An abandonment of the right-of-way easement for a transmission line.
- D. Failure to the Grantee, upon completion of construction to file with the Grantor an affidavit of completion, pursuant to 25 CFR 161.16.
- E. The right is reserved to Indian landowners and to the Rosebud Sioux Tribe, their lessees, permittees, successors and assigns to utilize for their benefit undisturbed use and occupancy, the premises affected by the right-of-way for sound management practices and said occupants or users to assume full responsibility for avoiding or repairing damages to the right-of-way area or improvements attached thereto, which may be occasioned by such occupancy.

The condition of this grant of right-of-way easement shall extend to and be binding upon and shall inure to the benefit of the heirs, representative, successors and assigns of the Grantee.

IN WITNESS WHEREOF, Grantor has executed this Grant of Right-of-Way Easement on this 17th day of December, 1980.

UNITED STATES OF AMERICA

Laura M. Behrens

Superintendent
U.S. Department of the Interior
Bureau of Indian Affairs
Rosebud Agency
Rosebud, South Dakota 57570

RECEIVED

DEC 22 10 55 AM '80

AGENCY OFFICE

345 39705

ACKNOWLEDGEMENT

State of South Dakota
County of Todd

Before me, a Notary Public, in and for said County and State, on this 18th day of December, 1980, personally appeared Laura M. Behrens whose name is subscribed to the foregoing Grant of Right-of-Way Easement as Superintendent, Rosebud Agency, Bureau of Indian Affairs, and who acknowledged that he is and was at the time of signing the same, Superintendent, Rosebud Agency, Bureau of Indian Affairs; and he personally acknowledged to me that he executed the said Grant of Right-of-Way Easement as his free and voluntary act and deed for use as purposes as set forth therein.

Notary Public: *Audrey L. Cordry*

My Commission Expires: 8/23/85