



# BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417  
(406) 338-7521 FAX (406) 338-7530

## EXECUTIVE COMMITTEE

Patrick "Pat" Thomas, Chairman  
Jay St. Goddard, Vice-Chairman  
Fred Guardipee, Secretary  
Joe A. Gervais, Treasurer

## BLACKFEET TRIBAL BUSINESS COUNCIL

Patrick "Pat" Thomas  
Jay St. Goddard  
Fred Guardipee  
Betty Cooper  
Earl Old Person  
Patrick Schildt, Jr.  
William Talks About  
James St. Goddard  
Hugh Monroe

January 19, 2006

Sent via electronic mail to: IEED@bia.edu and regular mail

Section 1813 ROW Study  
Office of Indian Energy and Economic Development  
1849 C. Street, NW, Mail Stop 2749-MIB  
Washington, DC 20240

To Whom It May Concern:

The Blackfeet Tribe is the largest tribe in Montana with a total enrollment of approximately 15,560 members and 8,600 members living on our 1.5 million acre reservation. The Blackfeet Tribe is considered a "domestic sovereign" by the federal government and as such is recognized as a nation within a nation through treaties, agreements, laws and executive orders.

It is our understanding that pursuant to Section 1813 of the Energy Policy Act of 2005, P.L. 109-58, the Department of Interior and Department of Energy are required to conduct a study concerning energy rights-of-way on tribal land and report the findings to Congress by August 7, 2006. We have many concerns about the process and the assumptions inherent in the development of such a report.

### Major Issues and Concerns:

**Timeline of work plan:** It is our understanding that in August of 2005, Congress directed the DOI and the DOE to conduct a study to be completed by August 7, 2006. We don't understand why the responsible departments waited until December 29, 2005 to initiate the process of seeking public input. We don't think there is enough time to properly involve tribal interests in the process, gain substantive comments and fully address those concerns within the work plan timeline outlined in the Federal Register notice.

**Sovereignty:** We oppose any proposal to Congress that undermines our sovereign rights. Any attempt by the responsible departments to amend these statutes in the Energy Policy Act to allow the Secretary of Interior to approve energy right-of-way on tribal lands without tribal consent is unacceptable. We oppose any actions by any branch of the federal government that serves to justify future legislation that would give the Secretary of Interior the right to condemn tribal lands without tribal consent.

We support maintaining current law: 25 U.S.C. §324 and 25 C.F.R. § 169, which states that the Secretary cannot approve and grant right-of-ways on tribal land without consent of tribal officials.

**Methodology:** The Federal Register states that the report will include an analysis of historical rates of compensation; and standards to determine fair and appropriate compensation. We believe that the BIA has historically undervalued these rights-of-way and that any analysis must take this fact into account and allow tribes the right of self-determination and ability to consider economic, social, cultural, religions and recreation factors when determining fair and appropriate compensation. This can only be accomplished through site-specific analysis and full consultation with affected tribe(s).

We object to DOI and DOE plan to conduct a series of pre-scoping phone calls and meetings with selected tribal leaders, members of the energy industry, appropriate government entities and affected businesses and consumers to discuss the various aspects of the report called for by section 1813. We believe that full consultation should occur from the beginning of the process and all tribes should be free to participate in the pre-scoping and ensuing stages of the process.

DOI and DOE propose to contract with a Department of Energy National Laboratory to prepare an analysis of historical rates of compensation for pipelines crossing Indian land (a specified in section 1813(b)(1)), using a case study approach. They plan to direct the analysts to solicit and collect data from the Bureau of Indian Affairs, Tribal Governments, the energy industry, and other appropriate sources (e.g., the National Archives and Records Administration) for this analysis. Please explain why the analysis is restricted to an analysis of pipelines. How do DOI and DOE intend to deal with other energy related rights-of-way issues such as power lines, road construction, and processing facilities?

In February 2006, DOI and DOE plan to jointly conduct a 2-day nationwide scoping meeting with presentations from all affected groups, soliciting input on the subjects of appropriate standards and procedures for determining fair and appropriate compensation, tribal self-determination and sovereignty interests, and relevant national energy transportation policies. It is unclear to us how DOI and DOE will solicit meaningful input without a draft plan. Will the 2-day meeting be a face-to-face meeting with opportunities for participation from all tribal interests? Who will pay for tribal representatives to participate in the meeting? How many tribal representatives will be invited to attend? What will happen if tribal representatives request additional working groups or modifications to existing working groups?

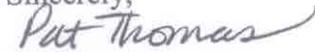
Between February and May 2006, DOI and DOE plan to conduct up to two workshops for each of these working groups. How will disagreements between members of the working groups be handled? How will the composition of the working groups be determined? And how many tribal representatives are included on each working group?

In May 2006, DOI and DOE plan to prepare a draft report, send copies to the tribes, and publish a notice of availability in the Federal Register. Between May 2006 and mid-July 2006, DOI and DOE plan to conduct three regional Tribal consultation meetings to present the draft report and to receive written and oral comments on the draft. DOI and DOE will consider these comments in preparing a final report for delivery to Congress by

August 7, 2006. Do the conclusions/findings of the report take the place of consultation and site-specific analysis? What if the tribe(s) disagrees with the final report and requests changes to the report?

These are some of our questions and concerns regarding this process. We request to be fully noticed about the process and to be consulted every step of the way. We reiterate our objection to any attempt by any branch of the Federal Government to limit or abolish the rights of sovereign Indian Nations to exercise self-determination and to reject right-of-ways we deem incompatible with our cultural, religious, economic, social and/or recreational values.

Sincerely,



Pat Thomas

Chairman Blackfeet Tribal Business Council



Keith Tatsey

Member

Chair- Badger Two-Medicine Committee

Natural Resource Instructor – Blackfeet Community College