

WORRELL & WILSON
REPORTING SERVICES

SECTION 1813

ROW (RIGHTS OF WAY) STUDY

PUBLIC HEARING

MORONGO CASINO

CABAZON, CALIFORNIA

MONDAY, AUGUST 28, 2006

Reported by:
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ROW (RIGHTS OF WAY) STUDY
PUBLIC HEARING

PUBLIC MEETING PROCEEDINGS, taken at 49500
Seminole Drive, Cabazon, California, beginning
at 9:05 a.m. and ending at 10:45 a.m., on
Monday, August 28, 2006, before KATHY
BAUERNFEIND, Certified Shorthand Reporter
No. 11921.

1 CABAZON, CALIFORNIA

2 MONDAY, AUGUST 28, 2006

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4

MR. MIDDLETON: We're going to get started.

5

We're really empty at the front of the room here, so why

6

don't you start the movement and come on up. And

7

actually, we could probably have a better conversation

8

if we can get people to move forward a little bit, and

9

plus you'll be able to hear the speakers a little bit

10

better.

11

Thank you for being accommodating.

12

Everybody knows we're here to talk a little bit

13

about Section 1813 in the draft report. I'd like to

14

welcome everybody here and welcome everybody for taking

15

the time to come and help us in fact draft a better

16

report.

17

My name is Bob Middleton. I'm director of the

18

Office of Indian Energy and Economic Development for the

19

Department of Interior and Secretary's Office. And,

20

Rollie, would you like to introduce yourself.

21

MR. WILSON: I'm Rollie Wilson. I'm with the

22

Department of Energy. The director of my office, Kevin

23

Kolevar, sends his regrets that he can't be here. He

24

got activated for Hurricane Ernesto and had to return to

25

D.C. where they stay prepared in case Ernesto lands.

1 Anyway, I'm glad to be here with you all, and I
2 look forward to our discussion.

3 MR. MIDDLETON: Thank you, Rollie. And I also
4 would like to thank the Morongo tribe for their kind
5 hospitality and working with us, allowing us to use this
6 great facility for this important meeting. And with
7 that, Mr. Chairman, I know you'd like to say a few words
8 welcome.

9 MR. LYONS: Good morning, everyone. I'd like
10 to welcome you all here to Morongo, Morongo Band of
11 Mission Indians. I'm Maurice Lyons, Chairman.

12 I'd like to welcome DOI for -- and thank him
13 for having the hearing here at Morongo. This is kind of
14 way out of the way for where they are from, but I'm glad
15 that they could see their way to come down here and have
16 us part of the hearing. So I thank you and I thank
17 everyone for coming to Morongo. Thank you.

18 MR. MIDDLETON: Thank you, Mr. Chairman.

19 The way that we've organized these meetings is
20 that this is an opportunity for primarily government-to-
21 government consultation with any tribal leadership and
22 tribal members that would like to talk with us, and we
23 will do that in private. We have a separate break-out
24 room where we will move to to hold those government-to-
25 government meetings, but in addition, we've designed

1 these meetings so that we have a short period of time to
2 have open discussion.

3 We have asked people to sign up if they would
4 like to speak at the open session, and we have that
5 list. And we also have a list of the tribes that would
6 like to talk to us government-to-government after the
7 meeting.

8 The Section 1813 draft report really was a
9 large effort in a very short amount of time, and I know
10 a lot of people in this room were part of that effort to
11 try and provide us the information that we needed in
12 order to prepare the best report that we possibly could.
13 Congress actually gave us a short amount of time to be
14 able to pull the report together, and a lot of people
15 spent a lot of evenings and weekends working on this to
16 make it happen.

17 We also are continuing to have a short time
18 frame to finalize the report. We have committed to
19 Congress that we will have it up to them by September
20 30th, which actually means Friday, September 29th. And
21 so over the next few weeks, a lot of effort is going to
22 have to come from you to provide us with comments on the
23 draft report, for us to incorporate those comments, and
24 then provide them to Congress within our final report.

25 We received a considerable amount of feedback

1 from the meetings that we had earlier. We had two
2 public meetings that occurred in Denver, where we gained
3 a lot of information from folks, both written comments
4 that were sent into our website, as well as given to us
5 at the two meetings, as well as a lot of dialog.

6 For those of you who are not aware, we actually
7 captured and transcribed all of the public comments that
8 were given to us, and they are posted up on our 1813
9 website. And if you would like to review those
10 comments, the web address is <http://1813.anl.gov>.
11 That's the Argon National site, anl.gov.

12 And in addition, any public comments that are
13 brought forward in this session will also be transcribed
14 as quickly as we get them done and posted on the
15 website. So you're being recorded in other words.

16 In our initial review, in our discussions that
17 we had at the two national meetings, it became apparent
18 very quickly that it would be difficult for us to
19 actually provide Congress with a comprehensive
20 historical analysis. There are tens of thousands of
21 energy rights-of-way across tribal lands, and neither
22 the time nor the resources were available for us to do a
23 full-blown analysis, historical analysis of all of those
24 rights-of-way.

25 So what we chose to do was select case

1 histories, where we looked at essentially five, five
2 cases that we thought may be representative or
3 indicative of the issues that were being raised, and the
4 information requested of the study.

5 One confounding factor to all of this also was
6 the fact that there is a lot of proprietary information
7 associated with the energy rights-of-way. Both
8 proprietary to the tribe, proprietary to the companies.
9 So we couldn't just go out and select -- hand-select and
10 say we're going to study this, we're going to study
11 this, because getting the detailed analysis we may need
12 for these case histories would not have been -- would
13 not have been able to be done with the proprietary
14 information that we would be requesting, and at the
15 level that we were hoping to report back to Congress so
16 that we'd have a clear understanding of the case
17 histories themselves.

18 So we did ask for volunteers. And we had four
19 tribes that volunteered information on energy
20 rights-of-way across their lands, and we're very
21 grateful to the four tribes -- Morongo being one of
22 them -- that allowed us to actually go in and get into
23 the books and look and verify for ourselves the
24 information on the historical nature of the energy
25 rights-of-way.

1 In addition, El Paso Natural Gas allowed us to
2 go in and look at some of their pipelines and get down
3 into the weeds and look at the information that was
4 available. We actually hired a consulting group called
5 Historical Research Associates, which are forensic
6 historians, and I really didn't even know there was such
7 a thing as forensic historians until we hired them, but
8 a very capable group.

9 Essentially what they are able to do is, with a
10 historian's eye, get in and look back at case histories,
11 look at the past, look at the records, interpret the
12 records, and then provide us with a summary of the
13 logical progression of the various energy rights-of-way
14 that were available for the five case histories.

15 We are very grateful to that group for
16 providing some very good product. It is an appendix
17 that we have to our draft report. And that HRA appendix
18 is also available up on the website if anybody would
19 like to go up and take a look at it in PDF format.

20 We -- one of the points of discussion that has
21 cropped up in some of the meetings that we've had on the
22 draft report, is an understanding of what we -- what we
23 mean by some of the information that's reported. As I
24 mentioned, we had folks step forward and volunteer some
25 of their case histories, which allows us to actually go

1 in and do a verification of the data behind the
2 information that was provided to us.

3 But at the same time, we had a very large
4 amount of information that was reported to us. However,
5 we actually did not have the chance to get in there and
6 verify on our own. And what this brings to bear for the
7 report is the fact that we sort of have two levels of
8 information. We have the information that we were able
9 to verify, and we've clearly tried to identify that in a
10 report, that we in fact went in and looked at the
11 records and feel very comfortable that the information
12 is as reported.

13 And then we have another level where
14 information was provided to us, and we have just couched
15 that information as reported to us. So we did not do an
16 independent verification. We feel that, while we
17 attempted to make that clear in the report, but we feel
18 that that may not have come through as clearly as we had
19 hoped, so we're going to be working between draft and
20 the final to make that distinction so people are aware
21 of the level of information, what is being said and what
22 we've been able to do to either verify or substantiate
23 that information.

24 One other point that is significant, is that in
25 the 1813 study, as given to us by Congress, they asked

1 for recommendations on valuations for energy
2 rights-of-way across tribal lands. After we started
3 working on this effort, it became apparent very quickly
4 that it would have been a very difficult thing for us to
5 come out and decide on a single recommendation. We
6 thought our best approach was in fact to provide
7 Congress with a suite of options. And that's what we
8 did.

9 We selected at this time for the draft report
10 five options that we provided to Congress, for them to
11 address the problem if they choose to do so. We think
12 in the report we clearly laid out what the circumstances
13 are, what the historical evolution of rights-of-way,
14 energy rights-of-way across tribal lands has been, and
15 then a series of options that if they choose to act on
16 any of the options, they have a clear understanding of
17 what the options will do and how it will affect not only
18 our Indian policy, but also our national transportation
19 policies.

20 Today's purpose really is that we are -- this
21 is the second government-to-government meeting that we
22 have run. We're gathering information on the draft
23 report so we can do a better job pulling together the
24 final. We had a national meeting in Denver last
25 Wednesday, which was quite a large turnout, and a large

1 open discussion for the entire day. I'm sorry, that was
2 on Thursday last week.

3 On Friday of last week, we went to Salt Lake
4 City and we had a government-to-government meeting, we
5 had a very lively one-and-a-half-hour open meeting in
6 the morning, which is similar to what we're trying to do
7 here now. And then we went to government-to-government
8 discussions with four tribes that chose to come in and
9 speak to us privately. And we gathered the comments and
10 information that they provided us, and we will use that
11 in formulating our final report.

12 We'll be doing the same thing here today. And
13 then we will be in Albuquerque on Wednesday for our
14 final government-to-government meeting, and then we will
15 start preparation of the draft -- of the final report.

16 People need to know that all of the comments
17 that are available, either provided to us orally or in
18 writing, carry equal weight. None of the -- if you
19 submit written comments, they don't -- they don't carry
20 more weight than if you present something orally to us,
21 because all of this is being transcribed, it's all being
22 reviewed by us, and being weighed, incorporated into our
23 final report.

24 What we do ask you, though, is that, to help us
25 out, your comments, whether orally or in writing, really

1 need to be well structured. We have a very short time
2 frame here. What we've been asking all participants to
3 do is, we know that there is a lot of information you'd
4 like to provide to us, but what we would like to see up
5 front is tell us what's important to you. Identify --
6 be sort of like doing an executive summary. Tell us
7 what is important, what's the important point that you
8 you would like to get across to us, and then go into
9 substantiating or verifying or providing us additional
10 information on why that important point is valuable to
11 you.

12 This, as you can imagine, will help us
13 immensely because we won't have to wade through, you
14 know, a number of pages of written comment in order to
15 get to the kernel that you really wanted to tell us. So
16 if at all possible, tell us up front what you think is
17 important, and then we will continue to read all of the
18 comments that you have provided, but at least know,
19 then, what we're looking for, what we need to
20 concentrate on.

21 Now, that gets us to the actual scheduling. As
22 you heard, I mentioned that we would like to be walking
23 this report up to Capitol Hill on Friday, the 29th.
24 Essentially what that does, is that gives us, with the
25 holiday on the 4th, nine working days for us to

1 incorporate all of your comments into a final report,
2 and then an additional 10 working days for us to get it
3 through the review process over at the White House,
4 within our departments, Department of Energy, Department
5 of Interior, and then also for us to have some initial
6 discussions with folks up on the Hill. That's really
7 not a lot of time when you're talking about a report
8 that has this much significance and this much
9 controversy.

10 So because of that, we have set a very short
11 time frame for us to receive comments from you. Our
12 federal register note has actually asked for comments to
13 come in by Friday, September 1st. Some folks have asked
14 us for an extension of that time. Our intent was to
15 receive the comments on the 1st, and we had planned on
16 working over the weekend to digest those comments, to
17 get our thoughts in order, get a game plan in place on
18 how we were going to incorporate comments, and what we
19 needed to incorporate, and hit the ground running on
20 Tuesday, to do our nine working days to get the
21 finalized report.

22 But folks also asked us for a little bit of
23 time. So we've extended our comment period from the
24 1st, to 10:00 a.m. on the 4th. And as obvious, I think
25 that if we could receive the comments electronically,

1 that's better for us.

2 Now, the 10:00 a.m. on the 4th doesn't mean
3 that if you submit comments that we won't consider them.
4 But what we can do is we can guarantee if you get us
5 comments by 10:00 a.m. on the 4th of September, your
6 comments will be evaluated, weighed, and incorporated
7 into the final report where appropriate. If you get it
8 to us after 10:00 a.m. on the 4th, we can't guarantee
9 that your comments will get the consideration that they
10 perhaps deserve. Simply because we won't have time to
11 give them a thorough review.

12 So to help us, and to help yourselves, if we
13 can receive any of the comments by 10:00 a.m. on the
14 4th, we will be prepared to review those comments and
15 weigh them in finalizing our draft report. We have a
16 website where comments can be sent to, which will help
17 us immensely, and the e-mail address for this is
18 ieed@bia.edu.

19 Anybody need that repeated?

20 PUBLIC SPEAKER: Yes.

21 MR. MIDDLETON: ieed@bia.edu. That's
22 essentially my office's e-mail address. Indian Energy
23 and Economic Development, IEED.

24 With that, Darryl, do you have the sign-up
25 sheets?

1 What we have so far, and people can continue to
2 ask to sign up, and if you did not have a chance to sign
3 up for public comment, just raise your hand after the
4 people who have signed up have had an opportunity to
5 speak and we will recognize you. I ask when everybody
6 comes to the microphone, please identify yourself and
7 your affiliation so that we have it recorded, and we can
8 transcribe it.

9 For public comment, first Chairman Lyons would
10 like to speak for Morongo tribe, and I understand we
11 have a short DVD that they would also like to show that
12 we will incorporate into the public comment period.

13 Following Chairman Lyons is Foley Cleveland
14 from the Tulalip tribe; Marlene Skunkcap from
15 Shoshone-Bannock; Tracy King, who is a tribal
16 councilman, is that right; Fidelia Andy -- did I
17 pronounce that correctly -- from Yakama; and Joe Loya
18 from Torres Martinez. So these are the six folks that
19 we have signed up so far.

20 And then for tribal-to-tribal -- or
21 government-to-government consultation, Chairman Lyons
22 from Morongo, Shoshone-Bannock, Yakama Nation, Fort
23 Belknap, and Torres Martinez are the tribes that will go
24 private to private -- private government-to-government
25 consultation with us after the open session.

1 So with that, Chairman Lyons for the first open
2 mic speaker. Thank you.

3 MR. LYONS: Hello again. Glad everybody can be
4 here. This is quite a time in our lives to change
5 things. And to have the DOI here is pretty good to be
6 able to talk to them directly. So but I'm going to
7 refer my comments to council member John Muncy, he's got
8 everything you need to talk about.

9 MR. MUNCY: Thank you, Chairman. Good morning,
10 everyone. My name is John Muncy. And I'm a council
11 member for the Morongo Band of Mission Indians. And on
12 behalf of all our tribal members, I welcome you all here
13 today.

14 Rights-of-way are a critical issue for the
15 Morongo Band. As you can see when you arrived here, our
16 tribal lands are crossed by a wide range of utilities
17 and vital public services -- highways, power lines,
18 fiberoptic cables, railroads, and water conduits have
19 all been part of our lives for nearly a century.

20 We are gratified, therefore, to find that your
21 draft report does not support the threats raised by the
22 business groups that called for this study. Instead,
23 the report confirms that the use of tribal lands for
24 rights-of-ways is not driving up the cost of energy for
25 consumers, and it does not pose a threat to national

1 security.

2 We appreciate all the work you have put into
3 this study. But it is amazing to us that so much time
4 and effort had to be devoted to studying a problem that
5 does not exist.

6 That, to me, is the essence of your findings.
7 There is no threat to the public interest. The report
8 and its appendix contain numerous examples to show that
9 the existing system is working well. And there is no
10 need for Congress to make any changes in the law.

11 That is why so many of us in Indian country are
12 surprised and disappointed that the report contains a
13 list of options for Congress to consider. I realize
14 that these are not recommendations. But if there is no
15 problem, why is there any need for these options?

16 Of greatest concern, the list includes options
17 for the exercise of eminent domain. That would erase a
18 significant part of tribal sovereignty. It would
19 reverse more than a half century of legal precedents and
20 successful practice. And it would disrupt delicate and
21 productive relationships that have grown up between
22 utilities, tribes, and the individual states all over
23 America. If there is no problem, why even mention
24 eminent domain? This part of the report should be
25 deleted in your report to Congress.

1 There is another aspect of the draft report
2 that is disappointing. I'm speaking here of the absence
3 of much in the way of historical perspective on the
4 issue of rights-of-way. The draft report, for example,
5 only goes back to 1948 in its case study of Morongo.

6 I realize that this shortcoming was not
7 intentional and that your staff only had a limited time
8 to pull all this information together. But the history
9 of rights-of-way, how they came to be located on tribal
10 lands, how little the tribes had to do with making those
11 decisions, and what kind of compensation they received
12 for the loss of their land, it's essential to
13 understanding why rights-of-way and the right of tribes
14 to consent to the use of their tribal lands is so
15 important to us.

16 This history is inseparable from the way tribal
17 governments look at rights-of-way today. It explains
18 why the cost for crossing tribal lands is going up in
19 many areas. It explains why many tribes distrust
20 relying on federal methods for calculating the value of
21 our lands. And it is the reason why many tribes
22 negotiate the terms for new or renewed rights-of-way
23 themselves, working directly with the power companies.

24 There are many voluntary steps that tribes can
25 take to facilitate these negotiations. Some are

1 participating in the preparation of comprehensive
2 inventories of rights-of-way. Some are developing model
3 practices and identifying ways to broaden the scope of
4 negotiations where that is appropriate. The Morongo
5 tribal government, for example, has adopted an ordinance
6 that facilitates the exchange of information on a
7 proposed right-of-way and establishes a time frame for
8 negotiation.

9 In conducting this study, we found out that
10 there is not a problem with the existing process for
11 establishing rights-of-way. But you also found out two
12 other very important things that are not fully
13 represented in the draft report.

14 First, you found out that the issue of
15 rights-of-way matters a lot to all the tribal
16 governments in America. The threat to the tribal right
17 of consent that was posed by Section 1813 drew concern
18 and attention from tribes all across the country.
19 Congress has heard that message. And we will continue
20 to make the reasons for our concern very clear to all.

21 You also found out that the system is working
22 well. Tribes and power companies are successfully
23 negotiating agreements for the delivery of electricity
24 to millions of families throughout the United States.
25 Tribal governments today have the capacity and the

1 resources to operate successfully as partners in meeting
2 America's energy needs in the future. And many tribes
3 are already making substantial contributions to
4 expanding the supply of energy for everyone.

5 These three points should be prominently
6 featured in the final version of this report:

7 There is no problem that requires any change in
8 the law;

9 The history of rights-of-way on tribal lands is
10 the key to understanding their importance for the future
11 of Indian country;

12 That the system is working well.

13 Do that, and we will have a report that does a
14 real service for the public interest.

15 I'm now going to introduce a video that Morongo
16 has produced with the support of the National Congress
17 of American Indians and the Council of Energy Resource
18 Tribes. It is making its debut today. It will be
19 distributed to members of Congress to help educate them
20 on this critical issue. We hope it sheds both heat and
21 light.

22 Thank you.

23 (DVD played.)

24 MR. MIDDLETON: Mr. Chairman, thank you for the
25 comments from the Morongo tribe. Are you finished with

1 your comments?

2 MR. LYONS: Yes.

3 MR. MIDDLETON: With that being said, we have
4 just joined us, Senator Campbell, he would like to say a
5 few words. Senator Campbell, please.

6 SENATOR CAMPBELL: Thank you. I tell you, this
7 is the fifth meeting on this issue that I and Dave
8 Divendorf (phonetic), who used to be my chief of staff,
9 now in the United States Senate, have attended.
10 Frankly, I wasn't going to speak at this one. This was
11 supposed to be a government-to-government conference
12 this morning. I was really just going to take some
13 notes and listen. But after seeing that marvelous
14 documentary, I thought it was important that I chime in
15 a little bit.

16 Let me start by thanking my friend, the
17 chairman of the Morongo Band of Mission Indians, Maurice
18 Lyons, for hosting this. Maurice is, as many of you
19 know, is really a person of national stature in American
20 Indian country, and looked to and respected and revered
21 by many of us, and really sets an example of a high bar
22 of performance for all of us to try to achieve.

23 I mentioned that I've attended five of these,
24 and the last one, in fact, I told the people from DOE
25 and DOI that I certainly appreciated their patience and

1 understand that they have been mandated by Congress to
2 do these things, and they have a time frame by which
3 they have to turn in the final report. But this
4 particular documentary, Maurice, I might tell you, that
5 ought to go to every U.S. Senator and every U.S.
6 Congressman.

7 I don't know of any tribe in the country that's
8 been affected more -- frankly, more adversely by
9 transmission lines, pipelines, and everything else than
10 your tribe has. And probably because of the proximity
11 between where the power is generated and the big
12 metropolitan areas of Los Angeles. This is kind of a
13 nuch (sic), most of you know that, and it's a darn sight
14 easier putting pipelines, transmission lines, and phone
15 lines, and everything else through rather flat country
16 than it is going right over the top of the mountain or
17 through the mountain. So historically more and more of
18 the people who want right-of-ways to transmit power to
19 the big cities of Los Angeles and surrounding area have
20 come right through here.

21 And I couldn't help but think to myself, based
22 on some statistics I've seen, that living real close to
23 those big electric power lines, you heard that noise,
24 that buzz, that there is, in fact, some health effect
25 for people that live too close to those lines. There

1 was a lady in the movie that from her front porch she
2 could hear it and see it. I can't help but think over a
3 long period of time that sound has a health effect on
4 the people living too close to it.

5 The person narrating that movie, I don't know
6 if it said in the beginning or not, but that was Floyd
7 Westerman. Some people just know Floyd as the movie
8 actor in Dances With Wolves and that kind of thing, but
9 I've known Floyd for years and years and years. And
10 Floyd is a spiritual leader and a person of very, very
11 deep cultural and religious convictions. I can't think
12 of anybody that was a better spokesman in that
13 documentary than Floyd. So I was glad that whoever made
14 the arrangements to do this film, did get Floyd to
15 narrate it.

16 I mentioned in the last meeting that we were in
17 Denver a few days ago, that there were, I think, some
18 things that are probably a little more good than bad for
19 Indian country on this draft report. But by and large,
20 I agree with the former speaker, the representative of
21 the Morongo tribe, that it shouldn't go anywhere.

22 This is not necessary to proceed with. In
23 fact, if anything, the results of this study are
24 probably going to make Indian country even more coalesce
25 than they are now.

1 I haven't seen very many things in all the
2 years I worked in Congress as the Chairman of Indian
3 Affairs Committee that brought Indian tribes together
4 more. Many issues we'd deal with back there, you'll
5 find some tribes on this side of the issue, and some
6 tribes on that side of the issue, and you deal with it
7 as well as you can. I don't know of any tribe in the
8 nation that supports this study, very frankly. Not a
9 one.

10 Partly, of course, because they were
11 blind-sided and didn't see it coming. And the other
12 part, of course, is everyone -- the small tribes, the
13 big tribes -- they all recognize the inherent danger and
14 what it will do to reduce and literally do away with any
15 sovereignty or sovereign government. It's wrong to do
16 it.

17 I mentioned a little earlier this morning in a
18 little smaller meeting that we had, that the outside
19 world has different kinds of measurements about value
20 than Indian country does, and all the Indian people here
21 know that. To the outside people, developers, the
22 builders, the pipeline guys, the power plant guys, and
23 so on, when they need to make a line, a direct line is
24 the easiest and probably the most cheapest in all other
25 things being considered. If it goes through that rock

1 or that tree or that mountain, we just have to move that
2 rock or tree or kill it, do whatever we have to do to
3 put that power line in.

4 Indians don't think like that. Because that
5 rock or that tree or that mountain may have the same
6 feeling and connotation to them that a crucifix does to
7 a Catholic. That may have and probably does have a very
8 large religious significance, and you simply can't put a
9 monetary value on that. Nobody does. Nobody does. I
10 don't care if they are Indian or not Indian, nobody in
11 their right mind would sell their religious beliefs.
12 And I don't think that the report takes that into
13 consideration.

14 I mentioned also there were a few things -- I
15 already mentioned them in Denver so I won't go over them
16 and enumerate them again. But there were -- just seems
17 to me that the sampling of tribes, I believe the group
18 that was hired Historical -- what was the name of it --
19 Historical Research Association, they really did some
20 research based on five tribes, not 565, and a number of
21 others that are waiting in this state.

22 California, in fact, there are 33 tribes right
23 now. 33 that are trying to get reinstated that were
24 terminated in the 1950s. They are tribal people,
25 they're just not a federally recognized tribe, but they

1 certainly could be affected as anybody else could if
2 this report moves to legislation.

3 I don't know if it's going to. There are
4 several options. I wish that the option Congress does
5 is do nothing about it. That would be my personal
6 preference, and I hope they don't. And having been told
7 that they will be adjourned by the end of September, I
8 don't think that gives Congress probably a 15 or 20,
9 maybe even less, I don't know, maybe 15 or 20 working
10 days back there, with all kinds of front burner issues
11 that they have to deal with before they adjourn, and
12 then they will come back, of course, more than likely
13 for what they call lame duck session after the election.

14 So I think that the time, the contraining time
15 with all the things that are going to have to be pushed
16 through in the last minute, in one way it benefits the
17 tribes because there is not much time to deal with it.
18 The downside of it, of course, is there is something we
19 call midnight riders. You don't know what's going to be
20 put in at the last minute by some energy-friendly
21 senator or energy-friendly congressman in the form of a
22 rider, that almost nobody has the time to read or catch
23 up with. When it finally comes to the floor, you don't
24 even know what's in there, and you vote, only to find
25 out weeks later the fine print are things that were put

1 back on page 2,460 or whatever. That's the danger I
2 think that we face now.

3 We have time on our side that hopefully is
4 going to run out before Congress can do anything, and
5 they will just leave this alone and go on to other
6 things next year. But clearly it's incumbent on all
7 tribal groups to really watch this last month and a half
8 to make sure that something isn't slipped through, just
9 as the study was slipped through without us knowing
10 about it.

11 Thank you, very much.

12 MR. MIDDLETON: Foley Cleveland, Tulalip.

13 MR. CLEVELAND: Well, first of all, after
14 seeing the class act performance in the video you shown,
15 I was thinking, you know, that's going to be a tough act
16 to follow. And then only to have the honorable senator
17 come up and speak, I was thinking how do I get my name
18 off that list.

19 But anyway, my name is Foley Cleveland, and I'm
20 here from the Tulalip tribes of Washington. And I bring
21 with me a letter from our Chairman Stanley Jones,
22 five-page letter, and would like that presented in the
23 records. And for brevity this morning, I'd like to
24 extract five short paragraphs of the letter to give you
25 the contents of what our tribe and chairman has to say.

1 Basically, it's this: The costs associated
2 with the procurement and purchase of rights-of-way are a
3 very small portion of any project, tribal or nontribal.

4 Tribal lands are a very small percentage of the
5 lands in Washington State and, therefore, tribal lands
6 and the right-of-ways across them, do not impede any
7 projects -- energy or nonenergy -- in Washington State.

8 Other than the cost of a right-of-way, there
9 are no adverse consequences to any project of tribal
10 control of Indian lands within Washington State.

11 On a small, developing reservation like
12 Tulalip, it is necessary to maintain a reasonable
13 business relationship with surrounding jurisdictions and
14 major private employers in the region, simply because
15 the tribal government and its plans for development can
16 be impeded if a good working relationship is not
17 maintained. Thus, the tribes, for example, recently
18 traded lands and right-of-ways with a bordering
19 municipal jurisdiction in order for both tribal and
20 nontribal governments to reasonably proceed with
21 business and transportation needs.

22 Because the present statutory and regulatory
23 system for providing right-of-ways over Indian trust
24 lands on the Tulalip Reservation works quite well for
25 all parties while maintaining tribal sovereignty of

1 Tulalip territory, the Tulalip tribe urges that no
2 changes in the present matrix of laws and regulation be
3 enacted. Until a real problem is defined, and none has
4 been defined at this time, Congress should take no
5 action to amend the present federal statutes governing
6 right-of-ways across Indians lands.

7 I'd like to this give to you on behalf of
8 Chairman Jones. And in summary, changing something
9 that's working so well is kind of like going to war to
10 obtain peace. It simply doesn't work.

11 MR. MIDDLETON: Thank you. Marlene Skunkcap
12 from the Shoshone-Bannock tribe. Marlene here?

13 MS. SKUNKCAP: I'm here.

14 MR. MIDDLETON: Sorry.

15 MS. SKUNKCAP: Good morning. Before I begin,
16 I'd like to thank the chairman of the Morongo Band of
17 Mission Indians for inviting us here, and you have a
18 beautiful structure here for gaming. Beautiful.

19 First of all, I'd like to introduce two people
20 who have accompanied me. First, tribal attorney
21 Jeanette Wolfley, who has been highly involved in the
22 right-of-way meetings that we've had with the various
23 entities. Jeanette, would you stand, please. And also
24 I brought along our tribal -- our tribal revenue tax
25 director, and that's Delbert Farmer. He's also been

1 involved. And I'm here because I volunteered. There
2 were other choices but I felt like our chairman, but
3 he's back in New York visiting with the Gaming
4 Commission.

5 My name is Marlene Skunkcap. I'm a member of
6 the Shoshone-Bannock tribes, and also a member of the
7 Fort Hall Business Council, governing body of the
8 Shoshone-Bannock tribes. I'm here on behalf of the
9 tribes to present comments on the Section 1813 report.
10 I will submit into the record today the tribes' more
11 comprehensive written comments on the report.

12 Before I begin, I'd like to tell you something
13 about our tribes. We're the Fort Hall Reservation.
14 We're one of the largest line tribes based in Idaho with
15 some 400 -- 544,000 acres of land. Our reservation was
16 reserved by the Fort Bridger Treaty of 1868 and was
17 originally 1.8 million acres of land prior to two
18 cessions made by the tribes to the federal government.
19 (Inaudible) late 1800s. It's 97 percent tribally owned
20 and land held in trust. The remaining 3 percent is held
21 in fee by individual Indians and nonIndians. And we
22 have a population of our tribe of about 4,600 people.
23 With that, I'd like to begin.

24 We have already submitted extensive written
25 comments and provided testimony on the rights-of-way

1 study at Denver, Colorado. The Shoshone-Bannock tribes
2 would like to commend the Department of Energy and the
3 Department of Interior on their efforts in completing
4 this report and attempting to address the myriad of
5 comments submitted by tribes and the energy industry.

6 The issues addressed in this report are of
7 paramount importance to the tribes because they touch
8 upon treaty rights, tribal sovereignty, preservation,
9 and protection of Indian lands and natural and cultural
10 resources. The study also implicates a federal trust
11 relationship between tribes and the federal government,
12 and the federal government's fiduciary duty to protect
13 Indian lands.

14 Generally, we are supportive of the tenor of
15 this report and its findings. We support the
16 Department's recognition of the vital importance of the
17 exercise of tribal sovereignty and the inherent
18 authority of tribes to consent to the rights-of-way
19 across tribal lands. This finding is wholly consistent
20 with federal law and it's also consistent with the
21 longstanding policy of tribal self-determination.

22 We support the Department's finding that the
23 majority of energy rights-of-way negotiations are
24 successfully completed. Since 1994, the
25 Shoshone-Bannock tribes have successfully negotiated

1 four major rights-of-way with four different energy
2 companies. These agreements provide certainty and
3 stability to the energy companies' ability to supply the
4 energy -- the amounts of their consumers for over the
5 next 20 to 25 years. Each negotiation was unique and
6 involved a diversity of issues.

7 We support the report findings that there is no
8 evidence that tribal consent contributed to or would be
9 an issue in an emergency situation. It is significant
10 that the Departments were not persuaded by the energy
11 industry's unsupported claims. The overwhelming
12 testimony showed that the nation's energy supply will
13 not be disrupted by the negotiation of rights-of-way
14 across Indian reservations.

15 We also support the Department's determination
16 that the right of consent is not driving up the cost of
17 energy for the nation or consumers. Again, this finding
18 rejects the erroneous claims made by some energy
19 representatives. Not one energy entity identified a
20 single circumstance where compensation paid to the
21 tribes for a specific grant or renewal of any
22 right-of-way actually resulted in a substantial increase
23 in the delivery prices to the consumers of any energy
24 product.

25 The report sets forth several options for

1 Congress to consider. We oppose these options and
2 question why the Departments did not submit
3 recommendations as directed by Congress.

4 We find three options particularly unwarranted
5 and objectionable. We urge the Departments to delete
6 these three options which, first, recognize a federal
7 agency to determine -- authorizes a federal agency to
8 determine compensation rates based on fair market value;
9 second, require finding valuation procedures; and third,
10 authorize the condemnation of land.

11 The first option supports the industry's claim
12 that fair compensation can be determined by a standard
13 formula based on fair market value. This proposal
14 totally ignores uniqueness of tribal-guaranteed
15 homelands of tribes. To tribes, land is a fundamental
16 attribute of sovereignty. It is a source of family ties
17 and existence. For the Shoshone-Bannock people, this is
18 a link to their past.

19 Indian tribes are not marketable like by
20 private lands, and cannot be sold. The lands held in
21 trust by the United States can only be rented or leased.
22 Because marketability lies at the heart of fair market
23 value, and Indian lands are not marketable, it is clear
24 that any conventional market data approach to appraisal
25 of Indian lands is not acceptable.

1 No uniform set of formulas devised by the
2 federal government can account for diversity of tribal
3 values and circumstances throughout the Indian country.
4 Indian lands must not be subjected to the same valuation
5 used for public lands as many lands are undervalued to
6 promote national energy issues.

7 The approach of replacing tribal consent based
8 on price set by federal agencies is absolutely contrary
9 to the federal law and established federal policy.

10 Finally, standardizing a fair market value set
11 by a federal agency would seriously undermine tribal
12 authority and compromise the strides made by tribes in
13 negotiating bilateral agreements with companies. This
14 would be a step backwards to a time when paternalistic
15 practices of the federal agency negotiated shamefully
16 low price rates of compensation for tribes.

17 Another option proposes the establishment of
18 binding arbitration for negotiation should there be an
19 impasse. Again, we oppose such a process. This option
20 is simply another form of condemnation. The process
21 would grand a right-of-way without tribal consent and
22 provide payment to the tribes, that it has not agreed
23 to, as set by some binding outside agency -- authority,
24 excuse me. This is exactly like an eminent domain
25 action.

1 As stated earlier, tribal lands have unique
2 cultural, religious, and historical significance that
3 cannot be measured in uniform economic terms. This is
4 an extreme option to replace the consent requirement
5 which has worked for many decades. No change needs to
6 be made.

7 The Department's final option to Congress is to
8 authorize condemnation of tribal lands for public
9 necessity. There is absolutely no basis in the
10 testimony, written comments, or report to support this
11 option.

12 This option would be a major reversal of the
13 established federal law. Again, this is absolutely
14 contrary to the decades of federal policy supporting
15 tribal determination and self-sufficiency. This option
16 does not reflect the Energy Policy Act goals which
17 support Indian self-determination and promote Indian
18 tribal energy development.

19 As I stated earlier, our written comments are
20 more extensive and raise other issues with the report.
21 We submit these comments into the record, and we look
22 forward to meeting with the Department of Interior and
23 the Department of Energy on a government-to-government
24 basis.

25 Thank you for your consideration of our

1 comments.

2 MR. MIDDLETON: Tracy King.

3 MR. KING: Can anybody hear me? I don't like
4 looking down. I like people to see me. My name is --
5 my white man name is Tracy King. My Sinaboy name is
6 Shusawawka (phonetic) which means, Holy White Horse. I
7 come from a family of -- that still practices their
8 culture today.

9 And the United States government in the 1800s
10 tried to take our culture away. And my
11 great-grandfather Taguyo (phonetic), his white man name
12 was Sam King, and they tried to take his culture away
13 because he was a medicine lodge maker, so he went to his
14 relatives into Canada to give a lot of his practices and
15 beliefs in the Sinaboy culture, knowing that the
16 government was trying to destroy those. So in 1979, a
17 lot of the cultural deals were -- or practices were
18 brought back to our people. And so it seems like every
19 time there is something that comes up, it's always our
20 fault as Indian people.

21 I apologize for not having a position paper,
22 but we're going to be e-mailing it to you. So I don't
23 like to write, or read. I like people to see what I'm
24 saying.

25 Anyway, one of the things that I seen

1 historically is they're always -- they are always trying
2 to steal our resources. And October 10, 1895, the
3 Granel Agreement, we were forced to give up -- coerced
4 into giving up seed land back to the government. And
5 billions of dollars of gold were taken out of our
6 mountains, our sacred mountains, and I don't think the
7 Mormons would like me to go down to Salt Lake and start
8 dismantling their church. I'd be in jail.

9 So one of the things that I also want to
10 mention, I see a World War II veteran here from the big
11 war country, and I'd like to tell the veterans thank you
12 for your -- you know, serving this country.

13 I come from veterans also. My three
14 great-grandfathers fought in the Battle of Little Big
15 Horn, and they went to Sitting Bull into Canada, and hid
16 for I think the late 1880s and came back into Montana,
17 because they feared that they would be killed, with
18 their young ones, everyone would be killed. So they had
19 to hide out. And every time the government agents came,
20 my grandfather used to say my great-grandfathers had to
21 hide because they feared that they would be recognized.

22 So then I had a -- my uncle was killed in World
23 War II in the Battle of the Bulge. And I was -- my
24 brother was left for dead in Vietnam. So but he
25 survived the jungles of Vietnam. And I think he was

1 court-martialed because the government set him up for a
2 suicide mission and he didn't know it. So through his
3 healing process, he was able to get an honorable
4 discharge because of that. So when we have our pow-wows
5 and whatnot, right or wrong, our veterans carry the
6 American flag and show how proud they fought for this
7 country.

8 So then comes Iraq, and I have a nephew that is
9 a Purple Heart recipient, survived when their unit was
10 blown up. And so then my daughter was -- helped capture
11 insurgents in the intelligence area. So every time she
12 would call us and tell us that -- read the news, you
13 will see what happened. So the next day they will be
14 capturing insurgents. So I'm really proud of our
15 veterans. Especially our Indian veterans because they
16 have done a lot for this country. Even, you know, my
17 daughter being in the war, combat vet.

18 But also if you look at the Lewis and Clark
19 used Sacagawea, and they used her to help interpret and
20 get through this country, so that United States could
21 take us over. And if you remember, historical documents
22 of the Apaches, when they went after Geronimo, most of
23 the wars that -- Indian wars or United States, they
24 always used Indian people to capture their enemy. And
25 then after that, they arrested them and locked them up.

1 So if you look at World War II, the Navajo had
2 code-talkers, but also the Sinaboy people at Fort
3 Belknap had code-talkers, and there was the Lakota, also
4 some tribes back east that used their language to
5 capture or do what they did to the Japanese. So we have
6 a lot of -- a lot of hand in these wars.

7 In 1994, we had -- or '95, when I was then vice
8 president of our tribal council, we had a healing
9 ceremony because the Sinaboy people, some of them were
10 out captured. Chief Joseph. And so we had to have a
11 healing ceremony. So all these generals all have --
12 they always get the credit, but us Indian people never
13 do that.

14 So now we come to these right-of-ways. And we
15 provided -- a month ago we negotiated with an oil
16 company, the gas company, so that we would be able to
17 have them on our terms, so that we could have them
18 identify some dollars to help our colleges, to help our
19 elders and all that.

20 So, you know, to me, I believe that anything
21 taken away from us is going to detrimentally impact us.
22 And I wish that we could have the conglomerates of the
23 gas and oil companies come, the energy companies come
24 and give us their budget, and see what they have.
25 Because if you look at the low income energy -- what is

1 it, the LIHEAP they call it, it's where Congress gives
2 us energy assistance to the needy, the low income on the
3 reservation. And because we sometimes get 30 to 40
4 below zero at home, all of a sudden about this time of
5 year, the gas doubles or sometimes triples. And who
6 owns the propane and all that is all these guys, the
7 energy companies.

8 So then when we come in -- we have to --
9 Congress does the budget for LIHEAP and then goes to the
10 state and the state dishes it out to us so that we can
11 help the most needy on our reservations. So when this
12 money comes, allocates, it just -- Congress passes it
13 down, it comes through our reservation, warms up a
14 house, and money goes back to the gas companies. They
15 make more money this time of the year than they do in
16 the summer months.

17 So, to me, that's a -- I don't know what that's
18 all about. But from 75 cents to 160 cents a gallon for
19 propane, something tells me there is something wrong.
20 That they are cornering up the market, monopolizing it.
21 And so they gain -- the gas companies gain a lot just
22 because of LIHEAP alone.

23 And if I looked at some of the material that
24 I've seen, it's not that much money you're talking
25 about. I think -- I don't know what Ken Lay (phonetic)

1 made, God rest his soul, but I think that, you know,
2 these execs, executives that are -- get these perks, you
3 know, they are hundreds of millions of dollars per year
4 that they get just to get -- make some kind of a deal.
5 And it seems like these energy companies would come to
6 us and ask us what could they do to help us, how could
7 they help us become self-sufficient.

8 Every time the Indian people try to get ahead
9 of the game to deal with your Donald Trumps, your
10 Microsoft, the people who own Wal-Mart, all those people
11 that -- the richest people in the world, you never see,
12 you know, like the National Indian Gaming Regulatory Act
13 of 1988, I don't see the Bill Gates regulatory act. I
14 don't see the Exxon Mobil, all that.

15 He's only giving me two more minutes, but I
16 just want to make a statement that we need to -- we need
17 to look into their -- their -- see what they have. But
18 also on the final report, I would like to see our
19 council get a copy of the final report of what Congress
20 is getting, maybe -- maybe they won't get what we're
21 seeing.

22 Thank you.

23 MR. MIDDLETON: Thank you, Tracy. Just to be
24 fair, we're trying to make sure we give adequate time
25 for all speakers who would like to speak.

1 Fidelia Andy, if I pronounced that correctly.
2 The Yakama tribal council.

3 MS. ANDY: Good morning. In our language we
4 say (Indian spoken). I just said that in our language,
5 good morning. And my given name was Tongshasmornin
6 (phonetic), and my English name and my father's name was
7 Fidelia Andy. I'm currently serving on the Acclamation
8 Tribal Council, on the Fish and Wildlife Committee,
9 Plant Land Water Irrigation and Growth Committee, and
10 chairman of the Tax Committee.

11 And I am also a tribal member who is a
12 landowner. My personal interest here also is, along
13 with the tribe, is my own personal land. Not only
14 acclamation but the Blackfeet Nation of Montana. And I
15 don't so much as have anything written up either.

16 You presented back at Denver when I was back
17 there, and I spoke on many issues that we have here, and
18 I totally agree here today that I don't think there
19 should be any changes made with Congress today. And I
20 don't know when Congress is going to open up their eyes
21 and their hearts to the nation -- Indian nations across
22 Indian country to realize that they are capable of
23 taking care of their own business. They are very
24 capable of that today.

25 And I would like to thank Mr. Night Horse

1 Campbell for coming here and making his presentation
2 known. I have brought some photographs from Yakama
3 Nation that I will ask my staff Patricia Gally
4 (phonetic) over there to pass around (inaudible) where
5 they have put their power lines.

6 And also, that I am a sacred traditional
7 person. I believe in our traditional foods. I believe
8 in our medicine dances. I participate in them. I
9 believe in our religion. I participate in that. And I
10 believe in our sacred religion and I participate in
11 that. I was brought up in all those religions from my
12 elders.

13 And, you know, power, the only sacredness that
14 they have (inaudible) that they believe that they can
15 get us (inaudible) right-of-way issues here on our land.
16 And I believe that they need to have an education under
17 a real Indian as they are -- as Indian people in their
18 beliefs, because they have nothing to go on on what we
19 are and what we are about. All they know is that we're
20 in their way. So they have to find a way to get us out
21 of the way, so they are going to Congress. And Congress
22 listens to them because they have the mighty dollar that
23 supports a lot of their, you know, Congressmen in every
24 state.

25 And not only was power (inaudible) but the

1 other power companies, but there's also a fish issue.
2 And fish is one of our traditional foods there, within
3 the Columbia River. And a lot of our fish are not able
4 to get up there to spawn because a lot of them are
5 dieing because there is not enough fish passage in all
6 the Columbia River. So we're having all these kinds of
7 problems with them over the years, many years.

8 And I have a few notes written to myself here.
9 That we just initiated the Yakama Nation Power Company.
10 And the Yakama Nation Power Company was just dedicated
11 about three months ago, and within this Yakama Power,
12 what we do there is we look into trespassing of all the
13 power lines or whatever companies that are coming
14 through, and we also impose franchise fees on them,
15 against the utility companies. And what we found there,
16 I think I reported that back in Denver, was a lot of
17 these utility companies have gone -- trespassed and gone
18 over their leases, even 50-year leases only a few months
19 ago. They trespassed on that, and they knew they were
20 trespassing but they went ahead and did it anyway.

21 So we found out a lot of these things that are
22 going on in the Yakama Nation, and we posed these fees
23 on them. And so even though they can make their light
24 bill higher, when it comes to them, you impose something
25 on them, and they don't think they can afford it. So I

1 think we have had a turn-around here.

2 And I believe that where we're at right now
3 today, I believe in leaving it where it is, letting us
4 deal with our own -- what we have to do within our own
5 reservation and own tribes. We are very educated today.
6 We are not -- 100 and some years ago, even though our
7 elders had foresight of what was coming, and warned us
8 young people, and I remember myself as a child, my
9 elders sitting around the table warning us what was
10 coming ahead of us, and it was very true because they
11 were really true prophets.

12 And so I would like to thank the Morongo tribe
13 at this time for giving us the opportunity to be heard
14 again, and also for the video. It was very, very open.
15 It really opens a lot and I'm very thankful to that.
16 And I will have something written in hand when we get
17 into the next session. Thank you to all of the tribes
18 that could attend here. Although I was hoping to see
19 more. But I'm sure that we will all be e-mailing, and I
20 thank you for this time and effort on behalf of the
21 Yakama Nation. Thank you.

22 MR. MIDDLETON: Joe, I'm not sure if it's Toya
23 or Loya, from Torres Martinez.

24 MR. TORRES: Good morning. My name is Raymond
25 Torres. I'm chairman of the Torres Martinez Desert

1 Cahuilla Indians. I want to thank you, the Morongo
2 Mission Indians, for hosting such a critical
3 consultation. I want to thank Chairman Lyons for
4 inviting us here. I believe our report will be in
5 either written or e-mail. But I really think what is
6 happening here is an unjust. And I'm going to introduce
7 my staff member Joe Loya. He's going to go ahead and
8 give you our report.

9 Thank you. Thank you, Chairman Lyons.

10 MR. LOYA: Thank you, Chairman. Good morning
11 to everyone here. Thank you the Morongo tribe for
12 entertaining this event for the tribes to be able to
13 voice themselves on this issue of Section 1813 with
14 regard to the issue of rights-of-way.

15 It's very important, not just to our tribe, but
16 to everyone in relation to what's going on. As I was
17 sitting down, I was thinking of some of the things I
18 would like to bring to the attention of the Department
19 of Energy. And I go back to a meeting that I had in
20 Sacramento, the Department of Transportation, dealing
21 with their right-of-ways and some of the things that
22 they have taken without consent.

23 And as I've been traveling from Washington D.C.
24 to Sacramento, there were a lot of elders, and I
25 recognize my elders there in the group, that were at

1 these meetings. And at these meetings I would go on,
2 over and over and over, I would hear the old ones talk
3 to the Senate Committee, and this one was very vocal.
4 He was the chief of chiefs from Alaska, and he had an
5 impression upon me. The impression was -- he was asking
6 the Senate Committee that his members put money together
7 to get him to Washington so that he'd be able to speak
8 so they would hear him. This is what we need done.
9 Here's our problems. The Indian (inaudible) Committee
10 will say yes, we hear you. And he said, no, you don't.
11 I keep telling you over and over and you're not
12 listening to me.

13 And I was sitting in that room, and I heard
14 another tribe -- I was in California -- a chairman from
15 one of the California tribes, he was saying the same
16 thing but he was saying, to the governor's staff, we
17 need these things. These are the problems that are
18 occurring on the reservation. And the response was we
19 hear you. He said, no, you don't. I've been chairman
20 for 20 years, I keep coming back saying the same thing.

21 It was then that I learned why I was there. Is
22 that it's a new day, it's a new generation. So we
23 become educated. Our parents told us go to school, get
24 an education, help us, we need help. Your parents need
25 help. The tribe needs help. Help us convey to these

1 people in these jackets and federal agencies what we're
2 trying to do. And it was with that, that I understood
3 what my position there was, was to convey to the
4 agencies your words, your documents, your booklets, the
5 things that govern or direct what you're doing, what
6 your role is. Your role is not to be God.

7 And that was one of the things that I learned,
8 is that a lot of these agencies and organizations, they
9 play down to us, as if they were God and we're looking
10 up. And that's not the case today. Through economics,
11 social services, programs, tribes have been able to put
12 on their own two shoes and get up in the morning and
13 defend themselves with words and education and truth, as
14 been said here today. That we see these things, these
15 encroachments on our reservations, we're able to now
16 defend ourselves and say enough is enough, you know,
17 you're wrong in what you're proposing.

18 In reading the document that was put out, the
19 draft report, I agree with Mr. Muncy. I looked at it
20 with my administrator, we went through this prior to
21 the brief hour, looking at other information was, what
22 are they trying to do? You know. We're no longer -- or
23 we will not take the position of wards of the court as
24 the Department of Interior initiated in the beginning.
25 It was at that time identified that we needed help.

1 That we needed this and we needed that. We needed a
2 handout.

3 Well, tribes today, like Morongo, are economic
4 sufficient. They have staff. They have resources to
5 where they will not be wards of the court. Such as
6 (inaudible) 638 contracts to show that we are able to
7 govern ourselves, to decide for ourselves. And with
8 that, you know, I close with -- so does the Torres
9 Martinez tribe, we know that this bill, this 1813 is
10 wrong as stated earlier. There is nothing wrong. We're
11 presently negotiating right-of-ways as we speak on our
12 reservation. We don't need this book to tell us what we
13 already know, what the tribes already delegated and
14 informed me what they want. That's my responsibility,
15 not yours.

16 Thank you.

17 MR. MIDDLETON: That concludes the list of
18 speakers who signed up. We will now open the floor for
19 anyone who has decided they would like to speak, based
20 upon comments they have heard, or arrived too late to be
21 able to sign up for the open session. Chris, please.

22 MR. DEVERS: Good morning. My name is Chris
23 Devers. I am the chairman for the Pombo Band of Mission
24 Indians, and I'm the board chair for the Council of
25 Energy Resource Tribes, and I want to take this

1 opportunity to thank Chairman Lyons for hosting this --
2 what would you call it -- tribe information discussion
3 briefing.

4 And I too have some concerns about what's
5 happening on the energy bill, and in regards to 1813.
6 And for those that are unfamiliar with what had
7 transpired and maybe you've covered this earlier, the
8 members of the CERT tribe played an active role in
9 putting together the language for this deal. And one of
10 the key components of the bill was to allow the tribes
11 that have the capability within their own
12 administration, to sit down and negotiate right-of-ways
13 on their own tribal lands, and the tribes that
14 weren't -- or were not at that level yet, to be able to
15 still continue to use the resources of the Bureau of
16 Indian Affairs to assist them in developing these
17 right-of-ways.

18 We never dreamed that it would come to
19 something like this, where the energy producers, or the
20 big oil and gas corporations would take it to this level
21 without ever talking to the tribes. And I would think,
22 now, when I look at my reservation, a small reservation
23 here in Southern California, 5,600 acres, and
24 right-of-ways through that small property could really
25 impact our ability to provide other necessities for our

1 tribal members. Home sites, day cares, any other
2 activities out there. So it is a concern to us. But
3 when you look at history, when you open the door, and
4 you allow somebody in, that door just turns into a
5 garage door. So what's next? You know.

6 Right now we're looking at energy pipelines,
7 transmission lines, who is to say what's going to happen
8 in the realm of transportation issues, other
9 right-of-ways that, you know, the federal government or
10 the states are going to look at. So we have, as Indian
11 people and as tribal leaders, need to continually stay
12 on top, stay abreast of what's happening out there in
13 Indian country. And I've been raised that -- you know,
14 with the ~~concept that Bureau of Indian Affairs, as was~~
15 stated earlier, isn't our parents, but is a tool for the
16 tribes to use.

17 I still believe that the Bureau of Indian
18 Affairs works for me as a tribal government. I do not
19 work for them. And I would implore the Interior to
20 stand with the tribes as we go through this thing. Make
21 this thing -- you know, I believe it was President
22 Reagan that introduced the Self-Determination to tribal
23 governments to allow us to do better for ourselves. And
24 that has been the language for the past 20 years.

25 And now that we're getting there, the reigns

1 are being pulled in on us. I would ask that we cut
2 those reigns and let us run our course. At some point
3 for the past 3-, 400 years, we've always felt like
4 somebody has been in control. And times are changing.
5 And we need to be given the reigns back to the tribe,
6 let us guide our own destinies. We may fail, but we
7 may -- we'll pick ourselves up. It's been evident, you
8 know, for the two, three centuries, we're still here.

9 But the only way we can really emphasize to our
10 next generations the importance of education and
11 importance of learning your tribal traditions and your
12 history, is to guide that path the way we see fit as
13 tribes. So I know you have a strong or an important
14 step in front of you, and I would just ask that, hey,
15 you let us stand beside you, you stand beside us as we
16 let it be known to Congress that this is a challenge
17 that we want to take on as tribes. And we believe that
18 we can run and sit down with corporate America just as
19 as well as anyone else can.

20 Thank you, very much.

21 MR. MIDDLETON: Thank you. Would anyone else
22 like to say a few words? Then, before we go into our
23 closed government-to-government session, I would like to
24 thank everyone first for their -- would you like to
25 speak?

1 MR. ELLIOTT: I would like to. My name is Nick
2 Elliott. I come from the Manzanita Reservation, which
3 is a little bit more south of here and to the west.

4 And I just wanted to come up and make a comment
5 that, you know, for many years that we have let these
6 utility people come on our lands, they have never
7 respected our rights to sacred ground. I know that they
8 are going to put another line through the -- from the
9 Imperial Valley, over the hill, back into San Diego
10 again. And we're telling them, please don't go through
11 our mountains that are sacred. Don't go and do things
12 that -- and they have no respect for this.

13 So I just, you know, I hope all of us tribal
14 people get up and tell them, hey, we don't need those
15 things making our people sick. We don't need those big
16 lines going across. You know.

17 I became a Sundancer because I heard nobody
18 ever helping anybody. And today, I got 20 years as a
19 Sundancer. And my whole thing is to pray for the people
20 that one day -- I heard the tribal chairman back there
21 was saying that we all have the ability and we allow the
22 Bureau to help us. Well, in my 60 years of life, I have
23 never seen the Bureau really come out and help us. Nor
24 have I seen any utility company come and say, yeah,
25 we're going to help you. They have taken our money,

1 yes, so that they can get paid for their electricity and
2 stuff. But as far as giving us anything for our lands
3 and putting those big lines and water lines through,
4 never.

5 So yes, we definitely need to get up and ask
6 Congress to let us have that privilege of the 638,
7 self-determine act. So again, I just wanted to say I
8 hope all of us and some of us will get up and start
9 talking to Congress so that we have our rights.

10 Thank you.

11 MR. MIDDLETON: Thank you, Mr. Elliott.

12 Again, I'd like to thank everybody for their
13 thoughtful and constructive comments this morning in
14 open session. I look forward to having opportunities to
15 talk government-to-government with the many of the
16 tribes who have signed up, and we will continue our
17 discussions.

18 We are situated right now where it's 10:45, I
19 believe. Is that correct? 10:45. And what we will do
20 is the first tribe that is in line for
21 government-to-government consultation is Morongo tribe,
22 Chairman Lyons. What we will do is we will do our
23 government-to-government with Chairman Lyons before
24 lunch. And then after lunch, we will continue with
25 Shoshone-Bannock, Yakama, Fort Belknap, and Torres

1 Martinez in order. We are going to try and make sure we
2 have reasonable amount of time so that we give everybody
3 time to talk to us.

4 So if everybody could plan on speaking with us
5 for 30 to 45 minutes this afternoon, we would appreciate
6 that. But of course if we get into very constructive
7 discussions, we're definitely not going to cut anybody
8 off. I believe this room is available for the tribes if
9 they would like to caucus prior to us going into a
10 government-to-government session in a different room.
11 And Darryl, what room are we in?

12 MR. FRANCOIS: (Inaudible).

13 MR. MIDDLETON: We'll check what room that is
14 and let everybody know.

15 With that, I'd like to close out the public
16 portion of this session and invite Chairman Lyons to
17 come up and say a few words.

18 MR. LYONS: Hello, everyone. The video that
19 you saw, we have a sign-up sheet if you would like to
20 get a copy of that. It will be passed around and we'll
21 send it to you as soon as we can. And I would like to
22 thank everyone for their participation today, and we
23 hope that something will come out of this that will be
24 favorable to our tribes. And thank you.

25 And lunch will be in that same room we were in

1 this morning.

2 MR. MIDDLETON: The government-to-government
3 consultations will be held in the Eagle room for all
4 those tribes that are listed. Darryl will be the point
5 person for letting you know where we are in the schedule
6 if anybody would like to check. So for now, Chairman
7 Lyons and Morongo representatives, if we can meet in the
8 Eagle room. Thank you.

9 (The proceedings concluded at 10:45 a.m.)

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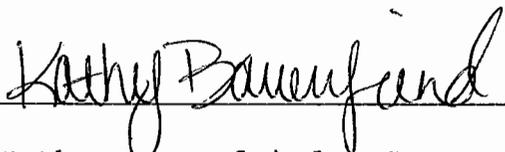
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Kathy Bauernfeind, CSR No. 11921