

# AK-CHIN INDIAN COMMUNITY COUNCIL

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Resolution No. A-25-06

## RESOLUTION OF THE AK-CHIN INDIAN COMMUNITY COUNCIL

### A Resolution Supporting and Recommending the Incorporation of Statement of Principles Into Section 1813 Right-of-Way Study

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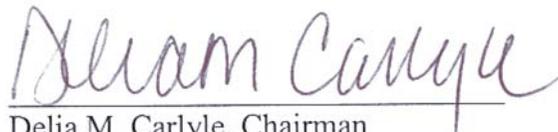
- WHEREAS**, the Ak-Chin Indian Community ( the “Community”) is a federally recognized Indian tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS**, the Community is governed by the Ak-Chin Community Council (the "Council") pursuant to its Articles of Association (the “Articles”), approved by the Secretary of the Interior December 20, 1961; and
- WHEREAS**, the Community has granted consent for various right-of-way agreements, including electric transmission lines and gas pipeline; and
- WHEREAS**, Section 1813 of the Energy Policy Act of 2005 requires the Departments of Energy and Interior to prepare a study on the compensation practices and policy implications associated with the issuance of tribal consent for energy-related rights-of-way crossing tribal lands (“Right-of-Way Study”); and
- WHEREAS**, the Right-of-Way Study is a matter of great importance to the Community and to all tribes and may have significant implications regarding future legislation and tribal sovereignty; and
- WHEREAS**, under longstanding law, the consent of the governing body of a tribe must be obtained as a condition for the grant or renewal of a right-of-way across tribal lands; and
- WHEREAS**, the tribal consent requirement is a critical aspect of tribal sovereignty that allows tribal governments to negotiate acceptable terms, including those related to duration and compensation, for the use of tribal lands; and
- WHEREAS**, the Council has reviewed the attached statement of principles and has determined that these principles should be incorporated in the Right-of-Way Study and maintained as a matter of federal law and policy.

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

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

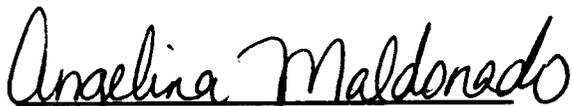
**C-E-R-T-I-F-I-C-A-T-I-O-N**

Pursuant to authority contained under Article VIII, Sections 1(a), (c), (d), (f) and (m) of the Articles of Association of the Ak-Chin Indian Community, approved by the Secretary of the Interior on December 20, 1961, by a quorum of 4 members present at a Regular Council meeting held on May 3, 2006 at the Ak-Chin Indian Community, Arizona, by a vote of 4 for, 0 against, 0 not voting, and 1 absent, the foregoing Resolution was adopted.



Delia M. Carlyle, Chairman  
Ak-Chin Indian Community Council

**ATTEST:**



Angelina Maldonado, Secretary  
Ak-Chin Indian Community Council

## **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.

**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.