

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7326
(505) 753-7330



INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532

OFFICE OF GOVERNOR

January 20, 2006

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

Dear Comment Recipient:

Santa Clara Pueblo submits the following comments regarding the Congressionally-mandated study of Energy rights-of-way across Indian lands. We first want to share our serious concern that this study not be conducted in a way that is predisposed to supporting a policy of giving the U.S. Secretary of Interior the authority to condemn tribal land for energy rights of way without tribal consent. This is a misguided and fundamentally unfair concept that stands in direct contrast to the longstanding federal policy of tribal self-determination and sovereignty.

Tribal Consent Ensures Appropriate Rates of Compensation

From our experience, prior to self-determination and tribal economic development acts, all rights of way across Indian lands were negotiated and granted to the requesting entity by the BIA with limited input from tribal governments. Compensation received by the tribe was minimal when compared to the acreage being acquired and the length of time granted for the right of way. For example, a right of way granted to the Southern Union Gas Company in 1972 was for a period of 20 years over 4.634 miles of tribal land. In return for gaining this important access across our land, Southern Union only compensated the Pueblo a mere \$2,965.94 or .121 cents per foot. This is absolutely unfair when compared to the profit the company made over that period of time. Unfortunately, this has been proven true across Indian Country, where the U.S. Department of Interior ("DOI") has historically grossly undervalued the compensation for rights of way on tribal lands.

Only with the direct involvement and consent of our tribal government has the situation begun to improve. In 1990, when the Pueblo negotiated a right of way with the entity that took over Southern Union we were able to negotiate ten times the 1972 amount. However, we are still not convinced that was equitable considering the profit the company has made in the last 16 years using this right of way to deliver energy to its customers.

Accordingly, tribal governments should retain our rightful authority to negotiate rights of way across our lands to ensure just compensation. Tribal consent is a fundamental aspect of tribal sovereignty. This should be based on a standard dollar value per square foot and this value should increase on a yearly basis or every five years as practiced under current leasing regulations. For no reason should we be paid less than fair market value for rights of way across our lands. In addition, the U.S. Department of Energy and DOI should fully consider the long-term expected profit of the energy companies in both this study and in any consideration of changes to law or regulation.

Taxes

As allowed by law, each tribe should retain the authority to assess ad valorem taxes on utility companies crossing tribal lands pursuant to a right of way. The rate of this tax should be a negotiated rate based on current interest rates or under the Consumer Price Index rate.

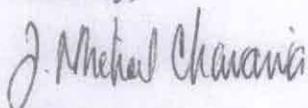
General Recommendations

We believe the schedule and process are overly ambitious. We recommend that you approach the Congress for at least a one year extension to increase the change that a full and fair study of the issues can be completed. The pre-scoping process must be organized to achieve meaningful dialogue and exchange of information. In addition, we strongly urge more than three regional tribal consultation meetings be held to allow the greatest number of interested tribes, tribal members and organizations to participate. We request that all information regarding these consultation meeting be forwarded directly to my office with a copy to the Santa Clara Pueblo Realty Office, at the address listed above.

We do not support a "case study" approach as it could be too easily manipulated to highlight only certain conclusions and would be unable to fully represent the rights of way issues across Indian Country. We share the concerns of the National Congress of American Indians and Council of Energy Resource Tribes that the National Laboratory approach could be problematic and requires more explanation and consideration.

Thank you for the opportunity to submit these initial comments. Please continue to forward information regarding this issue. If you have any questions, please contact Mr. Joseph Naranjo, Realty Officer.

Sincerely,



J. Michael Chavarria, Governor
Santa Clara Pueblo

Cc: Joe Naranjo, Realty Officer