



Rosebud Sioux Tribe

SICANGU OYATE

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Vice-President

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GERRI NIGHT PIPE
Secretary

GLEN A. YELLOW EAGLE
Sergeant-at-arms

Kevin M. Kolevar, Director
Office of Electricity and Energy Reliability
James E. Carson, associate Deputy Secretary
Department of the Interior
Office of Indian Energy and Economic Development
MS 2749, ATTN: Section 1813 Study
1849 C Street, N.W.
Washington, D.C. 20240

Gentleman,

The Rosebud Sioux Tribe would like to provide the following comments concerning the DOE and DOI proposed work plan for conducting the study on rights-of-way on Indian land required by section 1813 of the Energy Policy act of 2005 (P.L. 109-58).

The Rosebud Sioux Tribe as a member of the Council of Energy Resource Tribes strongly supports the Council of Energy Resource Tribes resolution No. 2005-100 titled "CERT Policy Resolution for the Energy Policy Act of 2005". This resolution states the Council of Energy Resource Tribes Board of Directors supports the National Congress of American Indians Resolution TUL-05-110 that was developed at a leadership and direction of the Council of Energy Resource Tribes. And that the Council of Energy Resource Tribes supports the full implementation of the Department of Energy Office of Indian Policy and Programs with adequate funding to fully implement the Congressional intent and Tribal needs.

Sincerely,

The Honorable Rodney M. Bordeaux, Chairman
Rosebud Sioux Tribe

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

Council of Energy Resource Tribes
Resolution No.2005 -100

CERT Policy Resolution for the Energy Policy Act of 2005

WHEREAS, the Council of Energy Resource Tribes (CERT) is a Tribal organization composed of 57 federally recognized Indian Tribes, collectively representing over one-half of all reservation lands and American Indians in the contiguous 48 states, four affiliate members of Canadian Indian First Nations and governed by a Board of Directors composed of the principal elected official of each member Tribe; and

WHEREAS, under Article III of its Articles of Incorporation the member Tribes maintain the CERT organization, among other things, to provide coordination of services, technical assistance, information and policy assessment services for the member Tribes; and

WHEREAS, Section 1813 of the Energy Policy Act of 2005, Public Law 109-58, directs the Secretaries of Energy and Interior to jointly conduct a study of issues regarding energy rights of way on Tribal lands in consultation with Indian Tribes, and other affected parties; and

WHEREAS, the Report of the findings of the study is due to Congress no later than August 8, 2006; and

WHEREAS, the government to government relationship between Tribes and the United States provides the key opportunity for full consultation prior to drafting any part of the findings or the resultant study; and

WHEREAS, while the Department of Interior has stated that it currently lacks the manpower or resources necessary to undertake the section 1813 study.

NOW THEREFORE BE IT RESOLVED, that the Council of Energy Resource Tribes believes that the proponents of the study have economic interests that are adverse to the interests of the Tribes.

BE IT FURTHER RESOLVED that the CERT Board of Directors supports the National Congress of American Indians Resolution TUL-05-110 that was developed at the leadership and direction of CERT member Tribes.

BE IT FURTHER RESOLVED that CERT supports the full implementation of the Department of Energy Office of Indian Policy and Programs with adequate funding to fully implement the Congressional intent and Tribal needs.

CERTIFICATE

The undersigned Chairman and Secretary of the Council of Energy Resource Tribes certify that the foregoing resolution was adopted by the said Council at a meeting duly called and held on the 8th day of November 2005 at which a quorum was present.


Chairman


Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-05-110

TITLE: Section 1813 of the Energy Policy Act of 2005

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San Carlos Apache

EXECUTIVE DIRECTOR
Jacqueline Johnson
Tlingit

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Suite 200
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202.466.7767
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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, section 1813 of the Energy Policy Act of 2005, Public Law 109-58, directs the Secretaries of Energy and Interior to "jointly conduct a study of issues regarding energy rights of way on tribal land" in consultation with Indian tribes, and other affected parties; and

WHEREAS, the report of the findings of the study is due to Congress not later than August 8, 2006; and

WHEREAS, the intent of the study and potential policy implications are inconsistent with Federal Indian law and policy; the Federal trust responsibility to Indian tribes; the Indian Reorganization Act; Title V of the Energy Policy Act of 2005; and

WHEREAS, the specter of the unilateral condemnation by the United States of tribal lands for purposes of facilitating energy rights of way would turn back Federal policy to the 1920s when Indian tribes had no voice in determining how and under what circumstances their lands would be sold or leased; and

WHEREAS, the language of section 1813 could be read to justify the Federal government overriding fundamental principles of tribal sovereignty and decision-making when they conflict with "relevant national energy transportation policies;" and

WHEREAS, the unique Government-to-Government relationship between the United States and Indian tribal governments provides the key opportunity for a full consultation prior to drafting any part of the findings or the resultant study; and

WHEREAS, while the Department of Interior has stated that it currently lacks the manpower or resources necessary to undertake the section 1813 study itself and therefore is likely to contract out its responsibilities under section 1813, Indian tribes or a representative Indian organization should be a full partner with the efforts of any such contractor or contractors.

~~NOW THEREFORE BE IT RESOLVED~~, that the NCAI does hereby strongly object to any entity with adverse economic interests to the beneficiary of the Trust undertaking this study.

BE IT FURTHER RESOLVED, that the NCAI supports limiting the scope of the study to energy corridors only and no secondary rights of way.

BE IT FURTHER RESOLVED, that the NCAI is prepared, ready, willing and able to work with member tribes, and the Secretaries to fulfill the goals of section 1813 while preventing any erosion of tribal sovereignty or authority.

BE IT FURTHER RESOLVED; that in order to prevent any such erosion the NCAI shall communicate this resolution to President Bush; the Secretaries of Energy and Interior and the Congress.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

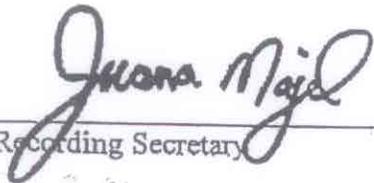
CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Session of the National Congress of American Indians, held at the 62nd Annual Convention in Tulsa, Oklahoma on November 4, 2005, with a quorum present.



President

ATTEST:



Recording Secretary

Adopted by the General Assembly during the 2005 Annual Session of the National Congress of American Indians held from October 30, 2005 to November 4, 2005 at the Convention Center in Tulsa, Oklahoma.