



CONFEDERATED TRIBES  
of the

*Umatilla Indian Reservation*

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January 31, 2007

VIA E-MAIL: [ieed@bia.edu](mailto:ieed@bia.edu)

Office of Indian Energy and Economic Development  
Attention: Section 1813 ROW Study  
Room 20 - South Interior Building  
1951 Constitution Avenue, NW  
Washington, DC 20245.

*Re: CTUIR Comments to DOI/DOE §1813 Report to Congress on Indian Land Rights-of-Way Study Dated December 21, 2006*

Dear Secretary of Interior Kempthorne and Secretary of Energy Bodman:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) has closely monitored the development of the DOI/DOE §1813 Indian Land Rights-of-Way Study (§1813 Study). We have attended and submitted testimony at consultation meetings on the §1813 Study, and have submitted comment letters on the scoping, content and findings in the §1813 Study. The Board of Trustees, the governing body of the CTUIR, has reviewed the December 21, 2006 draft of the §1813 Study and has the following comments:

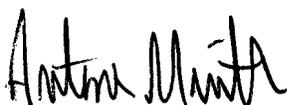
1. The CTUIR appreciates the process used and the opportunities for affected Tribes, as well as other affected governments and entities, to participate in the scoping and the development of the §1813 Study. The CTUIR has first hand experience with this issue because of the Northwest Natural Gas Pipeline ROW (NW ROW) that traverses the Umatilla Indian Reservation. As stated in our previous comments, the CTUIR experience is perhaps typical of what led to the addition of §1813 to the Energy Policy Act of 2005. The CTUIR and its members received shamefully low compensation for the NW ROW in the 1955-95 time period, when the BIA was responsible for ROW terms. The CTUIR experience also justifies and supports the final recommendations in the §1813 Study. The CTUIR successfully renegotiated the NW ROW in 1995 that both corrected the prior low compensation, provided for a renewal of the NW ROW for a 20 year term and included other terms addressing issues of concern to both parties. More recently, the CTUIR successfully negotiated a 20 year right-of-way renewal for the BPA transmission lines across our Reservation. Our experience with the NW ROW, as well

as with the BPA transmission line right-of-way, demonstrates that the CTUIR is a capable and responsible business partner in energy right-of-way renewal negotiations. This is also the conclusion of our negotiation partners. Phillip Wright, President of the Williams Gas Pipeline Division, which owns Northwest Natural Gas Pipeline, recently wrote that they had a “balanced and constructive relationship” with the CTUIR that led to “a workable land agreement” referring to the NW ROW negotiations. See attached letter from Phillip Wright dated December 7, 2006. Similarly, the Bonneville Power Administration testified and provided a Power Point presentation spotlighting the successful right-of-way renewal negotiations with the CTUIR in their April 19, 2006 presentation at the Denver consultation meeting held on that date. The CTUIR believes, and the §1813 Study concludes, that our energy rights-of-way experience is the case with other Tribes as well. Section 6.3.3 of the §1813 Study concludes “that the vast majority of energy ROW negotiations [on Indian lands] are completed to mutually agreeable terms and conditions.”

2. The CTUIR supports the §1813 Study recognition and respect for Tribal sovereignty, treaty rights and Federal law and policy requiring Tribal consent for the establishment or renewal of any energy ROW across Tribal lands. See Section 3.2, 3.3 and 3.4 of the §1813 Study.
3. The CTUIR hereby reiterates its opposition to any change in Federal law or policy that would remove the obligation for Tribal consent for the establishment or renewal of an ROW across Tribal lands. Section 7.3 of the §1813 Study suggests such an approach as a means for Congress to address the Tribal lands ROW issue. The CTUIR rejects this approach as a violation of its Treaty of 1855, 12 Stat. 945, which established the Umatilla Indian Reservation for the “exclusive use” of the CTUIR. Moreover, the CTUIR experience with both the Northwest Natural Gas and BPA ROW’s demonstrate, as well as the above referenced finding in Section 6.3.3, there is no justification for such a change in Federal law or policy.
4. Finally, the CTUIR expresses its agreement with and support for the DOI/DOE recommendations to Congress in Section 8.2 of the §1813 Study that the terms of energy ROW’s across Tribal lands should be resolved through negotiations between the Tribe and the energy company parties.

Thank you for this opportunity to provide our comments.

Sincerely,  
THE CONFEDERATED TRIBES OF THE  
UMATILLA INDIAN RESERVATION



Antone C. Minthorn, Chairman  
Board of Trustees