

**Before U.S. Department of Energy and
U.S. Department of the Interior
Tribal Lands Right-of-Way Study
Denver, Colorado
March 7-8, 2006**

**Statement of Clement J. Frost, Chairman
Southern Ute Indian Tribe**

Members of the Tribal Lands Right-of-Way Study Panel, fellow tribal leaders, and members of the public:

I am Clement J. Frost, Chairman of the Southern Ute Indian Tribal Council. The Southern Ute Indian Tribe is located in southwestern Colorado in the northern San Juan Basin. Our reservation is blessed with substantial natural gas reserves, and, since the early 1950's, our tribe has been actively involved in its development. We also have several major interstate natural gas pipelines and electric transmission lines that cross portions of our reservation. Over the course of the last 60 years, we have consented to the issuance of thousands of energy-related rights-of-way.

We are frankly surprised and disappointed that Congress has ordered this study. The companies that called for the study have used scare tactics and half-truths. They claim that tribes have abused their freedom from condemnation of land by charging too much for energy-related rights-of-way. They also claim that the compensation we receive for rights-of-way across our lands has driven energy prices for consumers to unreasonable levels. Finally, they suggest that our lands should be treated the same way as the lands of private citizens for valuation purposes. These claims that underpin the study are inaccurate and misleading. While we do not support the study, but now that it's here, we urge you to set the record straight. As our trustee, we also request that you recommend that the condition of tribal consent to issuance of rights-of-way remain in place, as it has since at least 1934.

First, I am here today to tell you that we have not abused our power to control our land. At least in recent decades, our dealings with energy companies have been the result of negotiated contracts that the energy companies have signed with their eyes wide open. The legal teams and executives of these large corporations knew full well, that if we consented only to fixed-term easements, they would have to negotiate again when those terms ended. How can they blame us for entering into contracts that they helped draft and that they signed.

Second, they should be ashamed for their unsupported claims that we are the cause for unreasonable energy prices. The cost of rights-of-way across tribal lands is an insignificant fraction of the cost of energy today. We suspect that when the average consumer receives its energy bill in California each month, tribal compensation involves several pennies out of the several hundred dollars the consumer is required to pay. Those

pennies are the cost of a Nation keeping its promises to Indian people. Those pennies are the price paid for our sovereignty. Those pennies represent nothing when measured against the lands and resources that the Nation has taken from Native Americans. Your duties in this study require you to quantify the cost that consumers pay, and we urge that you do so. The facts will show that these companies have exaggerated the impact of our power to consent. The sky is not falling, and Congress should know that.

Third, our lands are not the same as those of private landowners. Tribal governments have tremendous responsibilities toward their members. We fund police departments, court systems, schools, hospitals, environmental programs, water treatment plants, recreation programs, and all the other things that no one else funds. We use the compensation from rights-of-way to pay for infrastructure and services that other citizens take for granted. The suggestion that our compensation should be limited to what private citizens receive ignores the difference in our status. We are governments with real needs, and right-of-way compensation helps fund those needs. The huge publicly-traded Wall Street companies that seek to remove our power to consent to the use of our lands, have no right to ignore the differences between tribes and individual landowners.

Fourth, Indian tribes are part of the solution to our Nation's energy needs, not the problem. I would like to give you an example that I hope you use in your case studies. In the mid-to-late 1980's coalbed methane gas became a producible resource from our lands. The major companies that provided gathering and transportation facilities across our reservation, including Northwest Pipeline and El Paso Natural Gas, did not want to invest in the pipelines and facilities needed to develop that resource. Public Service Company of Colorado owned the third major company, WestGas, which provided gathering and treating services on our Reservation. Public Service Company decided to sell WestGas; however, the pipeline rights-of-way owned by WestGas were set to expire in several years. Our Tribe wanted to own WestGas so that we could expand its system to serve coalbed methane volumes. Public Service Company wouldn't even let us in their data room. We reminded Public Service Company that we had the power to consent or withhold consent to renewal of their rights-of-way, and we directed them to disclose that fact to any potential buyers. Only then did they talk to us seriously.

To make a long story short, we formed a joint venture with the Stephens Group from Little Rock, Arkansas, and we purchased the WestGas system in 1994 for approximately \$87 million. The system at that time delivered approximately 125,000 mcf per day through its system. Since purchasing the system, we have invested more than \$145 million in system improvements. As a result of our investment, California consumers have been able to use coalbed methane from our lands as a major fuel source. Our company, Red Cedar Gathering Company, has provided consumers an increase of more than 1.7 trillion cubic feet of gas to the Nation than would have been available without our acquisition and investment. We were able to add to the Nation's energy supply only because we had the power to consent or not consent to energy-related rights-of-way. Think what the price of natural gas to California consumers would have been without these significant resources.

In conclusion, we will reluctantly participate in this study because Congress has asked for it. The time frames for completing a comprehensive analysis are too short to do the subject justice. Nevertheless, as you proceed, we urge that the study be fair, and not one simply ghost-written by the energy industry. We must rely upon you, our trustee, to protect our sovereign rights and to tell Congress the truth about these matters. You and Congress should both insist that current law remain in place unless the current system is really broken. The system isn't broken, and the Nation's promises to us should not be broken either. Thank you for your attention.