



Kiowa Tribe of Oklahoma

Postal Box 369 • Carnegie, Oklahoma 73015 • 580-654-2300

January 19, 2006

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

TO WHOM IT MAY CONCERN:

In regards to the request for comment regarding the Study of Energy Rights-of-Way on Tribal Lands, I am most happy to attempt my thoughts on this topic on how this study should be implemented.

First of all, American Indians are the only special political group specifically identified in the United States Constitution. Tribal governments were and still are the only distinct political entities existing with the United States. The Kiowa Tribe of Oklahoma is a sovereign nation. Today, sovereignty to Indian people means the right to be self-governing in its internal affairs. Because of treaties and agreements with the United States government, Indian tribes have become dependent domestic nations and are considered by Congress and the Courts as wards of the government owed a duty of protection. It is also this trust responsibility that allows the Bureau of Indian Affairs, exercising the authority of the Secretary of the Interior, to ignore tribal interpretations and apply its own interpretation, if it involves use of tribal property or funds over which the Bureau of Indian Affairs exercises trust responsibilities. However, in keeping with the federal responsibility to look after and protect the Indian Tribes, the federal government has been careful not to take away the tribe's sovereign immunity. If tribes did not have this protection of sovereignty, it is easy to believe that very few tribes would be surviving today as a tribe, as tribal assets needed to function as tribal governments would have been lost through law suits filed against tribes and its officials.

Within the Kiowa Tribe of Oklahoma, Trust Lands are defined as Indian Country, under 18 U.S. Code, Section 1151. "Persons entering Indian Country are subject to tribal and federal jurisdiction. Under Federal Law, the State of Oklahoma, or its political subdivisions, do not have jurisdiction over Indians within Indian country of the Kiowa Tribe".

Since 1790, the Kiowa Tribe of Oklahoma, has held alliance with the Comanche Tribe of Oklahoma and later with the Apache Tribe of Indians. This alliance was recognized by the Federal Government, who established the boundaries for the three tribes. The Kiowa, Comanche and Apache Indian Original Reservation Boundaries were established in October 27, 1867 by the Medicine Lodge Treaty and were opened to settlement on July 4, 1901 by Presidential Proclamation. "Persons entering lands defined as Indian Country, under 18 U.S. Code, Section 1151, shall be subject to the lawful jurisdiction of the respective Kiowa, Comanche and Apache Nations. Under Federal Law, the State of Oklahoma and its political subdivisions lack jurisdiction over Indians within Indian Country trust lands".

At the original inception and construction of the Kiowa Tribal Constitution and Bylaws, the area of establishing a Land Use Committee for the Kiowa, Comanche and Apache Tribe of Oklahoma was by resolution # 67-1, October 8, 1966 and was for the following purpose: The intent was the three tribes, either individually or collectively would increase their land base through development, with resource funds obtained either from the three tribal governments, local tribal government, contracts with the State or Federal agencies for grants, private firms, or Long Term leases, in order to increase the land base and gain liquid assets. For the Kiowa Tribe, upon the adoption of its tribal Constitution and Bylaws, on May 23, 1970, the present Kiowa Constitution and Bylaws was ratified and approved by the Acting Associate Commissioner of Indian Affairs. Article V of the Kiowa Constitution which is entitled Powers provides for in Section 1., the Kiowa Indian Council, Section 2., the Kiowa Business Committee and in Section 3, the Kiowa, Comanche and Apache Intertribal Land Use Committee. Article V., also states in Section 1. Kiowa Indian Council that, "Authority to act concerning the following matters shall be vested in the Kiowa Indian Council.....unless specifically delegated." Items listed are: d. Sale of tribal land and e. contracts with federal, state or local governments or private firms, h., specifically states: "All other powers not vested in the business committee by Section 2 of this Article shall be retained by the Kiowa Indian Council. Section 2., states: The Kiowa Business Committee shall be empowered to take necessary action on the following: a. Revocable permits, farm and grazing leases; oil, gas and mineral leases; easements and rights-of-way. Section 5. Reserve Power Clause.....By this Article, all powers NOT expressly vested in the business committee are reserved to the Kiowa Indian Council.

The whole concept and intent is shown by the Secretary of Interior through his authorized representative in his approval of the Kiowa Constitution and Bylaws and by the approval of the Kiowa Indian Council.

The Secretary and his representatives were aware of the Kiowa Resolution (67-1), the Kiowa Treaty of 1867 and the clear intent of the Kiowa Tribe when the constitution was written, approved and ratified. To date, this specific delegation has not been taken back or amended by the ratification of the Kiowa Constitution of the Kiowa people and remains currently and presently in effect.

RATIONAL: For the Department of Interior and the Department of Energy in their attempts to find ways and means of "Requesting Right to Condemn Rights of Way without Tribal Consent, are strictly attempts to place additional power limitations on tribes who strive to keep their sovereignty. Requesting these rights completely undermines and upsets the entire power structure of the Kiowa Tribal Government and will create tremendous inequities and problems for the Comanche and Apache Tribe's management of the common owned land, as well. For the Kiowa Tribe to agree and consent to this type of action is strictly forbidden without the tribe's sovereignty, not to mention that an entire new set of problems would arise concerning the authority of the respective bodies exercising the Kiowa Tribe's inherent governmental powers if this consent is given.

Sincerely,

A handwritten signature in cursive script that reads "Billy Evans Horse".

Billy Evans Horse
Kiowa Tribal Chairman

Cc: Kiowa Business Committee
Comanche of Oklahoma
Apache Tribe of Oklahoma
Anadarko Agency Superintendent
SW Regional Offices: BIA
KCA Land Use Committee

P. O. Box 397

Mt. View, OK 73062

January 11, 2006

Dear Sirs,

In regard to the request by gas and oil companies to not get permission to cross tribal land. I am totally against it. As a land owner of a Kiowa tribal allotment, I have a 24 inch pipeline that is buried under my land and runs the total width of my land. The pipeline is owned by the Natural Gas Pipeline Company of America. As I understand, this pipeline is a section of the total pipeline that runs from Southern Texas to Northern North Dakota.

In 2000, the lease for the pipeline was up for renewal. The pipeline Company offered us the same lease price that they had been paying for the last forty years. After my neighbor received her letter from the pipeline company, she called and asked that we not sign the agreement. She wanted permission to negotiate on our behalf for a better price. We gave her permission.

She had found out that the non-Indian landowners along the pipeline were receiving almost twice as much lease payment for the pipeline than the Indian families. After about two months of waiting, we received a call from our neighbor informing us that new lease papers with the new lease price were on their way for us to sign. The new price for the lease right of way was ~~was~~ more than double the previous payment offered. Since we were receiving this amount, the pipeline Company had to pay ~~pay~~ ~~over~~ ~~double~~ ~~the~~ ~~previous~~ ~~amount~~.

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Bureau of Indian Affairs to negotiate on their behalf. The lease payment from twenty years ago was the price the BIA had negotiated over fifty years ago, when the pipeline was laid. This was the same price offered in 2000.

My biggest concern about the pipeline is the terrorist situation in America. With a 24 inch pipe sitting fifty yards from my house, I am greatly concerned about who comes on my land. Recently, we have physical contact with the pipeline people. We are contacted when they plan to come check the pipeline. They identify themselves and have identifiable trucks.

During the oil boom in the southwestern Oklahoma area in 1980, we had a seismic crew come across

when the pipeline was laid. This worth some price
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During the oil boom in the Southwestern Oklahoma
area in 1980, we had a seismograph crew come across
our lands. Each time they sent a shock wave in
the ground, we held our breath, expecting to break
the earth. When the trucks got closer to the house,
my cousin went out to talk with the crew. She informed
them that we had a 24 inch gas pipeline close to
where they were testing. The crew said they did not know
this and packed up and left. This could happen again
if the gas and oil Companies do not thoroughly research
the land.

These are just three of the problems I face as a
landowner on a personal basis. I do not need the
added stress of worrying about the tribe giving up
my rights as a landowner in the name of the tribe.

Sincerely,

Robert M. Patton