

Michael D. Olsen
Principal Deputy Assistant Secretary--Indian Affairs
Section 1813 ROW Study
Office of Indian Energy and Economic Development
1849 C St., NW.
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Washington, DC, 20240 (or e-mail to IEED@bia.edu)

Dear Deputy Assistant Secretary Olsen:

The Western Business Roundtable (“Roundtable”) respectfully submits the following comments regarding implementation of the Energy Policy Act of 2005’s (EPA05) Section 1813, which calls for a study of energy rights-of-way on tribal lands.

Section 1813 specifically requires the Secretaries of Energy and Interior to: conduct a joint study of the history of consent payments for rights-of-way on tribal lands; evaluate the impact of current practices on energy infrastructure; and propose solutions to Congress for determining compensation for tribal land rights-of-way that are both fair to Indian Tribes and consistent with the nation’s energy policies.

Roundtable’s Position

The Roundtable strongly supports the objectives laid out in Section 1813 of EPA05. The linchpins of any truly effective comprehensive energy policy must be aggressive domestic energy exploration and development efforts and robust delivery infrastructure systems including, particularly in the American West, electricity transmission, oil flow lines, coal transportation systems and natural gas pipelines that cross Indian tribal lands.

Currently, the excessive rights-of-way and other access costs associated with Indian tribal lands: raise delivered-energy prices for consumers; impact reliability of energy infrastructure (natural gas and products, transmission lines, producers, electric transmission lines, etc.); discourage expansion of, and investment in, existing facilities; and reduce investment, job-creation and development opportunities for Native Americans on tribal lands.

Section 1813 can serve an important function by resolving what has historically often been a source of uncertainty and conflict among relevant stakeholders. It is our hope that the study process called for will result in a set of fair, equitable procedures that can be used by energy exploration/development and infrastructure entities and Native American Tribes in negotiating right-of-way provisions across tribal lands.

Specific Roundtable Recommendations

1. The Roundtable supports an objective and comprehensive study and encourages close coordination between DOE, DOI, FERC, other relevant agencies, Indian Tribes and other stakeholders to achieve that goal:

- The study should focus on issues crucial to the continued safe, secure and efficient production and delivery of domestically-produced energy sources -- including natural gas, crude oil, petroleum products, coal and electricity, etc. - - to American consumers, especially those in the West.
- DOI and DOE must devote sufficient time, expertise and resources to this effort to make it successful. That includes reaching out to the full range of impacted stakeholders.
- FERC must be at the table. The Commission has the jurisdictional authority to authorize construction, operation and abandonment of most interstate natural gas pipeline facilities and interstate electric transmission lines. Therefore, the Commission needs to play an active role in the study process.
- The process must seek to understand and articulate the historical problems that have led to current tensions between Indian Tribes and energy resource producers and infrastructure developers.

2. Section 1813 requires that the study make recommendations for appropriate standards to determine fair and appropriate compensation for access across tribal lands. In doing so, the Roundtable asks DOI, DOE, FERC and other appropriate agencies to support the following:

- Assurances that costs for all energy exploration and development and transportation infrastructure rights-of-way on tribal lands bear a resemblance to regional market costs through consistently applied pricing mechanisms which are tied to recognized fair market value property valuation methodologies and principles.

Using this approach will provide consistency with longstanding federal policies that, with respect to other public and private lands, use fair market

value as the standard for rights-of-way valuation in order to best serve the public interest.

Conclusion

On behalf of the member companies of the Western Business Roundtable, I urge the inclusion of these recommendations as part of EPA05, Section 1813's Study of Energy Rights-of-Way on Tribal Lands.

Sincerely,



James T. Sims
Executive Director

cc:

Department of Energy Secretary Bodman
Deputy Secretary of Energy Garman
Vice President Dick Cheney
House Resources Committee Chair Richard Pombo
Senate Energy Committee Members
Interior Secretary Gale Norton
BLM Director Kathleen Clarke
Federal Energy Regulatory Commission
Western Governors' Association
Western Governors
Western Congressional delegations

The Western Business Roundtable is a broad-based coalition of companies doing business in the Western United States. Our members are engaged in a wide array of enterprises, including accounting, engineering, construction, communications, manufacturing, retail sales, refining, iron and steel, mining, electric power generation, and oil and gas exploration, development, and distribution. We work to defend the interests of the West and support policies that encourage economic growth and opportunity, freedom of enterprise and a common sense, balanced approach to conservation and environmental preservation.

