

November 28, 2005

**U.S. DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

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Office of Electricity Delivery and Energy Reliability
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In the Matter of)
)
WEST-WIDE ENERGY CORRIDOR PEIS)
)
(Programmatic Environmental Impact Statement))

**REQUEST FOR PUBLIC SCOPING MEETINGS ACROSS NAVAJO NATION
AND MOTION FOR AN EXTENSION OF PUBLIC COMMENT PERIOD
IN REGARD TO THE WEST-WIDE ENERGY CORRIDOR PEIS**

Petitioner Kathy Helms, a resident of the Navajo Nation living in the Nation's headquarters of Window Rock, Ariz., as well as an individual of Cherokee/German descent, hereby files this motion respectfully requesting a time extension of 90 days from the ending date of the November 28, 2005, comment period for the West-Wide Energy Corridor Programmatic Environmental Impact Statement (PEIS), and a request for public scoping meetings to be held immediately at each of the Navajo Nation's 110 chapters, in accordance with U.S. treaty obligations and provisions of the National Environmental Policy Act of 1969 (NEPA), before this process moves forward. It is also requested that the Department of Energy (DOE) have an interpreter on hand, as many of the Navajo Nation's residents do not speak or understand the English language.

The motion for extension of the comment period and request for hearings are based on the United States' apparent violation of its trust responsibility in consulting with Indian Nations, specifically the Resources Committee of the Navajo Nation Council which has oversight authority regarding permits for resource exploration and development of any rights-of-way for energy corridors which might cut trails across the Navajo Nation.

Portions of the Navajo Nation lie within Arizona, New Mexico and Utah, so it is reasonable to assume that at least one or two of those energy corridors planned around the Nation's borders ultimately will come through Navajoland. As El Paso Natural Gas has said in its negotiations with the tribe over right-of-way value: It is not cost-effective to "go around" the Navajo Nation.

The Navajo Nation Resources Committee has authority over leasing tribal natural resources for energy development, permitting rights-of-way for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities. As oversight committee, Resources is empowered to negotiate those rights in the best interest of the Navajo people.

Until the week of Nov. 14, 2005, members of the Resources Committee had no knowledge of any proposed U.S. Energy Corridor and had not been contacted regarding the matter. (Exhibit 1, "Energy Corridor May Impact Reservation Land," Gallup (N.M.) Independent, Monday, Nov. 14, 2005)

President Bush's Executive Order 13175 of Nov. 6, 2000, "Consultation and Coordination With Indian Tribal Governments" describes the United States' unique relationship with Indian tribal governments and recognizes "Indian tribes exercise inherent sovereign powers over their members and territory."

The Executive Order further states "To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications ..." without first following a number of steps set forth in that Order.

To date (Nov. 28, 2005), no federal entity has approached the Navajo Nation Resource Committee regarding this discussion, according to Committee Chairman George Arthur.

Section 368 of the Energy Policy Act of 2005, Public Law 109-58 (H.R. 6) enacted Aug. 8, 2005, directs the Secretaries from the Departments of Agriculture, Commerce, Defense, Energy and the Interior to designate corridors on federal lands in 11 Western states for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities (energy corridors).

Each agency would be required to amend its land use plan by designating a series of energy corridors effective upon the signing of the Record(s) of Decision.

The Bureau of Land Management (BLM) and U.S. Forest Service (FS) Western U.S. Lands Map included on the EIS Information Center Web site showing federal lands in states included in the Energy Corridor PEIS depicts the Navajo Nation surrounded by those lands potentially impacted by the proposed energy corridors.

Given Indian right-of-way study provisions contained within the Energy Policy Act of 2005, sponsored by U.S. Sen. Pete Domenici and U.S. Sen. Jeff Bingaman, both R-N.M., and recent requests to U.S. Secretary of the Interior Gale Norton to expedite that study and other requests in the interest of "national energy security," a prudent person might reasonably conclude that the federal government is preparing to make Indian Nations -- particularly the Navajo Nation -- an offer they can't refuse.

A prudent person also might conclude that the Navajo Nation's abundant oil, gas, water and mineral resources will have a sizable role to play in the success of any U.S. energy corridor and, therefore, the appropriate Navajo Nation representatives should be given a seat at the table in any such discussion.

In my job as a newspaper reporter covering portions of the Navajo Nation, I am in a position to see requests for permits which come before the Resources Committee. In the two

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years that I have observed such requests, the committee has approved rights-of-way for Transwestern Pipeline -- an Enron entity -- and Enterprise. It is still in negotiation with El Paso Natural Gas for renewal of its 900-mile pipeline right-of-way and possible construction of a helium plant in the Four Corners area.

Files for some of those oil and gas companies are a foot thick, documenting leases approved inside the Navajo Indian Irrigation Project within the last two years.

While I do not profess to be a rocket scientist, I was taught early in life that 1+1 generally equals 2. From my unique position here on Navajoland, it appears that 1+1 equals a major push by billion-dollar corporations to obtain rights to the Navajo Nation's oil, gas, and mineral reserves, along with water from the proposed San Juan River Basin settlement, while paying the least amount of compensation that can be negotiated whether the tribe accepts the offer or not.

The Department of Interior does not have a good track record in its dealings with the Navajo Nation, i.e. the as-yet-unsettled *Cobell v. Norton* lawsuit pertaining to payments for oil and gas leases.

Following Navajo Nation Council approval of the proposed San Juan River Basin Water Rights Settlement in December 2004, the number of oil and gas companies seeking permits has been on the upswing.

The Nation has approved numerous oil and gas drill permits from Calpine, Energen, Dugan, XTO, and ConocoPhillips, to name just a few. The majority of permits issued appear to be within the area of the Navajo Indian Irrigation Project (NIIP), which has a diversion right of 508,000 acre-feet of water per year from the San Juan River Basin at its disposal, with a depletion right of 270,000 acre-feet per year.

During Navajo Nation negotiations with the State of New Mexico and federal representatives regarding the San Juan water settlement, Sen. Domenici insisted that NIIP not be

included in the final draft legislation and also said he would not promote any water settlement to Congress which did not include the Navajo-Gallup Pipeline, which would receive a diversion right of 22,650 acre feet per year.

The Navajo-Gallup Pipeline would carry water to 43 Navajo Nation chapters through a main distribution line, but once again, the Navajo people will be left largely high and dry.

Any distribution to individual Navajo homes would hinge largely on funding made available through Indian Health Service (IHS). Given the Bush Administration's drastic budget cuts proposed this year and Washington's "take from the poor and give to the war" mentality, it is highly unlikely that IHS is going to have a large pot of money at its disposal to pipe water to individual homes.

A prudent person then might question whether Sen. Domenici, architect of the national Energy Policy, is pushing for the Navajo-Gallup project as a first step to providing water for proposed in-situ leach mining of uranium projects in the Navajo Eastern Agency chapters of Crownpoint and Church Rock, N.M. Domenici's previous attempt at a national energy policy included funding for companies deploying in-situ leach mining technology, however, that perk was removed from this year's final version of the Energy Policy Act.

Construction of NIIP was authorized in 1962. To date, more than 40 years later, the federal government has not fulfilled its promises regarding the irrigation project. The Navajo Nation later allowed construction of the San Juan-Chama Diversion project, which diverts water to Albuquerque, in exchange for completion of NIIP. The Chama project was completed in 10 years. After more than 40 years, NIIP is still only a little over halfway complete.

This further demonstrates the U.S.'s failure to live up to its trust responsibility.

SOVEREIGNTY ISSUES

This is not the first time the United States has attempted to do away with tribal consent in the issuance of rights-of-way across Indian lands, according to an Albuquerque attorney consulted by the tribe regarding the impact of the Energy Policy Act of 2005 on tribal sovereignty.

Attorney Paul E. Frye stated that the Department of the Interior proposed rules in 1967 to take away the right of tribal consent for non-IRA tribes concerning rights-of-way.

"These proposed rules were directed at the Navajo Nation, which was feared to be an obstacle to energy development in the Southwest, on and through Navajo lands. (See "Disposal of Rights in Indian Tribal Lands without Tribal Consent," H.R. Rep. No. 91-78 (1969).

"Congress rightly reproved the Department for this attempt to undermine tribal sovereignty, and the proposed regulations abrogating the rights of non-IRA tribes was withdrawn," Frye said. (Exhibit 2, Navajo Nation Legislation 0436-05, "Summary of Legislation Opposing Section 1607 of the Proposed Energy Policy Act of 2005," June 2, 2005, including various attachments to the legislation).

Since at least 2000, Domenici and Bingaman have spoken out about exploring tribal resources and are streamlining processes which would make that exploration more doable. The two congressmen have championed a number of energy and water bills through Congress. One of those streamlining processes is a Domenici-backed "one-stop-permitting" pilot project for oil and gas leasing in the Four Corners area -- including Navajoland -- which is designed to speed up the approval of applications to drill.

It appears that the federal government, through its various departments, is changing the rules to make it easier to legally help itself to mineral-rich tribal lands, and in doing so, is once again failing to live up to its trust responsibility to consult with Indian Nations.

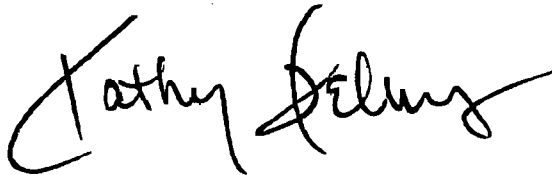
CONCLUSION

In accordance with the Treaty of 1868, President Bush's Executive Order 13175, and provisions of NEPA, including Environmental Justice regulations, it is incumbent upon the Department of Energy to consult with the Natural Resources Committee of the Navajo Nation Council and to conduct a series of public scoping hearings at the 110 chapters that make up the Nation.

Conducting hearings in Albuquerque, Phoenix, or Salt Lake -- hundreds of miles away from the Navajo Nation -- do not serve the needs of the Navajo people or residents of the Navajo Nation, such as myself.

Helms respectfully requests that the Department of Energy give due consideration to the Navajo Nation and its residents by extending the comment period for 90 days and conducting scoping meetings throughout the reservation before proceeding with what appears to be a legal "taking" of tribal lands.

Respectfully submitted,



Kathy Helms

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November 28, 2005

EXHIBIT 1

NOTE: NOT POSTED ON WEB SITE; printed copy to follow in U.S. Mail

Monday, Nov. 14, 2005

Number 268 Volume 118

Gallup Independent

Southwest Page 5

Energy corridor may impact reservation land

By Kathy Helms

Dine Bureau

WINDOW ROCK -- U.S. government plans to designate national "energy corridors" on federal lands in 11 western states surrounding the Navajo Nation, appear to be building toward a legal takeover of Indian land through rights-of-way agreements the tribe could be forced to accept.

The Energy Policy Act of 2005 enacted in August directs the secretaries of Agriculture, Commerce, Defense, Energy and the Interior to designate federal land in 11 western states for oil, gas and hydrogen pipelines, and electricity transmission and distribution facilities, or "energy corridors."

The federal agencies must amend their land use plans to designate the series of corridors on federal lands in Arizona, New Mexico, Colorado, Utah, Nevada, California, Oregon, Washington, Idaho, Montana and Wyoming and have been conducting hearings on the issue, though none in Navajo Indian Country.

Federal lands are a combination of public domain lands, including state property and lands administered by agencies such as the Bureau of Indian Affairs, which holds 56 million acres in trust status on behalf of Indian nations and individuals.

Exhibit 1, page 2

Federal land under Interior stewardship amounts to 437 million acres. The USDA Forest Service manages another 192 million acres -- including Coconino National Forest where the San Francisco Peaks are located. The Department of Defense oversees 25 million acres on 425 major installations. The feds also control 1.76 billion acres of the U.S. Outer Continental Shelf.

Designating energy corridors as required by Section 368 of the 3-month-old energy policy could significantly impact the environment, the federal agencies said, prompting them to publish a notice of intent to prepare the West-Wide Energy Corridor Programmatic Environmental Impact Statement in the Sept. 28 edition of the Federal Register. Deadline for comment is Nov. 28.

The Department of Energy and the Bureau of Land Management, co-lead agencies in the effort, with the Forest Service acting as a cooperating agency, held a series of public meetings Oct. 25-27 in Denver, Albuquerque, Salt Lake City, Cheyenne, Wyo., and Helena, Mont. Meetings also were conducted Nov. 1-3 in Boise, Idaho; Sacramento, Calif.; Las Vegas; Portland, Ore.; Phoenix and Seattle.

The Navajo Nation holds rights to a wealth of oil, gas, coal, uranium and other minerals -- as well as hundreds of thousands of acre feet of precious water needed to sustain an ambitious energy corridor.

NATION LEFT IN THE DARK

Though the proposed corridors completely surround the Navajo Nation, Resources Committee Chairman George Arthur said Wednesday (Nov. 9) that committee members have not been told anything about it and have not been involved in federal discussions.

Exhibit 1, page 3

Resources has oversight on issues pertaining to lease permits for oil, gas and mineral development on Navajoland.

The Office of Navajo Nation President Joe Shirley Jr. has yet to respond to queries from The Independent regarding whether the Nation has been consulted.

Resources' Arthur said, "In as far as the U.S. energy corridor is concerned, at least for us as oversight on that part of the discussion, we have never been apprised of it.

"The Navajo Nation Resources Committee has never been at the table, has never participated in any shape or form in any of these discussions. Furthermore, if there is such a discussion, you've got to keep in mind that the Nation is a sovereign state. Whether people realize it or not, everything stops at the border."

The Navajo Nation is still in the process of developing its own energy policy which would reflect the objectives and mission statement of the Nation in regard to energy development in local, national, and international arenas, according to Arthur.

One of this greatest concerns in the designation of energy corridors is the vulnerability of the Eastern Agency of the Navajo Nation "because of the land structure and the relationship that it has with the federal government with the trust responsibility.

"I guess you could look at it as the Nation is a bigger figure in trust lands than individual allottees, so the vulnerability of individual allottees in respect to the pressure and impact of federal regulations and big corporations coming in is very open.

Exhibit 1, page 4

They're very vulnerable," Arthur said.

Uranium mining companies already are leasing land in Church Rock and Crownpoint within the Eastern Agency, despite the Nation's ban on uranium mining and processing passed in April by the 20th Navajo Nation Council.

President Shirley signed an Executive Order Nov. 4 prohibiting Navajo Nation employees from communicating with uranium mining companies without first receiving guidance from the Nation's Department of Justice.

Shirley said the move was necessary because some companies have been willfully disrespecting the Dine Natural Resources Protection Act of 2005 which banned uranium mining and processing.

GOVERNMENTAL GROUPS ISSUE ENERGY MEMORANDUM

A memorandum of Understanding was signed in August 2001 among DOE, the Interior, U.S. Department of Agriculture, U.S. Environmental Protection Agency, Council on Environmental Quality, and members of the Western Governors' Association. The MOU was to establish cooperation between western states and the federal government to address the West's growing energy problems.

An August 2002 letter to Vice President Dick Cheney from then-Energy Secretary Spencer Abraham and Interior Secretary Gale Norton advised Cheney that an interagency task force, the National Energy Policy Development Group, had been formed to address issues associated with "renewable energy" production on federal lands.

"Our response to the national Energy Policy reflects a commitment to increase our energy security by expanding the use of indigenous resources on

Exhibit 1, page 5

Federal lands, while accelerating the protection of our environment," they said.

The Energy Policy Act co-sponsored by New Mexico Sens. Pete Domenici and Jeff Bingaman contains a section on energy right-of-way corridors on federal land. Section 368 directs the secretaries of the various agencies to ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on federal land "are promptly identified and designated as necessary." The secretaries also are instructed to "expedite applications."

El Paso Natural Gas, now in trespass on Navajoland after the two entities failed to reach agreement on the value of El Paso's right-of-way renewal, has teamed with a Washington, D.C.-based lobby group, the Fair Access to Energy Coalition, which goes by the acronym FAIR, to "ensure the movement of energy across tribal lands on reasonable terms."

Other members of FAIR include: New Mexico Oil and Gas Association, the Association of Commerce and Industry of New Mexico, Arizona State Chamber of Commerce, Arizonans for Electric Choice and Competition, California State Chamber of Commerce, and Enterprise, which had its right-of-way agreement approved last month on the same day El Paso's expired.

The Enterprise contract is worth approximately \$23 million over the next 20 years for right-of-way access across 318 miles of fee land. The tribe is seeking \$400 million from El Paso for its 900-mile stretch of pipeline right-of-way and associated projects.

Exhibit 1, page 6

NOT IN TUNE WITH THE TIMES

El Paso representatives were in Window Rock Thursday (Nov. 10) hoping to get an extension from the Resources Committee; however, they failed to get on the agenda but will try again later this month.

El Paso has asked Interior Secretary Norton for an opinion regarding right-of-way status on Indian land. El Paso contends the federal government actually owns the land and that it's just held in trust for the Navajo Nation.

The New Mexico Oil and Gas Association is seeking Domenici's support in amending the Indian Right of Way statute to allow the Secretary of the Interior to grant pipeline rights-of-way over tribal lands despite objections by the affected tribes.

Resources' Arthur said, "In the discussion of the rights-of-way ... it's been very difficult because they perceive the Nation as not having to have been in tune with today's market value and the industry as a whole.

"But I think that people in the industry need to realize that we've been down that road, and we're not going to go down the same road twice and be expected to conclude our business settlement on the same terms and conditions as it was in the 1980s or the mid-1990s."

ON THE NET (to view map):

<http://corridoreis.onl.gov/guide/maps/map2.html>

EXHIBIT 2

RESOURCES
COMMITTEE

PROPOSED STANDING COMMITTEE RESOLUTION
20th NAVAJO NATION COUNCIL -- Third Year, 2005

THENCE

INTRODUCED BY

Lawrence P. Peltus

(Main Sponsor)

INTERGOVERNMENTAL
RELATIONS COMMITTEE

TRACKING NO. 0436-05

AN ACTION

RELATING TO NATURAL RESOURCES; INTERGOVERNMENTAL RELATIONS;
~~IN THE INTEREST OF TRIBAL SOVEREIGNTY, PROPOSING SECTION 1607 OF THE~~
~~PROPOSED ENERGY POLICY ACT OF 2005.~~

BE IT ENACTED:

1. The Navajo Nation hereby opposes and recommends the deletion of section 1607 of the proposed Energy Policy Act of 2005. Section 1607 would abrogate the right of Indian tribes to consent or to refuse to consent to rights-of-way applications through Indian lands. Section 1607 is a retreat from tribal self-determination, is a breach of treaty obligations, and would significantly diminish tribal sovereignty.

2. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council, the President of the Navajo Nation, and any other Navajo Nation official to provide any necessary testimonies and other documents to oppose and recommend the deletion of section 1607 of the proposed Energy Policy Act of 2005.

EX 2 P. 1

June 2, 2005

**SUMMARY OF LEGISLATION
OPPOSING SECTION 1607 OF THE PROPOSED
ENERGY POLICY ACT OF 2005**

One of the most fundamental aspects of Navajo Nation sovereignty is the power of the Navajo Nation to exclude persons from Navajo territory. This "power is a fundamental sovereign attribute intimately tied to a tribe's ability to protect the integrity and order of its territory and the welfare of its members." Felix S. Cohen's Handbook of Federal Indian Law 252 (R. Strickland ed. 1982).

In the general Indian Right-of-Way Act of 1948 (the "1948 Act"), Congress expressly recognized the power of Indian tribes organized under the Indian Reorganization Act to refuse consent to right-of-way applications, and conditioned the grant of rights-of-way on such consent. Regulations promulgated by the Department of the Interior soon thereafter extended that recognition to non-IRA tribes, as well, and those regulations have been in force since 1951.

The Department of the Interior proposed rules in 1967 to take away the right of tribal consent for non-IRA tribes concerning rights-of-way. These proposed rules were directed at the Navajo Nation, which was feared to be an obstacle to energy development in the Southwest, on and through Navajo lands. See Disposal of Rights in Indian Tribal Lands without Tribal Consent, H. R. Rep. No. 91-78 (1969). Congress rightly reproved the Department for this attempt to undermine tribal sovereignty, and the proposed regulations abrogating the rights of non-IRA tribes was withdrawn.

For many decades, the Navajo Nation and other tribes and individual Indians received rock-bottom prices for rights-of-way, even though tribal trust lands may not be taken by condemnation. The federal Government did not adequately protect the beneficiaries of the federal trust, as the court in the Cobell litigation has learned. Only relatively recently have the Indian nations, including the Navajo Nation, begun to receive appropriate value for rights-of-way.

The tribal consent requirement of current law encourages tribal self-determination and economic stability and self-sufficiency. However, in recent months the New Mexico Oil and Gas Association, apparently acting on behalf of the El Paso Natural Gas Company ("EPNG"), wrote to Senator Domenici seeking to amend the 1948 Act to abrogate the right of tribal consent to rights-of-way for all tribes, Pueblos, and Indian nations. Such legislation would obviously be a significant retreat from tribal self-determination, would constitute a breach of treaty obligations, and would constitute a significant diminishment of tribal sovereignty. That particular legislative proposal did not receive congressional support to the best of our knowledge, but it received some favorable consideration in section 1607 of the proposed Energy Policy Act of 2005, under consideration in the United States Senate.

That section provides a very brief time for the Secretaries of Energy and Interior to

Ex. 2/p. 2

conduct a study regarding rights-of-way through Indian lands, seemingly designed to accommodate EPNG's short-term interests. The section seems to assume that the only issue to be studied is the reasonableness of compensation that the Indian nations may command. Its list of recommendations assumes the result that the report would reach – a grant of authority for companies to condemn tribal lands that Congress expressly repealed in 1948 as to Pueblo lands and rejected explicitly in the 1948 Act with respect to non-IRA tribes.

Similarly, the section's recommendation on policies to "accommodate" the needs of Indian tribes assumes that the Indian nations will have no right to set the terms for granting rights-of-way themselves, hearkening a return to the colonial and paternalistic policies in the time before the 1930s. Section 1607 does not seek an objective study. It is intended to create momentum for energy company efforts to justify a return to those old times so that these wealthy entities will be able to use Navajo and other Indian land regardless of the position of the tribal governments, and maximize profits at our expense.

Therefore, the accompanying legislation seeks the deletion of section 1607 of the proposed Energy Policy Act of 2005, and authorizes and directs appropriate officials of the Navajo Nation to take any and all reasonable steps to effect the deletion of this section.

EX. 2
P. 3

FRYE LAW FIRM, P.C.*Attorney at Law*
April 18, 2005

Paul E. Frye

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E-MAIL: pef@fryelaw.us

Hon. Lawrence Platero, Chairman
Economic Development Committee
Navajo Nation Council
P. O. Box 3390
Window Rock, Navajo Nation (AZ) 86515

Re: Request for Federal Legislation to Eliminate Tribal Consent Requirement for Rights-of-Way

Dear Chairman Platero:

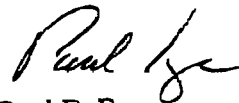
As you requested at last week's meeting with the Navajo Nation Oil and Gas Company, I am providing more information on the recent request that was made to Senator Domenici to amend the Indian Right-of-Way Act. As background, the Minerals Department had earlier negotiated terms of a major right-of-way for the main Transwestern natural gas pipeline that spans the length of the Navajo Reservation. Those terms involved a substantial payment to the Navajo Nation. The Minerals Department began negotiations with El Paso Natural Gas for a similar right-of-way for its main pipeline. I understand that the Navajo Nation Attorney General participated in some of those negotiations. El Paso balked at paying such substantial consideration to the Navajo Nation, and its representatives stated that El Paso would seek other relief from the Nation's demands.

At about that time, the New Mexico Oil and Gas Association wrote to Senator Domenici seeking his support for an amendment to the Indian Right-of-Way statute to allow the Secretary of the Interior to grant pipeline rights-of-way over tribal lands over the objections of the affected Indian nation. A copy of that letter, with proposed legislation, is attached hereto. NCAI has issued an alert regarding this initiative. It is also attached. This appears to be the "other relief" that El Paso is urging in order to obtain rights to Navajo Nation lands without Navajo Nation consent.

Please call if more information is desired. I believe that the Resources Committee is aware of this challenge to Navajo Nation authority, and, certainly, Mr. Zaman or Attorney General Denetsosie can supply additional details and information.

Very truly yours,

FRYE LAW FIRM, P.C.



Paul E. Frye

c Mr. Akhtar Zaman
Hon. Louis Denetsosie

EX 2
P. 4

March 8, 2005

Honorable Pete V. Domenici
United States Senate
328 Hart Office Building
Washington, DC 20510

Re: Energy Rights-of-Way on Tribal Lands

Dear Senator Domenici:

As you know, the New Mexico Oil and Gas Association supports the existence of Native American governments and tribal sovereignty within our federal system and our many members value their relationship with the tribal governments and tribal communities where they do business. Our members also, however, have a responsibility to their customers to secure reliable transportation at a reasonable cost for the energy those customers need. We also recognize the critical need for a reliable, secure and cost-effective national energy transportation infrastructure. Nationwide energy transportation networks are increasingly important as our energy distribution systems have facilitated the development of nationwide markets for natural gas, electric power, and other energy commodities. Our ability to move energy efficiently is essential to our national energy security. We now call your attention to the serious problems posed by the present law applicable to rights-of-way across tribal lands and propose a solution.

The Tribal Consent Requirement Impedes Energy Transportation:

Under the General Right of Way Act of 1948, 25 U.S.C. §§ 322-325, Congress provided that certain Indian tribes, Pueblos, and other Native American groups must consent to the grant of rights-of-way across tribal trust or restricted lands before the Secretary of the Interior may issue a right-of-way grant across those lands. A copy of pertinent portions of the 1948 Act, that includes our proposed revision to include a new Section 324a, is attached as Appendix A. By regulation, the Department of the Interior broadened the consent requirement to apply to all federally recognized tribes. Recently, the Department and various Indian tribes or groups have interpreted the consent requirement to justify a tribe's imposing virtually any condition on the grant of tribal consent. In practice, those conditions have included:

- Compensation averaging over ten times, and sometimes over one hundred times, that paid for rights-of-way across comparable private or federal lands.
- Demands calculated based on what the tribe perceives it would cost the company to build new facilities around tribal lands, less some small percentage.

EX. 2
P. 5

Senator Pete Domenici

Page 2

March 8, 2005

- Utilizing the consent requirement to extract harsh concessions, including the coerced sale of a company's assets tied to expiring rights-of-way at distress sales prices, because those rights-of-way cannot be renewed without tribal consent.

The imposition or negotiation of such conditions at the time of the original right-of-way application presents an impediment to the national movement of energy products to consumers and, when applied to local rights-of-way, hinders delivery of retail gas and electricity to tribal members. When rights-of-way are not perpetual and come up for renewal, tribes have utilized the consent requirement to impose particularly unreasonable conditions on right-of-way holders.

This has led to an untenable situation regarding the price of rights-of-way. See Chart of Right-of-Way Prices, Appendix B. As this comparison reflects, while prices for rights-of-way for federal and private lands have reflected changes in the cost of living, since 1985, compensation for tribal rights-of-way has risen 2000%.

Other alternatives, like building around tribal lands, are not desirable solutions. That additional construction would be uneconomic and wasteful, and increasing the length of rights-of-way increases the environmental concerns and costs. Moreover, the present structure motivates tribes to erect hurdles to their own tribal economic development, by putting the focus on short-term economic gain from signing compensation for consent to a grant or renewal, in lieu of developing needed infrastructure.

Particularly in the circumstance of renewals, the current situation gives tribes unreasonable bargaining power. To provide needed service, a right-of-way holder invests significant resources in developing the pipeline, transmission, or related facilities in the right-of-way. As a consequence, the Native American group is in the driver's seat in the negotiation of renewal conditions to the point where the tribe can impose conditions that are not always reasonable, whether in the context of demanding inflated compensation or other terms. Tribes have required inflated compensation on renewal of an existing easement dozens or hundreds of times the values paid for rights-of-way, or even for full ownership, across comparable private, federal, and state-owned lands. Inflated compensation leads to increased prices to consumers of the transported commodity, as right-of-way holders seek to pass on the consideration paid to their end users, including residential customers, small businesses, and the other industries that power the economic engine of this Nation. That cost is likely a factor in the lack of utility service to some reservation areas, and that hinders tribal economic development. The unlevel playing field is compounded because Congress has not delegated to the energy transportation industries a right of condemnation or eminent domain over tribal trust lands or tribal lands subject to restrictions on alienation. Given the importance to our country of an efficient and effective energy delivery system, this situation is not in the public's interest, nor in the best long-term interests of the tribes.

It is hard to imagine that Congress in 1948 intended the tribal consent requirement to justify unreasonable conditions on the grant of consent. The legislation we propose is designed to narrow the application of the tribal consent requirement in the context of rights-of-way that are necessary for the efficient and cost-effective operation of energy transportation or

Senator Pete Domenici
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March 8, 2005

transmission infrastructure – natural gas pipelines, oil or liquids lines, and electric transmission and distribution lines. We do not seek condemnation authority; however, we imperatively need a solution to this issue.

The Legislation We Propose:

We propose a new statutory section, which we tentatively propose be a new 25 U.S.C. 324a, be adopted to apply to rights-of-way for energy transportation across tribal lands. See Appendix A. For new and renewal rights-of-way, tribes would have every opportunity to negotiate for optimal terms and conditions. However, if tribes and companies could not agree, the legislation would provide for the Secretary of the Interior to step in to determine reasonable compensation. The legislation would specify that the Secretary set that compensation in terms similar to a standard in the Secretary's own present regulations: fair market value of the rights granted plus any diminution in value, called "severance damages," to the adjacent tribal lands not subject to the easement.

Such legislation is narrowly tailored to promote a cost-effective, secure and reliable, long term energy transportation infrastructure, while ensuring that affected Indian tribes and other Native American groups receive full value for the rights granted and have the appropriate protections in place to protect the health and welfare of tribal communities. We do not seek to apply this legislation to non-energy related rights-of-way, such as roads, trails, or telecommunications, though we understand similar concerns are raised in those situations, as well. We do not seek to apply this proposal to individual allotted lands. And, we do not seek to address private lands owned in fee by Indian tribes or groups and not subject to any restrictions on alienation. Consequently, the legislation promotes National energy policies without broadly limiting tribal control over tribal lands. A proposed revision inserting the statute as new section 324a governing Energy Rights-of-Way is attached as Appendix A.

The Federal-Tribal Relationship and Rights-of-Way Across Tribal Lands:

The approach we propose is consistent with historic concepts of the federal trust responsibility to tribes. In the early 1800s, Chief Justice John Marshall and the Supreme Court began to define the scope of tribal sovereignty and the relationship of Indian tribes to the federal government. In three key opinions, the Court described the relationship between the United States and Indian tribes as akin to that of a guardian-ward or trustee-beneficiary. With respect to tribal lands, the Supreme Court held that tribes' powers to sell or grant rights with respect to tribal lands is subject to the supervision and control of the federal government. Congress has power under the "Indian commerce" clause of the Constitution, Article I, Section 8, and its plenary power over tribes, to insure that tribal land holdings are not impediments to the accomplishment of federal energy policies. In fact, many historic tribal treaties specified that tribes would not oppose works of utility or necessity permitted by the laws of the United States.

Senator Pete Domenici
Page 4
March 8, 2005

Congress has not previously provided clear authority to address this situation. While Congress has expressly invested interstate natural gas companies having certificates of public convenience and necessity issued under the Natural Gas Act, as amended, generally with condemnation powers over private lands, those powers do not expressly extend to tribal lands. As prior versions of the Energy Policy Act of 2003 reflected, there is no federal eminent domain authority for electric transmission lines, and there is also no general, federal eminent domain authority for intrastate gas or oil pipelines and gathering lines. Consequently, energy transporting pipelines and electric transmission companies lack clear federal authority to acquire tribal rights-of-way that can override the consent requirement or level the negotiation field.

We propose a reasonable use of Congressional authority to insure that tribal lands are not an impediment to energy transportation, while guaranteeing the tribes receive fair and reasonable compensation and other reasonable terms for the use of their lands. The Secretary of the Interior traditionally has exercised the function of determining reasonable compensation for tribal rights-of-way and other agreements, with an opportunity for judicial review of her decisions. Under the legislation we propose, the Secretary would be again be charged with protecting that interest.

In the area of nationwide energy infrastructure, given the important federal interests at stake, the need for a stable, reliable, secure and cost-effective nationwide energy infrastructure outweighs the interests of Indian tribes in extracting unreasonable conditions to the renewal of existing rights-of-way. The legislation we propose would provide balance to this equation – provide a reliable infrastructure, while protecting the reasonable interests of Indian tribes. On behalf of NMOGA's members, I appreciate your thoughtful consideration of this proposal.

Sincerely,

Bob Gallagher
President
New Mexico Oil and Gas Association

Exp 2
P. (S)

PROPOSED REVISIONS TO 25 USC § 324

TITLE 25. INDIANS

CHAPTER 8. RIGHTS-OF-WAY THROUGH INDIAN LANDS

25 USCS § 323

(2005)

§ 323. Rights-of-way for all purposes across any Indian lands

The Secretary of the Interior be, and he is hereby, empowered to grant rights-of-way for all purposes, subject to such conditions as he may prescribe, over and across any lands now or hereafter held in trust by the United States for individual Indians or Indian tribes, communities, bands, or nations, or any lands now or hereafter owned, subject to restrictions against alienation, by individual Indians or Indian tribes, communities, bands, or nations, including the lands belonging to the Pueblo Indians in New Mexico, and any other lands heretofore or hereafter acquired, or set aside for the use and benefit of the Indians.

25 USCS § 324

(2005)

§ 324. Consent of certain tribes; consent of individual Indians

No grant of a right-of-way over and across any lands belonging to a tribe organized under the Act of June 18, 1934 (48 Stat. 984) [25 USCS §§ 461 et seq.], as amended; the Act of May 1, 1936 (49 Stat. 1250); or the Act of June 26, 1936 (49 Stat. 1967) [25 USCS §§ 501 et seq.], shall be made without the consent of the proper tribal officials. Rights-of-way over and across lands of individual Indians may be granted without the consent of the individual Indian owners if (1) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (2) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (3) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary of the Interior finds that the grant will cause no substantial injury to the land or any owner thereof; or (4) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof.

§ 324a. Energy transportation rights-of-way

The Secretary of the Interior may issue a grant or renewal of a right-of-way, or expansion of a right-of-way by amendment, for energy transportation, including pipelines for oil and/or gas and electric transmission lines, over and across any lands belonging to a tribe, when the applicant for such grant, renewal, or expansion and the tribe cannot agree to the terms for the tribe's consent, if (1) the applicant tenders an amount the Secretary of the Interior determines to be just compensation for the rights granted and (2) the Secretary determines that the right-of-way applied for is not incompatible with existing uses of affected tribal lands. Just compensation shall be the fair market value of the rights granted, plus severance damages, if any, to the remaining estate, determined in accordance with generally accepted principles of property valuation.

25 USCS § 325

(2005)

§ 325. Payment and disposition of compensation

No grant of a right-of-way shall be made without the payment of such compensation as the Secretary of the Interior shall determine to be just. The compensation received on behalf of the Indian owners shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior.

March 29, 2005
(Broadcast #05-24)

URGENT: ENERGY COMPANIES PUSHING AMENDMENT TO FORCE ENERGY RIGHTS-OF-WAY WITHOUT TRIBAL CONSENT

Under current law (25 U.S.C. §324 and the regulations at 25 C.F.R. §169) the Secretary may not grant approval of a right-of-way over tribal lands without the consent of the proper tribal officials. The New Mexico Oil & Gas Association and other energy companies are lobbying Congress to include a provision in this year's energy legislation that would allow the Secretary of Interior to approve an energy right-of-way over tribal lands without tribal consent. A copy of their letter and legislative proposal is attached. The energy companies are making the argument to Congress that a tribal consent requirement is unfair because tribes are charging too much for rights-of-way and creating an impediment to energy transportation. They would like to give the Secretary of Interior the authority to issue a right-of-way over tribal lands without tribal approval and tie the valuation method to historically low rates. The energy companies' claims are simply without basis and should be vigorously opposed by Congress:

- Rights-of-way on Indian lands have been historically undervalued by the Department of Interior – which often set rates at agricultural levels for high-value energy corridors and has deeply discounted the value of tribal lands as compared to private lands. In recent years tribes have been negotiating for themselves and moved to economic valuation of rights-of-way. This has increased the cost of tribal rights-of-way, thankfully, and it has corrected a lot of abuses of the past.
- The energy industry proposal would tie the valuation of rights-of-way to "fair market value" which is generally appraised by looking at comparables. This would unfairly tie the rates to the historic undervaluation levels established by the Department of the Interior.
- Unilateral control over rights-of-way by the Secretary would lead to abuses and create a lot of trust litigation against the federal government. The history of tribal trust land is that when the Secretary of Interior has absolute control over trust decisions, tribal interests are generally manipulated and abused. Energy rights-of-way are very high value assets that should be negotiated in arms-length transactions – not by politicians.
- Energy companies have freely pillaged tribal lands for over a hundred years - expropriating huge quantities of natural resources at rock bottom prices, often with the assistance of the Department of Interior. Today tribes are able to negotiate for market rates – and through-the-looking-glass this appears unfair to the energy industry.
- The funds that tribal governments receive from rights-of-way are used for governmental purposes – to supplement vastly underfunded federal programs like law enforcement, education and health care. Undercutting the tribes' ability to negotiate fair rates for rights-of-way would shift more burden onto the federal government to fund these programs.
- Tribal lands make up less than 2% of the U.S., so a right-of-way can go a different way. If the energy company does not want to pay the tribe, it can go around the reservation. The tribal consent requirement is simply not a serious physical impediment to the energy industry.
- Tribal lands were reserved for the use of Indian tribes for their people and their culture – not as cheap industrial corridors. Energy rights-of-way are often very destructive of surrounding land and limit its potential uses. Way too often tribes have been forced to sacrifice their lands, their cultural sites, and their safety and health. Tribes should retain their right to consent and never be forced to unfairly bear the costs of industrial corridor development.

NCAI would urge tribes write and to contact their Senators and Representatives in Congress and ask them to oppose any amendment to the energy legislation that would strip tribes of their right to consent to the granting of rights-of-way.

Click on the NCAI Logo to get the contact information for your Senators and Representatives or type this link into your web browser. <http://www.congress.org/congressorg/dbq/officials/>.

Ex. 2
P. 10



In addition, tribes should fax a letter or send an email to the following representatives by simply clicking on the icons.



Honorable Pete Domenici, Chair
Senate Energy & Natural Resources Committee



Honorable Jeff Bingaman, Ranking Member
Senate Energy & Natural Resources Committee



Honorable John McCain, Chair
Senate Committee on Indian Affairs



Honorable Byron Dorgan, Vice Chair
Senate Committee on Indian Affairs



Honorable Joe Barton, Chair
House Energy and Commerce Committee



Honorable John Dingell, Ranking Member
House Energy and Commerce Committee



Honorable Richard Pombo, Chair
House Resources Committee



Honorable Nick Rahall, Ranking Member
House Resources Committee



By phone:

1. Call the Capitol Hill Main Switchboard: (202) 224-3121 and ask to be connected to your Senator or Representative's office.
2. Communicate to your respective Senator or Representative on the impact of the legislation for Indian Country.
3. For tracking purposes, please let the National Congress of American Indians know that you have contacted your Senators! Please provide a courtesy copy to the NCAI via facsimile at (202) 466-7797 or by e-mail at ncai@ncai.org

If you have any questions, please contact NCAI at (202) 466-7767 or at ncai@ncai.org.

P. 11 Ex 2

20th NAVAJO NATION COUNCIL

Third Year 2005

Mr. Speaker,

The **RESOURCES COMMITTEE** to whom has been assigned

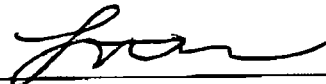
NAVAJO LEGISLATIVE BILL # 0436-05

An Action Relating to Natural Resources; Intergovernmental Relations; Energy; Tribal Sovereignty; Opposing Section 1607 of the Proposed Energy Policy Act of 2005
(sponsored by Lawrence R. Platero)

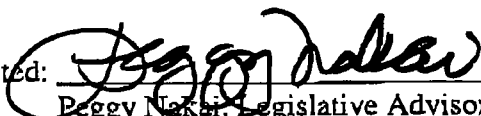
has had it under consideration and reports the same with the recommendation that it **DO PASS**, without amendments.

And therefore referred to the **INTERGOVERNMENTAL RELATIONS COMMITTEE**

Respectfully submitted,



LaVern Wagner, Vice Chairperson

Adopted: 
Peggy Nakai, Legislative Advisor

Date: August 9, 2005

The vote was 6 in favor, 0 opposed
Absent: Larry Noble

Ex. 2
P. 12

20th NAVAJO NATION COUNCIL

Third Year 2005

Mr. Speaker,

The **RESOURCES COMMITTEE** to whom has been assigned

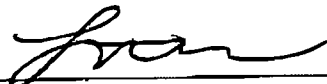
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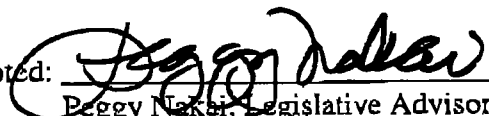
has had it under consideration and reports the same with the recommendation that it **DO PASS**, without amendments.

And therefore referred to the **INTERGOVERNMENTAL RELATIONS COMMITTEE**

Respectfully submitted,



LaVern Wagner, Vice Chairperson

Adopted: 
Peggy Nakai, Legislative Advisor

Date: August 9, 2005

The vote was 6 in favor, 0 opposed
Absent: Larry Noble

Σx.2
P.12

Exhibit S

Federal Register Environmental Documents

Search:

> Executive Order 13175 - Consultation and Coordination With Indian Tribal Governments

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- Regulatory Agenda
- Executive Orders
- Current Laws and Regulations

Executive Order 13175 - Consultation and Coordination With Indian Tribal Governments

[Federal Register: November 9, 2000 (Volume 65, Number 218)]
 [Presidential Documents]
 [Page 67249-67252]
 From the Federal Register Online via GPO Access [wais.access.gpo.gov]
 [DOCID:fr09no00-167]

Presidential Documents

Title 3--
The President

[[Page 67249]]

Executive Order 13175 of November 6, 2000

Consultation and Coordination With Indian Tribal Governments

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes, it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and

define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

[[Page 67250]]

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. Special Requirements for Legislative Proposals. Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. Consultation. (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

[[Page 67251]]

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. Accountability.

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. Independent Agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. General Provisions. (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform),

OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

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Sec. 10. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

(Presidential Sig.)

THE WHITE HOUSE,

November 6, 2000.

[FR Doc. 00-29003
Filed 11-8-00; 8:45 am]
Billing code 3195-01-F

Notices for

Last updated on Monday, February 7th, 2005
URL: <http://www.epa.gov/fedrgstr/eo/eo13175.htm>