

# INDIAN COUNTRY ENERGY AND INFRASTRUCTURE WORKING GROUP

## ICEIWG

### Key Points & Action Items

#### *Inaugural Meeting*

Thursday, August 25, 2011

Renaissance Denver Hotel

Denver, Colorado

#### *Participants*

**Tracey LeBeau**, Director, **Pilar Thomas**, Deputy Director, and **Brandt Petrasek**, Special Assistant, Department of Energy, Office of Indian Energy Policy and Programs; **Vice Chairman Ronald Suppah** and **Jim Manion**, Confederated Tribes of the Warm Springs Reservation of Oregon; **William Micklin**, Ewiiapaayp Band of Kumeyaay Indians; **Councilman Barney Enos, Jr.**, **Jason Hauter**, Gila River Indian Community; **Mato Standing High**, Rosebud Sioux Tribe; **R. Allen Urban**, Yocha Dehe Wintun Nation; **Glen Andersen**, **Scott Hendrick**, **Brooke Oleen**, **Jacquelyn Pless**, **Jim Reed** and **Julia Verdi**, National Conference of State Legislatures—staff

### *Key Points*

#### *1. Purpose*

The Department of Energy's (DOE) Office of Indian Energy Policy and Programs (IE) formed the Indian Country Energy and Infrastructure Working Group (ICEIWG) in August 2011. IE is seeking advice from tribes actively developing, or that have established, energy projects so that it can share information and personally learn more about issues facing Indian Country. ICEIWG members will facilitate and relay the information to tribes. IE and member tribes will make sure to collectively report, produce and converse with others on topics determined to be critical and of interest to Indian Country.

#### *2. Initial and Current Composition and Structure*

- Tribal leaders with experience in owning, deploying and operating energy assets, including clean energy projects and investments.
- Utility facility operators and owners.
- Regional perspectives and representation.
- Expanded working group could be 8-10 members.
- Can operate formally with bylaws or informally, using an organizational document.
- Structure is flexible and can always be assessed more closely by membership.

#### *3. Meetings*

- Preference leaning towards quarterly in person meetings, with interim conference calls as necessary.
- Coordinate meetings with other Tribal conferences, if it works.

- **Next physical meeting is October 30, 2011 from 8:30am-12:30pm in Portland, Oregon** at the Hilton Portland Executive Tower (host hotel) and in conjunction with the National Congress of American Indians' (NCAI) annual convention.
- Meeting following Portland, OR, slated for December 2011 or January 2012, perhaps in conjunction with the next White House Tribal Nations Conference in Washington, D.C.
- Meet once a year in D.C., in addition to other parts of the country to get a sense of regional market and resource differences.

#### **4. Role**

- Provide advice and recommendations to the Director of IE and the Secretary of Energy in regard to energy and energy infrastructure development.
- Comment on and spread word to Indian Country on IE's purpose, projects and programs. Including being a sounding board for IE—communicating and working closely with respective tribes on IE's initiatives.
- Determine what IE can provide members and interested tribes on specific intertribal initiatives.
- Conduct business by reporting on recommendations, proposing technical recommendations and formally asking questions or requesting data/information.
- Strategic and formal requests to the DOE are strategic opportunities for both parties.

#### **5. Budget**

- IE budget, including other Energy Policy Act Title V programs including an authorized grant program currently administered by EERE, those processes and histories were explained.
  - A need to deliver programs to tribes, offer technical assistance (TA), capacity building, education, etc.
  - Bipartisan support; budget held, and IE received more money in years past. The future is unclear.

IE has administrative control on distribution of its funds, within statutory authorizations, and had to quickly obligate this summer almost \$5 million in carryover or risk losing it.

Challenge is— how to invest the money wisely, in high-leverage situations and show progress? There are constraints, but must be good stewards.

Strategic investments and feasibility studies performed in Indian Country over the last decade could be broadly categorized as primarily pre-feasibility and resource characterization (i.e. wind studies).

Question asked: Has work been done to determine which studies have potential?

If so, these studies should be shared with tribes.

Tribes can benefit and learn more from others' experiences.

Consensus: The use of new development models and more work on sharing that information is needed.

Discussion: What are the roadblocks?

Is there added risk? Risk evaluation.

Have there been discussions with developers on large-scale, multi-year development? Yes, but not a lot of lessons learned. Information is available because many of those large scale developments are confidential.

## **6. *Priorities for the Office of Indian Energy Policy and Programs (IE)***

- To be briefed by membership on a technical basis, given the members' expertise.
- Institutionalize the office. Build a strong office and plant administrative roots across all DOE offices and programs. Try to ensure that tribal interests are well served.
- Delivery of programs, technical assistance (TA), support and grant funding, capacity building, education, etc.
- Provide a leadership role in coordinating with Federal agencies on energy development and energy technology matters.
- Looking for Natives with engineering, science, and law degrees (etc.) to move to Washington, D.C. to assist in its work.

## **7. *Tax Policy Discussion Topics***

- Member Question: State/Tribal Taxation: how much of a roadblock for development?
  - Observations and Questions:
    - Double taxation viewed as a problem, by both the state and tribe.
    - State's and Tribe's desires to tax economic activity on tribal lands.
    - How do you negotiate? Opportunities to negotiate and taxation methods vary from state to state.
    - Economic development for the tribes is also economic development for the state.
    - Federal law largely determines whether a state can tax certain activities.
    - Can make changes to monetize federal incentives?
    - Purchasing/Incentive Question: States could make carve outs and preferences for utilities to buy.
  - Tax Incentives: designed to reduce costs of a project.
    - Ways to reduce the costs of projects for tribes?
      - DOE's Loan Guarantee Programs, to secure and stabilize resources.
        - Could provide help, if project is large enough and can meet statutory criteria, given the current tax challenges.
        - ICEIWG should be aware of loan guarantees in tribal finance market—what value it carries in the financial world.
      - Investment Tax Credits currently available to cut costs of construction by 30 percent.
        - Tax credit policy very unclear in 2013 and beyond.
      - Tribal tax and financial incentives.
        - How can tribes motivate large-scale manufacturing onto a reservation with current tax base (or lack thereof...or tax-subsidized infrastructure)?
      - Legislative reform, line-by-line language changes to policy, and administration exercising executive authority where it can.
        - ICEIWG indicated interest to encourage such actions.
      - Energy development related tax impact analysis. How much money paid to state and local governments?

- Question: Does DOE have expertise to share? Or track that data?
  - Design type of analysis work to determine tax impacts.
- Question: Could NCSL could assist with this effort?
- IE will work on case studies for tribes that have entered into agreements, or are thinking about deploying energy, particularly renewables and associated development.
- Talk directly with tribes about their experiences.
- Purchasing pools for economies of scale.
- Reduced costs for small businesses and bulk purchasing.
- Tax monetization. DOE Renewable Energy Production Incentive (REPI) program for tribes, municipalities, etc. that don't have use for tax credits.
  - Can apply for projects.
  - Works like production tax credits.
  - Still on the books, but not appropriations or request for appropriations.
  - Works in large part like the current Treasury cash grant program (Sect. 1603 Grants in lieu of tax credit program)
- Observation: Grants have been available by Department of Energy through the years, but nowhere near enough dollars to make appreciable impact of potential.
- Potential Program Resources for tribes.
  - Develop Energy Finance 101 courses for tribes also made available on demand via the internet.
  - Tribal Energy Information Clearinghouse is in great demand – to parse through update and relevant information and data, and present in useful categories or pods.

#### **8. *Intergovernmental Coordination***

- Need for intergovernmental/interagency cooperation.
  - Key to productive relations and coordination.
  - Benefit for all parties.
  - Broad consensus in Indian Country for better federal coordination.
- IE work to coordinate and are responsible for these efforts.
  - Opportunity to bring in other agencies into Working Group discussions, if and when group deems appropriate.
- ICEWIG could serve as a facilitator between tribes and other agencies on energy development issues.

### **Action Items**

- Commission a handbook on tribal energy development, with up-to-date analysis and case studies on successful tribal and non-tribal business/partnership structures, project finance matters and tribal regulatory/jurisdictional issues.
- Provide summary briefings and talking points to members about ICEIWG and briefs on timely topical issues (i.e. legislative proposals pending; administration proposed policy changes; budget requests or appropriations updates, etc.)

- Continue work on Tribal Energy Project Development and Finance Initiative: curriculum development, course design and multi-media strategy.
- Initiate a tribal energy development issues and strategies matrix, which ICEIWG will iterate, pull data from and input updated data
- Periodically identify and gather relevant market data, for tribal developers, from DOE Energy Information Administration (EIA) and others to compare regional trading pricing; transmission infrastructure data.