



INDIAN COUNTRY ENERGY AND INFRASTRUCTURE WORKING GROUP

ICEIWG MEETING SUMMARY

May 15, 2014

U.S. Grant Hotel
San Diego, California

MEETING OVERVIEW

The thirteenth meeting of the Indian Country Energy and Infrastructure Working Group (ICEIWG), established by the U.S. Department of Energy (DOE) Office of Indian Energy Policy and Programs (IE), took place on Thursday, May 15, 2014 in San Diego, California. The meeting was co-hosted by ICEIWG Member, the Ewiiapaayp Band of Kumeyaay Indians at the U.S. Grant Hotel, owned by the Sycuan Band of Kumeyaay Indians.

ACTION ITEMS

1. Review and comment on letter expressing ICEIWG priorities to the White House Native American Affairs Council Subgroup on Energy. Finalize and send out.
2. Determine time and place of next meeting: a date in August 2014, St. Paul, Minnesota area.

PARTICIPANTS

ICEIWG REPRESENTATIVES AND MEMBER TRIBES

- John Hendrix, Director of Economic Development, Mississippi Band of Choctaw Indians
- Mark Fox, Tax Director and Water Resources Coordinator, Three Affiliated Tribes
- Jana Ganion, Energy Director, Blue Lake Rancheria
- Lt. Governor Stephen Lewis, Gila River Indian Community
- Board Chairman John Lewis, Gila River Indian Community Utility Authority (GRICUA)
- William Micklin, CEO, Ewiiapaayp Band of Kumeyaay Indians
- Chairman Robert Shepherd, Sisseton Wahpeton Oyate Tribe
- Councilmember Robert Stone, Gila River Indian Community
- Representative Susan Waukon, Ho-Chunk Nation

FEATURED SPEAKERS

- Lawrence Roberts, Principal Deputy Assistant Secretary-Indian Affairs, Department of Interior
- Patrice Kunesh, Deputy Under Secretary, U.S. Department of Agriculture
- N. Dean Polchies, Legislative Associate, National Congress of American Indians (NCAI)
- Associate Director Raina Thiele, White House Office of Intergovernmental Affairs



U.S. DEPARTMENT OF ENERGY (DOE) OFFICIALS

- Tracey A. LeBeau, Director, Office of Indian Energy
- Pilar Thomas, Deputy Director, Office of Indian Energy
- Sarai Geary, Project Manager, Office of Indian Energy

OTHER PARTICIPANTS

- Mindy Bridges, Research Analyst II, National Conference of State Legislatures (NCSL)
- Jim Reed, Group Director, NCSL

OPENING

Director Tracey LeBeau opened the meeting and thanked Will Micklin for co-hosting the meeting. Will Micklin welcomed the participants and gave an overview of U.S. Grant Hotel and its owner the Sycuan Band of Kumeyaay Indians. He then gave a history of his tribe, the Ewiiapaayp Band of Kumeyaay Indians. Ewiiapaayp means “leaning rock.” Its land area is very remote. He expressed hope for a productive day of discussions about Indian energy.

ICEIWG MEMBER UPDATES

ICEIWG members introduced themselves and gave project updates.

Lt. Governor Stephen Lewis said the Gila River Indian Community has 20,000 members. A key development for them was the 2004 Arizona Water Settlements Act, which confirmed their water rights. They have an extensive system of canals systems to service agriculture. He thanked Director LeBeau and Deputy Director Thomas for their support of tribal energy projects.

Gila River Councilmember Robert Stone said the reservation consists of 378,000 acres, including a 60,000 acre tribal farm with 35,000 currently in production, and they hope to get to 90,000 acres with the water settlement. He mentioned various challenges of pests and disease that they are dealing with in their farming operation.

Representative Susan Waukon said the Ho-Chunk Nation is installing solar panels on homes and are moving ahead with plans for a bio digester, having toured another tribe’s facility recently.

Jana Ganion said that Blue Lake Rancheria was established in 1908 as a place for “homeless” Indians. It was illegally terminated in 1958, then reinstated in 1983 after long legal fight. A casino was built in 2002 along with other infrastructure. They are looking to a self-sufficiency strategy to span 50 years. She mentioned a 175 kilowatt demonstration project with the California Energy Commission in partnership with a local energy joint powers authority, and using sawdust mill waste as fuel. As well, they are using waste oil from casino kitchens for transit bus biodiesel; working on electric vehicle infrastructure; and examining a biodigester.



Chairman Robert Shepherd discussed a community-size wind project being undertaken by the Sisseton Wahpeton Oyate Tribe. As well, a utility-size project is in waiting, seeking a partner. They are partnering with nine South Dakota tribes to create a power authority for transmission to connect all the tribes, with a goal of getting off the grid in terms of usage and selling any excess. It is possibly a \$10 billion project.

John Hendrix said the Mississippi Band of Choctaw Indians land area consists of 35,000 rural acres with a casino, golf courses, a water park, and some newly introduced agricultural land. They are creating biodiesel from the casino and examining biodiesel. There is no solar potential. They are also seeking to bring natural gas to the reservation, along with other initiatives.

Mark Fox said he is representing Chairman Tex Hall of the Three Affiliated Tribes of the Fort Berthold Reservation. They are eager to put many of the ideas they have heard at IE Tribal Leader Forums and ICEIWG meetings about into action. He thinks a biodigester project is possible. They are in the middle of the Bakken Formation—one of the hottest oil and gas spots in the word, with 3,000 wells, producing a million barrels a day in North Dakota. His tribe is caught in the middle, dealing with the problems created like a higher cost of living, drugs, unsafe highways, and a significantly changed world. Many want a return to the plain simple life they used to have. The tribe is pursuing a “sovereignty by the barrel” strategy to participate in the energy boom. The energy development arm of the tribe now owns 15 wells, and they are picking up more acreage. They are working on a refinery proposal, recently a gas processing facility popped up on its border. They see the need to participate in the distribution part of the market. His tribe would like to see this working group, DOE, the Bureau of Indian Affairs (BIA) and others provide support and help them out on the fossil fuel side, especially with regulatory matters and technical assistance.

Sarai Geary introduced herself as the new program manager for the IE office for the lower 48 states. She will manage the START program, help put on ICEIWG meetings, interact with other tribal groups, and assist the hosting of tribal members when they visit DC.

Director Le Beau also mentioned the recent hiring of Givey Kochanowski, the new program manager for IE in Alaska.

ICEIWG WASTE-TO-ENERGY (WTE) LETTER TO SECRETARY OF ENERGY MONIZ

The group reviewed the letters already sent and soon to be sent to the Secretary of Energy. Director LeBeau announced that Jana Ganion has agreed to be the scribe for the group, writing correspondence and other ICEIWG documents as agreed to by ICEIWG.

Director LeBeau said the waste-to-energy (WTE) letter sent by ICEIWG on January 30, 2014 was read by Secretary Moniz and he directed DOE to bring about further discussion of the issue. The result is a July 24 (*Note: this is a new date since the last meeting*) meeting on this topic in Washington, D.C.

Deputy Director Thomas outlined the proposed elements of this meeting to members. Tribes with WTE facilities will explain their projects. Federal agencies with a role will be invited. A National Renewable Energy Laboratory (NREL) report on WTE was released last fall and it will be part of the meeting. Tribes involved on the U.S. Environmental Protection Agency’s (EPA) advisory group will be invited. More information will be shared as the agenda develops.

Will Micklin mentioned the problem of small rural Indian communities having trouble developing waste-to-energy facilities due to the difficulty of raising and leveraging the capital to get it going. They will be left out if left to the



markets. He believes that Congress and the Administration would need to make capital available to get these types of projects going. Also, he suggested the importance of bringing in EPA to help with solutions to solid waste issues. Landfills are piling up and keep getting waivers to continue operations, and this is a resource that needs to be tapped.

Mark Fox said his tribe is also dealing with waste disposal issues and pollution resulting from the oil and gas industry. He would like the federal government to help them to figure out how to create value from these wastes and a market in which to distribute, from produced water and other forms of waste. Also, they would like help in figuring out how to develop infrastructure to capture waste gas that is currently being flared, as it is a valuable resource.

Chairman Shepherd said it makes sense to look at a regional concept to deal with this problem through a broader partnership.

Will Micklin said there are issues of EPA respecting the regulatory authority of tribes. There is confusion about the nuanced nature of federal regulatory authority on tribal land.

Lt. Governor Lewis spoke of the need for mitigations and innovative ways from the federal government to help tribes deal with and move away from polluting power plants. He referenced the pending power plant emissions rules coming out of EPA in June. The tribe needs help as the transition occurs from fossil fuels to more renewable sources of energy. Gila would like to invest in greener technologies. He also mentioned the current importance of coal burning plants to tribal economies including the Hopi Tribe and Navajo Nation.

GRICUA Chairman Lewis said it comes down to money and markets, and tribes should look to partnering with each other to help each other. He brought up the issue of preference for tribes in federal procurement and would like to see some clarity on this.

Director LeBeau said it is all about all of the above. Her office is helping tribes that come to D.C. to make the rounds to discuss these issues. The DOE Office of Energy Efficiency & Renewable Energy has given many grants for tribal projects.

Starting in Fiscal Year 2015, all grant programs will be in the IE office and will be a separate line item in the budget, and the budget is robust. Their statutory charge is broader than renewable. They can use their appropriations for electrification of Indian Country. She welcomed ongoing input on new areas to incorporate and they are already scoping out the FY 2016 budget. ICEIWG members are requested to provide feedback for the FY16 budget.

Mark Fox mentioned his concern about too little federal focus on non-renewables.

Director LeBeau said that the Department of the Interior (DOI) has 44 people dealing with leasing, permitting, and other issues related to subsurface energy. She stated that DOE is more the science agency, and they are seeking science-based solutions. One issue that they are definitely talking about is flared gas.

Deputy Director Thomas addressed federal procurement and stated that it is a decentralized process. Tribal preference has been bought into by the General Services Administration (GSA). So now what are the project opportunities? IE can provide consultation on the policy. The Mesa Grande project is an example.

She also said the Department of Defense (DoD) is a very challenging environment. It procures energy differently across the branches, all do it differently and they keep changing how they do it. The Army is centralized; the Navy is not.



Pentagon policy has not created any uniformity on this. The issue of transmission service was raised. Bases served by the Western Area Power Administration (WAPA) can work with a tribe easier than a non-WAPA served site.

TRIBAL SUMMIT REQUEST LETTER

ICEIWG, in partnership with the State and Tribal Government Working Group (STGWG), sent correspondence to Secretary Moniz on January 30, 2014 requesting a DOE tribal summit in 2014. A variety of ideas are currently being considered within DOE. The main critique from last time was that there was not enough time for interaction because it was very big. Everybody showed up including five cabinet secretaries, many dignitaries, and congressional staff and the entire summit was all speeches. For next time, one possibility is to target a smaller group with ICEIWG and STGWG. Or it could be big again. If smaller, then it can be organized more quickly.

Mark Fox brought up the issues of who does what between BIA and IE. Deputy Director Thomas explained that DOI has the governmental capacity building focus, while IE has the enterprise capacity building emphasis, including management planning and education and deployment around doing projects. Director LeBeau acknowledged that it is confusing but that the agencies are working together better now, and trying not to duplicate efforts. The agencies have acknowledged the need to work together more cohesively and are actively trying to do so.

LARRY ROBERTS, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DOI

Principal Deputy Assistant Secretary Roberts said there was an increase in budget of \$2.2 million for grants to tribes for energy development assessment and for capacity development. As well, there is \$100,000 more in FY 15 for energy development

Mark Fox asked if mineral programs would be eligible and the answer was yes. A recent notice of grants to nine tribes was sent out. Another notice will go out in the near future. They always have more requests than money, so they try to best leverage resources. A range of \$50,000 to \$750,000 is the grant size. Will Micklin thanked Mr. Roberts for the recent grant to support a wind project.

ICEIWG DRAFT LETTER CONCERNING THE WORK OF THE SUBGROUP ON ENERGY

Jana Ganion outlined the gist of the draft letter to Secretaries Jewell and Moniz positioning ICEIWG as a resource for real-time tribal information to the new Subgroup on Energy of the White House Native American Affairs Council (WHNAAC). The letter mentions why energy projects on tribal lands are of benefit not only to the host tribes, but also in the context of national energy independence and security.

Director LeBeau gave a summary of the most recent information about the Subgroup on Energy. A WHNAAC meeting was held three weeks ago. A first step will be compiling information on what each federal agency is currently doing. The group is determining how to incorporate tribal voices into the process. So, the letter under consideration is timely. The subgroup will discuss systemic and process issues.

Chairman Shepherd said that the leaders of the subgroup are political appointments of President Obama who has only two years left. So we as ICEIWG should have a focus right away to get our input and participation into the group. Will Micklin mentioned the brand new Obama infrastructure initiative that includes streamlined permitting.

PATRICE KUNESH, DEPUTY UNDER SECRETARY, U.S. DEPARTMENT OF AGRICULTURE (USDA)



Deputy Under Secretary Kunesh spoke about USDA’s support of economic development and infrastructure. It has a \$70 million Rural Energy for America Program (REAP), for which rural small businesses and tribal corporations are eligible. The program has \$50 million in mandatory funding each year in addition to annual appropriations. Recent grants include:

- Alaska \$20,000 energy assistance grant for a wind turbine on a government building.
- Navajo Utility Authority \$100,000 energy audit grant for efficient operations of buildings.
- Menominee Tribe, \$250,000 for energy efficient boilers.

It also sponsors an energy efficiency loan program for tribal residents including demand side management, education, and energy efficient lighting.

Another effort is the high energy cost grant program to bring down the cost of energy for households with high energy costs. These have to be 275 % over the national average.

For FY 2015, \$52 million is available in grants and loans, and \$5 billion for electric upgrades to reduce carbon emissions.

Jana Ganion asked for clarity regarding Tribal governments versus Tribal corporations in obtaining the REAP grants. What is available to Tribal governments? Ms. Kunesh said that the grant program was only for corporations.

The issue of permitting and lack of federal agency coordination was discussed. Director LeBeau spoke of the internal dashboards that they are using to help track the progress of projects. Chairman Shepherd brought up his tribe’s paperless system that allows all to know where something is internally.

DRAFT LETTER CONCERNING WHNAAC SUBGROUP ON ENERGY, CONTINUED

In the letter, Jana Ganion suggested adding language about government-to-government consultation and dashboarding as it regards the bullet concerning more efficient coordination of multiagency review and permitting.

Will Micklin brought up the U.S. Fish and Wildlife Service (FWS) advisory board he serves on. He tries to impress upon them the trust responsibility of the federal government in making decisions that favor the interests of the tribe. Otherwise, he said, a species is protected perhaps without balancing the trust responsibility to a tribe. He sees a bigger problem of using regulations as a weapon to stop any kind of development. Jana Ganion brought up a situation in her tribe whereby there were some issues about federal permitting authority being delegated to the county; they were able to straighten it out by working directly with the federal agencies in their regulatory roles.

Deputy Director Thomas said that the Subgroup on Energy was also looking ahead to FY 2016 and FY 2017 and the opportunities afforded by the reauthorization of the Energy Policy Act. Director LeBeau stated that internal conversations are occurring at DOE about the Energy Policy Act and the need for an analysis of its impacts since passage in 2005.

DEPUTY DIRECTOR PILAR THOMAS, UPDATE ON IE ACTIVITIES



Deputy Director Thomas reviewed activities of the Office of Indian Energy and the Tribal Energy Program in the following categories:

- Education and Capacity Building
- Financial Assistance
- Technical Assistance
- Studies
- Communication and Outreach

For education and capacity building, \$782,000 is budgeted for webinars, workshop, on-line curriculum and student internships.

Financial assistance amounts to \$6.2 million for both facility-scale and community-scale tribal clean energy systems. A 50 percent match is required, but tribes can request a reduction (a waiver) in the cost share down to 10 percent, based on 3 criteria: not enough money or large economic benefits or environmental benefits.

Technical assistance programs funded at \$3.7 million will remain targeted on high impact or late stage project assistance, while maintaining support for transmission pre-feasibility and Alaska specific issues. As well, in-house technical assistance, analysis, and other support will be provided to the Energy Sub-group. Regarding the subgroup, she said that five working groups would be set up to achieve the subgroup’s goals. These include:

- Policy, Program, and Project Working Group
- Financial and Technical Assistance Working Group –
- Federal Procurement Working Group
- Capacity Building and Workforce Development Working Group
- Regulatory Process Working Group

The variety of studies and communication efforts underway can be found on their web page, <http://energy.gov/indianenergy/office-indian-energy-policy-and-programs>. She specifically mentioned the need for tribal input on the Quadrennial Energy Review and the

Quadrennial Technology Review.

Mark Fox suggested a study on the impacts of state taxation on energy development of federal trust lands as a possible study for IE to support.

Deputy Director Thomas closed her presentation with a discussion of highlights of FY 2015 budget request, which totals \$16 million. These included:

- Create a stand-alone Office of Indian Energy Policy and Programs, while maintaining program direction costs, as provided in the FY 2014 Enacted budget in Departmental Administration account.
- Consolidate the Tribal Energy Program (TEP) from Office of Energy Efficiency and Renewable Energy to leverage synergies and streamline administrative and management of Tribal activities at DOE.
- Increase funding for technical and financial assistance programs:



- Technical Assistance Budget: \$2.5 million (\$2 mil. from TEP, \$500,000 additional resources)
- Financial Assistance Budget: \$10.990 mil. (\$5 mil. carried forward from TEP, \$5.99 mil. additional resources)

ASSOCIATE DIRECTOR RAINA THIELE, WHITE HOUSE OFFICE OF INTERGOVERNMENTAL AFFAIRS (BY PHONE)

Raina Thiele gave an update on the Administration’s climate change efforts and the role of the State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience. The Task Force is to recommend modernization of federal programs and provide actionable information and useful tools to state, local and tribal communities to deal with the impacts of climate change on communities. The next meeting will be in Washington, D.C. in July when short-term and long-term recommendations will be released. The tribal appointees are Karen Diver, Chairwoman of the Fond du Lac Band of Lake Superior Chippewa, and Reggie Joule, Mayor of the Northwest Arctic Borough, appointees to the Task Force. She encouraged ICEIWG members to reach out to these members with their recommendations if they had not already.

DEAN POLCHIES, NATIONAL CONGRESS OF AMERICAN INDIANS (NCAI)

Dean Polchies presented information on activities in Congress concerning Indian energy topics. He said there has been a flurry of legislative activity. He listed several bills to be aware of:

- SB 2262—model building codes that mentions tribes, but not explicitly in the budget.
- SB27, HR356 – dealing with exterior boundaries of Uintah and Ouray Reservation in Utah
- HR 1965—titled the Federal Lands Jobs and Energy Security Act of 2013, dealing with tribal energy development, among other issues.
- HR 1602—addressing energy credit transfer of credit for tribes.
- SB 2112, HR 4293 – which address gas pipelines on tribal land.
- SB 2132: A bill to amend the Indian Tribal Energy Development and Self-Determination Act of 2005, and for other purposes. NCAI has made several recommendations on this bill including revisions to the TERA process. (A Tribal Energy Resource Agreement (TERA) grants authority to a tribe to review and approve leases, business agreements, and rights-of-way for energy development on tribal lands.)

He said that NCAI is opposed to Keystone XL pipeline and supports continuation of DOE Office of Indian Energy. He welcomed members to attend the upcoming NCAI meeting in June 2014.

Representative Waukon asked if ICEIWG could have a presence at NCAI. Deputy Director Thomas mentioned that IE has a presence at many regional tribal groups meetings. Discussion followed of various outreach methods available to get the word out about ICEIWG’s work. How to better connect with intertribal groups was also discussed. ICEIWG members could possibly work at a regional level with their appropriate intertribal organizations.



One idea that emerged, mentioned by Will Micklin, was that a new role of ICEIWG could be to push an effort to make technical assistance and funding applications less complex and less difficult to complete. When tribes get educative resources and have good experiences, they will keep pursuing projects as well as attending meetings.

Jana Ganion expressed an interest in receiving program updates in a regular email that could be a one-stop shop for Indian energy developments that could then be shared with other tribes and intertribal organizations.

Will Micklin: Ewiiapaayp Wind Power Project

Depending on the location of quarterly ICEIWG meetings, an ICEIWG member is asked to co-host the meeting and to provide an overview of tribal energy projects. Will Micklin gave a presentation on the Ewiiapaayp wind power project. The project has been in progress for 10 years and has encountered many obstacles including the significant financial risk entailed. It involves the construction of 82 wind turbines placed on land owned by the Bureau of Land Management, the state of California and the Ewiiapaayp Band. The Ewiiapaayp’s portion would encompass 720 acres, 18-20 turbines, and generation of 60 MW. A record of decision on the lease was approved in December 2013 after repeated visits to D.C., and a right of way grant was issued in January 2104. As part of the lease agreement, the tribe will keep ad valorem property taxes generated by the project and 60-65 percent of the lease rent. Litigation is underway in this regard.

He showed several photos of the Ewiiapaayp Indian Reservation indicating its remote and rugged geography, which was a concern for the project’s construction costs. It is located approximately 60 miles east of San Diego, and 19 miles east of Alpine, CA. Construction could begin soon. When completed, the project would deliver power through the project substation by a 138-kilovolt transmission line to run south to an interconnection with the proposed San Diego Gas & Electric Boulevard Substation.

Closing

Future tribal leader forums and IE activities were discussed. One will involve a tribal leader dialogue with the Western Area Power Administration concerning its allocation process. (This occurred June 6 in Rapid City, SD.)

Additional forums may include:

- Biomass in Portland, OR at the Bonneville Power Administration (BPA)
- Rural energy development and invest with USDA Rural Development;
- Tribal utilities forum;

The next ICEIWG meeting would be planned to occur before or after the regional workshop on development and finance in St. Paul, MN, August 26-28, 2014. Possible locations include the Mystic Lake Hotel or a tribally owned hotel in St. Paul. The meeting could be co-hosted by Ho Chunk Nation and Sisseton Wahpeton Oyate Tribe.

Deputy Director Thomas asked that the group hold periodic conference calls, perhaps a monthly basis. She said the Secretary’s management process is helping their office keep more involved departmentally and other departments are seeking out IE’s feedback, and thus they need to reach out to ICEIWG. The third Friday at noon EDT was set as the time. The first call will be June 20.

Representative Waukon said she is glad there is going to be more focus on the waste to energy issue.



Director LeBeau thanked the members for their time in attending the ICEIWG meeting and the tribal leader forum the prior day and then adjourned the meeting.

