
The U.S. Department of Energy Office of Indian Energy Policy and Programs

Pala, California, Roundtable Summary

March 23, 2011

Prepared by: The Udall Foundation's U.S. Institute for Environmental Conflict Resolution

DOE Tribal Roundtable on Tribal Energy
Pala, California
March 23, 2011

PALA EXECUTIVE SUMMARY

The Pala, California, DOE Tribal Roundtable convened at 5:30 p.m., Wednesday, March 23, at the Pala Resort. The meeting was hosted by the Department of Energy (DOE) Office of Indian Energy Policy and Programs (DOE Office of Indian Energy). Tracey LeBeau, Director of the DOE Office of Indian Energy and Pilar Thomas, Deputy Director-Policy of the DOE Office of Indian Energy, attended. Tribal leaders and representatives from five tribal communities also attended. There were thirteen participants. The meeting was facilitated by Debra Drecksel, Senior Program Manager, Senior Facilitator, Udall Foundation's U.S. Institute for Environmental Conflict Resolution (U.S. Institute). She was assisted by Lindsey Sexton, Program Associate, U.S. Institute.

Chairwoman Monique LaChappa, Campo Band, offered an opening prayer.

Participants introduced themselves and shared their goals for the meeting. Deputy Director Thomas provided the following DOE goals for the roundtable:

- Learn about energy issues important to the tribes
- Develop a plan and program initiatives for these issues to promote energy development in Indian Country
- Know where tribes have priorities and where there are obstacles so that we know where to focus energy first

Participants shared their energy policy and development priorities, which included the following:

- Developing solar energy that includes public-private partnerships
- Financing commercial-scale wind energy projects within tribal lands
- Focusing on the unique tools that sovereign nations need for energy development

Debra Drecksel, facilitator, reviewed the four topics on which DOE would like feedback:

1. Tribal energy priorities
2. Feedback on DOE Indian energy policies and programs
3. Federal government-wide energy issues and coordination
4. Suggestions for future DOE tribal energy policies

Listed below are examples of additional key issues raised by participants.

Feedback on DOE Tribal Policies and Programs

- There is dissatisfaction with the current tax grants for tribal energy development projects, e.g. access to tax credits, possessory interest tax

Federal Government-wide Energy Issues and Coordination

- Flexibility is needed among agencies working with tribal energy projects.
- Federal program/funding reporting requirements for energy projects should be streamlined

Suggestions for Future DOE Tribal Energy Policies

- Develop programs that encourage and fund energy efficiency projects within tribal lands
- Provide guidance and recommendations for tribal inclusion in transmission development projects

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Debra Drecksels, facilitator, reviewed the roundtable agenda, introduced the facilitation team and provided background information on the U.S. Institute and the Udall Foundation, an independent agency of the federal government, with offices in Tucson, Arizona and Washington, DC.

I. Introductions and Goals for the Session:

Ms. Drecksels invited participants to introduce themselves and to share what they would most like to take away from the roundtable session. The list below summarizes many of the goals offered by tribal leaders and representatives and other meeting participants:

- Receiving fresh ideas on energy issues
- Finding out how to move forward on energy issues, including development and support for tribes
- Learning about ways to develop public-private partnerships for solar energy
- Discussing policies and priorities for remote communities in Alaska
- Discussing issues with commercial scale wind energy development, including financing opportunities
- Discussing the range of tools that may be available from DOE to serve tribes, such as loan guarantees and other tools
- Learning about opportunities to develop small-scale solar energy for tribes that do not have power or electricity
- Learning about policies and programs that could help benefit tribal owned companies that are trying to pursue diverse economic development

Ms. LeBeau and Ms. Thomas said that they would like to get a sense of what is going on in Indian Country and how the DOE Office of Indian Energy can tailor its programs to pressing needs.

The facilitator reviewed the four topics on which DOE would like feedback:

1. Tribal energy priorities
2. Feedback on DOE tribal policies and programs
3. Federal government-wide energy issues and coordination
4. Suggestions for future DOE tribal energy policies

She asked that tribal leaders provide input first followed by tribal representatives and other participants.

II. Tribal Energy Priorities

Creating an Equal Playing Field – Energy and Economic Development; Tax Incentives:

Participants expressed that energy development within tribal lands often is inhibited by tax policies that create disincentives. Development of a tribal energy tax incentive or subsidy may provide the needed incentive to offset the cost of construction and operation. An example provided by a participant was the need for tax policy that focuses on tribal development rather than nontribal local and state governments.

Education and Training – Tribal Energy Projects, Section 106, Agency Tribal Protocol:

Participants also commented on the need for information and education programs to assist tribal governments with energy projects, Section 106, and the protection of tribal interests, land, and cultural resources. Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects that their federally funded activities and programs have on significant historic properties. In addition, participants said that federal agencies should receive training on tribal governmental and cultural protocol.

Adequate and Reliable Power:

A participant highlighted the unique energy needs of tribal communities in rural areas and access to the electrical grid's transition and choke points. In many instances, tribes in rural areas have no or severely limited access to electricity, such as within the Navajo Nation and Native Alaska villages. Energy opportunities for rural tribes may be found in biomass, wind, and solar resources to generate electricity and provide access to tribal members.

Economic Viability and Sustainability – Affordable Energy, Tribal Employment, Taxes:

A participant highlighted that tribal energy development should not only address tribal energy needs, but also support tribal communities with affordable energy, employment of tribal members, and revenue for tribal governments and programs. An example for economic viability and sustainability of tribal energy projects was given for Alaska Native villages where energy transmission and fuel costs are prohibitively high. Many Native Alaska tribal members are placed in the unfortunate and difficult position of having to decide between paying for groceries or paying for fuel or electricity to heat their homes. Currently, many tribal communities in Alaska are paying to ship their waste to Washington for disposal; one

suggestion was that the waste could be used as fuel for biomass energy generation, along with small hydro and other alternate energy resources.

Another participant shared information on their tribal wind farm, adding that tribal communities do not receive benefits from the energy project; instead, he said, local and state governments reap the financial benefit from the tribal energy project. The participant explored several ideas that would benefit tribal communities such as tax incentives or state tax exemptions of elements of tribal energy projects due to siting the project on tribal lands, the use of tribal resources, and tribal sovereignty.

An additional comment focused on the need for tribal consultation from DOE in the agency's designation of "corridors" and related activities.

III. Feedback on Current DOE Tribal Energy Policies and Programs

Below are a few illustrative examples of comments regarding current policies.

Coordination:

A participant suggested the creation of a policy clearinghouse that would provide consistency among federal agencies and guidance for state governments and utilities. Additionally, in the absence of state policy guidance, it was suggested that DOE could assist tribes. In Arizona, Native American state representatives introduced legislation changing state tax laws that provided upfront funding rather than funding after a project is completed. In addition, tribes in Arizona would benefit greatly from a tribal /private industry development template. The participant also suggested that tribes need a basic financial package, including permitting, 106 requirements, and archeological template for projects within tribal lands. There are a number of federal agencies that are involved in the various permitting processes, including DOE, Department of the Interior (DOI), Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), and others. Coordination among these agencies would be very helpful.

Participants also discussed tax incentives for renewable energy projects for the private sector. "If one wants to create incentive for Indian Country energy development, there needs to be a corollary incentive [similar to incentives that exist for the nontribal private energy sectors] for Indian Country so that Indians can chose if they want to develop."

IV. Federal Government-wide Energy Issues and Coordination:

Some participants felt that coordination across agencies is challenging and tribes would benefit from agencies aligning their programs and policies. A participant said that the Departments of Treasury, Commerce, Interior, and Energy are pursuing program and policy implementation related to energy development and natural and renewable resources. Federal agency coordination and guidance would be helpful at the market level of energy production.

A participant referenced Secretarial Order # 3206. This Order was issued by the Secretary of the Interior and the Secretary of Commerce pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, as amended, the federal-tribal trust relationship, and other federal law. According to the participant, this order provides that any conservation restriction should be as narrow and unrestrictive as possible and preserve the authorities on tribal lands. The participant went on to say that it would be beneficial to apply a similar policy approach across federal agencies, including agencies that have a significant impact on environmental policy. Such a policy should recognize the inherent distinction of tribal lands from public lands. For example, it was suggested the President create an Executive Order that says Indians get a categorical exclusion under the National Environmental Policy Act (NEPA) from prohibitive policy and regulations that hinder tribal energy development.

Another participant commented that in dealing with the federal government, Indian nations have organized to represent their collective and individual interests; however, federal agencies may not distinguish individual tribal interests, but rather focus on policy or program development that addresses collective tribal interests. The government needs to be flexible in dealing with the various tribes and try to eliminate the amount of bureaucracy and reporting requirements.

V. Suggestions for Future DOE Indian Energy Policies

Energy Efficiency:

A few participants discussed the benefits of energy efficiency and suggested that DOE support programs that encourage and fund low energy appliances and High-Voltage Integrated Circuit (HVIC) systems for tribal housing.

Transmission – Inclusion and Support:

A participant mentioned congressional legislation that would have addressed various financial concerns and issues surrounding tribal energy development but wasn't enacted. He suggested that the Bonneville Power Administration (BPA), Western Area Power Administration (WAPA), and DOE could publicly support tribal inclusion and involvement in energy transmission. Additionally, transmission funding should be a major priority. A participant asked whether Tribal Economic Development (TED) bonds are onetime bonds or whether they can be expanded for other energy projects. Additional questions were raised regarding support for renewable and alternate energy resources, legislative support, and challenges related to the NEPA process and Environmental Impact Statements.

Tribal Partnerships for Purchasing:

The DOE representative asked what ideas participants had about how to promote purchasing and whether an opportunity existed for DOE and tribes that have large energy-using facilities to create tribe-to-tribe partnerships so that tribes could buy power from another tribe.

One participant said that Federal Energy Regulatory Commission (FERC) regulations were set up so that wheeling charges (for transporting electric power or providing services to transport

electric power over transmission lines) were stable. Tribes going into producing power could wheel on someone else's power lines to deliver energy to their customers, which would be relatively easy to do. If a tribe wanted to sell power to another tribe, the transaction could be structured by setting up a system where they could wheel the power from various geographical locations, distribute power to tribal members, and read meters. In order to do it, the participant said they possibly would need to set up a utility and take the existing transmission lines under eminent domain.

The DOE representative asked about supplying power to a building. Is there is an incentive for a tribe to try to stabilize their energy cost? Someone responded affirmatively and said that there is a state program that could be replicated at the federal level for tribes.

Another participant commented that he has talked to private contractors about building solar at their casino. The advantage as he views it is that the tribe secures a customer for 20 years and then owns the solar facility at the end. This could be done using bonds and revenue from the casinos to tie to the bond.

One participant said she would like to see DOE mandate that the federal government buy renewable energy from Indians as a preference. This would help tribes become more financially secure.

A participant mentioned that it would be helpful to know whether the DOE Office of Indian Energy will concentrate its energies in the solar arena and whether tribes should move to solar development. Challenges in solar energy development are due in part to not fully knowing or understanding how federal agency and private industry development of solar energy resources and policies work. Additionally, there is a need to understand more fully the scope of tribal-private energy partnerships.

Capacity Building:

Participants discussed the idea of having their own tribal energy policy and how DOE could help tribes build energy policy capacity. Leveraging federal resources might help tribes. One participant suggested developing a tribal utility code as a step in developing a tribal utility.

Another participant mentioned that multiple companies are sending project ideas to their tribe. Organizing a clearinghouse where information and opportunities are centralized would be helpful. Currently, information is overwhelming to the tribal staff and offices.

VI. Closing Remarks

The facilitator said there are opportunities to provide DOE with additional information at the tribal summit or participants also can send DOE any additional thoughts or input. Thank you everyone for coming.

VII. Roundtable Participants

Joe Cruz, Campo Band
Chris Deschene, ATNI/SCD
Linda Fong, Ewiiapaayp Band of Indians
Matt Ferguson, Campo Band
Monique LaChappa, Campo Band
Tracey LeBeau, Director DOE Office of Indian Energy Policy and Programs
Rod Lewis, Gila River Indian Community
Homer Mandoka, Nottawaseppi Huron Band of the Potawatomi
Will Micklin, Ewiiapaayp Band of Indians
Leroy Miranda, Pala Band
Josiah Spurr, Nottawaseppi Huron Band of the Potawatomi
Jamie Stuck, Nottawaseppi Huron Band of the Potawatomi
Wayne Taylor, Merrill Lynch
Pilar Thomas, Deputy Director DOE Office of Indian Energy Policy and Programs
Rod Watkins, Pala Band

Facilitation Team:

Debra Drecksel, Sr. Program Manager, Senior Facilitator, U.S. Institute
Lindsey Sexton, Program Associate, U.S. Institute

Logistics Management:

Charlie May, Chickasaw Nation Industries