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

Phoenix, Arizona, Roundtable Summary

April 5, 2011

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

DOE Tribal Roundtable on Tribal Energy
Phoenix, Arizona
April 5, 2011

PHOENIX EXECUTIVE SUMMARY

The Phoenix, Arizona, Roundtable on Tribal Energy Policy convened at 8:30 a.m., Tuesday, April 5th, at the downtown Phoenix Hyatt. The meeting was hosted by the Department of Energy (DOE) Office of Indian Energy Policy and Programs (DOE Office of Indian Energy) and facilitated by the Udall Foundation's U.S. Institute for Environmental Conflict Resolution (U.S. Institute). Approximately thirty-eight people attended the meeting, including representatives of ten different tribes, as well as representatives of the Colorado Indian Tribes, the All Indian Pueblo Council and the Inter-Tribal Council of Arizona. Interested state, federal, university, NGO and industry representatives also were present. A full list of attendees is at the end of this summary. DOE representatives were Tracey LeBeau, Director of the DOE Office of Indian Energy, Pilar Thomas, Deputy Director-Policy of the DOE Office of Indian Energy, and David Conrad, Director of Tribal and Intergovernmental Affairs, DOE Office of Congressional and Intergovernmental Affairs.

Participants introduced themselves, and stated their objectives and what they hoped to take away from the meeting, including:

- Learning about the DOE Office of Indian Energy
- Learning about available resources, including funding for energy projects
- Understanding challenges tribes are facing, e.g. funding, permitting, regulatory, and access
- Discussing education, training and capacity building for tribal energy projects
- Learning about public-private partnerships on energy development
- Gaining information on technical aspects of projects

Tracey LeBeau and Pilar Thomas introduced the DOE's Office of Indian Energy Policy and Programs (DOE Office of Indian Energy). Debra Drecksell, facilitator, described the goals of the roundtable, which were to gain feedback on:

1. Tribes' energy priorities
2. Tribal feedback on DOE's Policies and Programs in Indian Country
3. Future DOE Tribal Policies
4. Federal government-wide Energy Issues and Coordination

Participants discussed the four topic areas. Key themes around **tribal energy priorities** included:

- Developing independent energy technology and industry on tribal land
- Building or improving upon incentives, taxes, and leasing laws and processes

- Providing affordable utilities and sustainable energy sources to support community sustainability
- Capacity building, job training, and creating job opportunities

Key issues around **current DOE policies and programs** included:

- Challenges exist regarding eligibility requirements and restricted funding opportunities due to the nature of some projects, e.g. possessory interest taxes
- Projects are funded for feasibility studies, but are not developed due, in part, to funding availability, e.g. renewable energy projects
- The timing of the permitting process is a challenge, e.g. multiple agency deadlines
- Existing informational resources are valuable, but compiling them in one place would be helpful

Feedback for future policies and programs included:

- Considering new construction and other eligibility issues in future opportunities.
- Providing streamlined permitting processes and/or technical support to expedite projects
- Coordinating and supporting energy issues at the regional level
- Creating opportunities and meeting needs for shared learning and shared informational resources between DOE, other agencies, and tribal governments
- Reinforcing DOE's role to interact with private developers and tribes in order to support energy development
- Creating opportunities for coordination with the Small Business Administration

Key issues around **federal coordination** included:

- Increasing and coordinating incentives between federal agencies
- Providing information related to use of public land for energy development
- Discussing programs participants had found successful
- Increasing coordination among agencies and with tribes

Ms. Thomas and Ms. LeBeau explained that a summary of the meeting would be made available, and that the information would be used to inform the issues and provide a foundation for conversation at the May 4th and 5th Tribal Energy Summit in Washington, DC. The meeting concluded at 12:30 PM.

Phoenix Roundtable Summary

Phoenix, Arizona

The Phoenix, Arizona, Roundtable on Tribal Energy Policy was convened at 8:30 a.m., Tuesday, April 5th, at the downtown Phoenix Hyatt. The meeting was hosted by the Department of Energy (DOE) Office of Indian Energy Policy and Programs (DOE Office of Indian Energy) and facilitated by the Udall Foundation's U.S. Institute for Environmental Conflict Resolution (U.S. Institute). Approximately thirty-eight people attended the meeting, including representatives of ten different tribes, as well as representatives of the Colorado Indian Tribes, the All Indian Pueblo Council and the Inter-Tribal Council of Arizona. Interested state, federal, university, NGO and industry representatives also were present. A full list of attendees is at the end of this summary. Department of Energy (DOE) representatives were Tracey LeBeau, Directory of the DOE Office of Indian Energy, Pilar Thomas, Deputy Director-Policy of the DOE Office of Indian Energy, and David Conrad, Director of Tribal and Intergovernmental Affairs, DOE Office of Congressional and Intergovernmental Affairs.

I. Introductions and Goals for the Sessions

Mr. Rod Lewis, Gila River, offered convocation.

Participants introduced themselves and stated their objectives for the meeting. Objectives included:

- Learning about the DOE Office of Indian Energy
- Learning about available resources, including funding for projects
- Learning about the objectives of DOE and linkages to tribal projects and directives to “go green”
- Understanding challenges tribes are facing
- Discussing the impact of the renewable energy push on tribes with nonrenewable energy developments
- Discussing education, training, and capacity building
- Learning about public-private partnerships
- Gaining information on technical aspects of projects including purchasing agreements and the ability to earn income beyond leasing

Pilar Thomas, David Conrad and Tracey LeBeau introduced themselves. Ms. LeBeau, DOE, explained that the Office of Indian Energy Policy and Programs is a new office established in the 2005 Energy Policy Act that is now staffed and funded. In order to establish policy and then coordinate and manage programs based on that policy, the DOE Office of Indian Energy is holding roundtables to gain information on tribes' primary energy needs, obstacles, and solutions, as well as how DOE can help. Ms. LeBeau shared a presentation to explain the structure of DOE and how tribes may currently interact with DOE, including funding for feasibility studies, energy efficiency block grants program, and environmental management

around nuclear legacy programs. She explained that the statute establishing the office authorizes the office to develop policy and programs that:

- Promote Indian tribal energy development, efficiency and use
- Reduce or stabilize energy costs
- Enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification
- Bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with federal funds

Debra Drecksell, Facilitator, described the goals for the sessions. The DOE Office of Indian Energy is interested in gaining input on four primary areas:

- Tribes' energy priorities
- Tribal feedback on DOE's Policies and Programs in Indian Country
- Future DOE Tribal Policies
- Federal government-wide Energy Issues and Coordination

Participants discussed the four areas of input. The issues and themes are described below:

II. Tribal Energy Priorities

Renewable Energy Technology and Industry on Tribal Land

A participant explained that they are working to develop a green technology campus, completely off the grid. The tribe plans to test, own, build, and operate the technologies, with the tribe earning an ownership interest in the technologies.

A participant discussed the manufacture of renewable energy project components as an opportunity to develop a new manufacturing economy.

Leases, taxes and legislation

Participants commented on the financial challenge of the Possessory Interest Tax. When both tribes and states charge the tax, it is a disincentive for energy development, so tribes only charge fees for the leased lands, while states and counties gain the taxes.

Participants discussed the need for nation-wide legislation to extend land leasing terms. A participant stated that 25 or 50 years was not enough time for a lease, and while Tribes have individually changed these terms, a national initiative for all would be ideal.

DOE response: The DOE encouraged all to contact the House Subcommittee on Indian Affairs, the Senate Committee on Indian Affairs, the Senate Energy Committee, and the House Natural Resources Committee. They explained that while DOE can provide comments on legislation, they do not develop it.

Sustainable Energy Sources and Communities

A participant explained that a priority was to offset utility costs for tribal members and facilities. As new facilities are developed, the tribe is working to implement green building practices.

A participant described the tribe's direction in working for sustainable communities and becoming less reliant on the grid. They are working to develop community plans.

A participant commented that in the arid Southwest, renewable energy benefits can extend beyond the energy source and utility to reduced water consumption and other ecosystem services. They commented that education on the benefits to the whole ecosystem is needed.

Job Training and Opportunities

The need for training and job opportunities, particularly for youth, was emphasized at the meeting. Participants requested that resources and materials be developed that are aimed at young professionals; so that there is a "go-to" resource for online courses and technical training.

A participant discussed the opportunities for tribal members to gain vocational skills through green building needs as a way to provide affordable housing and jobs. The availability of natural building materials on tribal land, such as clay and timber, was mentioned. The participant stated that instead of looking at building for building's sake, partnering with local colleges can help provide green building education.

III. Feedback on Current Policies

Studies are funded but have not been developed

Many feasibility studies have been funded by DOE, however, many plans are on the shelf. A participant discussed the challenges of project development within existing tribal infrastructure and suggested that support at the regional level would help development.

A participant stated that support for preliminary studies should be linked to development support; good projects should get continued funding.

DOE response: First-step monies for feasibility studies have been a major focus of funding, but tribes are ready to take projects to pre-development and development stages, and the DOE has begun funding deployment for the past two funding cycles. As we develop and manage Indian energy program initiatives – we will probably take into account this important investment in the upfront work that the Department has undertaken in the last few years to educate our next generation programs design.

Eligibility

A participant asked about limitations on project size to 1 megawatt or 30% total energy for the pending grant solicitation.

DOE response: The DOE directed the participant to Lizana Pierce, contracting at the EERE to ensure consistent answers to active current solicitations.

Off reservation development projects have restricted funding opportunities.

Some funding for tribal energy development is restricted to Indian lands; off-reservation initiatives lack funding opportunities.

DOE response: The DOE Office of Indian Energy charge is limited to tribal lands by statute. For off reservation development, a tribe must seek project funding like any other entity. Tribes can apply to general grant programs for these types of projects.

Timing of permitting processes

A participant commented that three year delays due to permitting were a challenge and development at a faster pace is key as people are leaving tribal lands due to lack of jobs.

Someone commented that their internal work was the most challenging and the internal issues drove the permitting timeline more than DOE and the Bureau of Indian Affairs (BIA). The participant encouraged tribes to ensure internal coordination was in place with plans approved. A participant emphasized this comment, stating that in their role as a consultant and planner, an interdepartmental, interdisciplinary workgroup with a mandate and resolution from the tribal council is important.

Existing information is helpful but should be compiled

A participant mentioned several existing resources that they find helpful. At grants.gov it is possible to search for all grants that Native American tribes can apply for. Also, DOE websites have announcements on webinars. Many educational opportunities exist.

DOE response: There are many existing resources that DOE Office of Indian Energy hopes to tailor to Indian Country. Feedback on how best to do this is welcome.

A participant mentioned that DSIRE.org also has lists of incentives for tribes and states.

IV. Feedback for Future Policies

Future funding should include new construction

A participant reflected on their group's experience implementing green building practices in new construction, explaining that they found limitations on funding availability for new construction. They recommended that DOE consider new buildings in future funding opportunities.

Support and streamlining for permitting processes

A participant commented that many projects are at the residential or utility scale and permitting processes for small projects, such as those with distributive generation less than one megawatt, was slowing development. They suggested that a smaller scale, expedited permitting process be developed.

A participant suggested that areas declared brownfields should have an automatic categorical exclusion in analysis under the National Environmental Policy Act (NEPA).

Need for regional coordination

A participant discussed the development of the Inter-Tribal Energy Network and the collaborative, consensus-based process that developed language for section five of the Energy Policy Act of 2005. The group is trying to formalize its status, and it was suggested that DOE support at the regional level would assist in inter-regional coordination and provide continuity on energy issues while tribal leadership turns over.

DOE response: Transmission is a priority, and while there is a national energy grid, regional market prices and energy costs make transmission a regional issue for focus.

Opportunities for shared learning and informational resources

The development of a list of projects where tribes are part or full owners of the project was requested. The participant stated that this would support shared learning so that a tribe beginning a project could learn from others' experiences.

A participant commented that their work includes assistance for tribes who are working through financing energy development processes. One website with all available information through the full process would be a helpful resource.

DOE response: There is a list of resources in the presentation that was handed out. There is a lot of information in many different places, and one of DOE Office of Indian Energy's goals is to bring all the information together in order to best leverage it.

Tribal sovereignty and initiatives

A participant commented that in these difficult economic times, awareness and support is needed to keep tribes from waiving sovereignty on developing projects.

A participant commented that because energy projects are so large, tribes can't do projects alone, and an integrated effort to allow tribes to combine to form a tribal utility is needed.

DOE role for private developers and tribes

A participant commented that given the project funding available from private developers, it would be helpful if DOE could assist by facilitating opportunities for tribes with private developers.

DOE response: While “matchmaking” isn’t something that can be done, assistance in dealing with developers has been a common request from tribal leaders. There is a need for an independent third party to give input on proposals and on the credibility of developers. DOE has been exploring convening some forums on best practices and examples of investor- developer partnerships where agreeable joint ventures have been negotiated.

A participant commented that they saw companies as reluctant to do business with tribes because of uncertainty around cultural issues and suggested that providing cultural sensitivity training for companies would be a helpful resource.

DOE response: Capacity building in Indian country is one of DOE Office of Indian Energy’s responsibilities could provide additional focus.

Small Business Administration coordination

A participant asked how the DOE was working with the Small Business Administration (SBA) to support project ownership.

DOE response: DOE Office of Indian Energy is in discussion with the SBA on a technology transfer program and initiatives with 8A companies. DOE Office of Indian Energy OIEPP also has been working with the DOE Office of Economic Diversity and Minority Business Development to increase department use of tribal businesses.

V. Federal government-wide issues and coordination

Renewable Energy Credits (RECs) incentives

A participant discussed the need for renewable costs to decrease in order for people to use them. Other incentives are needed because tribes cannot use tax incentives, and guidance on what really works, and what the IRS will accept, is needed.

DOE response: DOE Office of Indian Energy is in discussions with the Treasury and Internal Revenue Service (IRS) to clarify some of these issues.

A participant commented that RECs are doubled when government agencies use a tribal energy source, but the procurement process does not take this incentive into account. The participant also commented that extending double RECs more broadly for energy produce on tribal lands for co-ops and investor utilities would help projects be more competitive.

Power purchase agreements time length

Current time limits for power purchase agreements with the U.S. General Services Administration (GSA) are 10 years. Extending them to 25 years would be helpful.

Opportunities for energy development on public land

A participant asked how tribes can work with agencies to use land for energy projects, explaining that some tribes, such as those in California, have very little land. There was interest in understanding how tribes can work with the Bureau of Land Management (BLM) on land for energy projects.

Effective programs

The BIA guaranteed loan program was identified as a helpful opportunity to fund development if a project can be turned into a business.

A participant described the grant partnership the Department of Housing and Urban Development (HUD) and Department of Transportation (DOT) are undertaking as an example of a successful model.

Multi-agency energy funding availability

DOE commented that they provide grant funding and that the Department of the Interior (DOI), Environmental Protection Agency (EPA), Department of Commerce, U.S. Department of Agriculture (USDA) and HUD also have funding available for energy development. The participants discussed which programs and funding opportunities they had experience with. A participant commented that each situation is different; projects might be funded with resources sought by tribes, environmental departments, or corporations; however, a model on how to best access all available opportunities would be useful. DOE responded that the DOE Office of Indian Energy can play a role as a resource sharing information conduit on what opportunities are available and how to access them.

A participant requested that a list of what agencies and programs tribes can apply to for funding be compiled.

A participant commented that it would be helpful if DOE coordinated funding opportunities with the Department of Defense (DOD) and EPA so that projects could get funding through completion.

Increased coordination needed at high levels

A participant commented that there is a need for higher level agency coordination to help groups move ahead and get the information they need on permitting and other issues.

VI. Closing Remarks

Ms. LeBeau thanked everyone for their input and time helping the DOE Office of Indian Energy meet their goal of greater understanding of Indian Country's priorities and needs for energy. She reflected that much of the morning's conversation was around renewable energy. A clean energy economy is a major administration priority, but she reminded participants that the DOE Office of Indian Energy is more broadly a tribal energy agency. The Office also will support other initiatives such as clean coal, natural gas, and carbon sequestration. Transmission and electrification will be a high priority.

Ms. LeBeau stated that they will make the information received through these roundtables available so that tribes can hear what others are saying, see what regional priorities stand out, and see where there are areas of consensus. After the roundtables, a report summarizing all the meetings will be compiled and made available to tribal leadership and posted to the DOE website. The roundtable dialogs and report will help inform the May 4th and 5th Tribal Energy Summit in Washington, D.C. The summit will include a series of concurrent roundtables so that elected tribal leaders and DOE leaders can dialog. There also will be time for tribal leaders to meet without DOE presence. The DOE leadership that participated in these roundtables will talk about what was heard, resulting initiatives, and follow up items.

The meeting concluded at 12:30PM.

VII. Roundtable Participants

Doyle Anderson, Indigenous Nations Institute- University of Idaho
Grant Buma, Colorado Indian Tribes
Alex Bellusio, Salt River Tribe, Attorney
Anne Marie Chischilly, Institute for Tribal Professionals
David Conrad, Director for Tribal and Intergovernmental Affairs, DOE Intergovernmental Affairs Office
Alex De Lucio, Salt River Tribe
Michael Derry, Guideville Rancheria
Sonny Duncan, San Carolos Apache
Karan English, Northern Arizona University
Dawn Farmier, San Lucy District, Tohono O'odham Nation
Gerald Fayuant, Tohono O'odham Planning and Economic Development Department
Tracy Fischer, Cheyene River Sioux Tribe
Roger Fragua, All Indian Pueblo Council
Leland Gardner, Colorado Indian Tribes
Kelly Gomez, Pascua Yaqui Tribe, Economic Development Director
Willard Haosus, Jr., San Carolos Apache, Energy Auditor
Greggg Henry, White Mountain Apache Tribal Council
Phil Hobbs, Tohono O'odham Nation
Norman Honie, Hopi Tribe
Jack Jackson, Jr., Arizona Legislative District 2
Tracey LeBeau, Directory, DOE Office of Indian Energy Policy and Programs
Rod Lewis, Gila River
Ken Lomayestewa, Hopi
Mike Many Horses, Pine Ridge Sioux
Carol Manetta, Executive Director, Reentry and Preparedness, Inc.
Richard Mathis
Patrick McMullen, Inter Tribal Council of Arizona
Cathy Newby, PNM Resources, Inc., Governmental Affairs

Keith Pahovama, Hopi Tribe
Stephen Prows, Two Bears/Verdi Energy Group
Joe Quintona, Pascua Yaqui
Delray Smith, San Carlos Apache,
Carolyn Steward, Red Mountain Energy Partners
Shannah Tanfolo, Pascua Yaqui Tribe
Debby Tewa, Arizona Dept. of Commerce Energy Office
Pilar Thomas, Deputy Director – Policy, DOE Office of Indian Energy Policy and Programs
Derreck Wheeler, White Mountain Apache
Catherine Wilson, Bureau of Indian Affairs

Facilitation Team:

Debra Drecksels, Sr. Program Manager, Sr. Facilitator, U.S. Institute
Patricia Lewis, Sr. Program Associate, U.S. Institute
Sasha Stortz, Program Associate, U.S. Institute

Logistics Management:

Jonathan Blackwell, Chickasaw Nation Industries