



The Confederated Tribes of the Colville Reservation

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RESPONSES OF CODY DESAUTEL TO QUESTIONS FOR THE RECORD FROM REP. WESTERMAN

SEPTEMBER 28, 2023, OVERSIGHT HEARING ON “TRIBAL AUTONOMY AND ENERGY DEVELOPMENT: IMPLEMENTATION OF THE INDIAN TRIBAL ENERGY DEVELOPMENT & SELF-DETERMINATION ACT”

1. Your written testimony recommended that Congress reauthorize the biomass demonstration program.

a. How long do you think a reauthorized tribal biomass demonstration project should run for?

ANSWER: When the Colville Tribes originally drafted the provision, the demonstration project had a five-year authorization. With the benefit of hindsight, however, and considering the lengthy processes for the U.S. Forest Service to consider and act on agreements and the potential for compliance with the National Environmental Policy Act (NEPA), the Colville Tribes recommends the project be authorized for at least seven years.

b. How far out should Congress put the implementation date of a biomass demonstration project to ensure there is enough time for tribes to participate?

ANSWER: Section 202 of Pub. L. 115-325 requires the Secretary of Agriculture and the Secretary of the Interior to ensure that the criteria for biomass demonstration projects are publicly available by not later than 120 days after the date of enactment. Both Secretaries made guidance publicly available by the spring of 2019.

It may be advisable, however, to provide a deadline for the Secretaries to determine whether a proposed project meets the criteria and is considered as one of the projects for a given fiscal year. I would be happy to discuss this with the Committee and provide recommendations on how to include this concept in a reauthorization.

2. In your testimony you cited the need for further tribal authority regarding management activities on adjacent federal lands. Could you expand on how a biomass or biochar project could address this issue?

ANSWER: Facilities that utilize biomass or biochar provide a market for biomass, which makes removal of biomass from forests more economically viable. Without a facility that can pay for biomass material, there are few, if any, economical options to utilize the material. Additional tribal management authorities, such as the Biomass Demonstration Project, can assist in the development of biomass or biochar facilities by providing a reliable supply of biomass, which will assist in obtaining financing to build the facilities. Also, prior to passing of BIL and IRA

forests were limited in their ability to enter into agreements by available funding at the forest, or supplemental funding from the regional office or Washington office. That limitation is likely to occur again once the additional BIL and IRA funding is spent. Having markets for traditionally non-commercial material should reduce the cost of restoration activities, and increase the number of acres that can be treated.

a. Would an up and running biomass or biochar project have prevented the devastation to the Colville Reservation suffered during the 2015 North Star fire?

ANSWER: A biomass or biochar project would likely not have prevented all the devastation the North Star fire caused on the Colville Reservation due to the extremely dry conditions and high winds and the fact the Colville Tribes actively manages its forests in the first instance. Had a biomass project been in place on adjacent federal lands, however, it is likely that more suppression resources would have been available on the Colville Reservation before the North Star fire reached 100,000 acres and mitigated the fire's on-reservation impact.

b. And how could an up and running biomass or biochar project also assist with post-fire restoration?

ANSWER: Many post fire restoration activities include the removal of dead or dying timber to reduce future fuel loading and decrease the risk to the staff and public. While those trees have value for roughly one year for local sawmills, once that timeline is over there isn't a market for those forest products. A biomass or biochar facility could make use of that material, extending the timeline for this work and provide a source of revenue that offsets the costs of restoration. This benefit is in addition to the market created for traditionally non-commercial forest products generated during forest restoration activities.

3. How would a biochar or biomass project be able to use low value hazardous fuels to benefit active forest management for the Colville Tribes' forests and adjacent federally managed forests?

ANSWER: A biochar or biomass project would provide a market for the material, making removal of the biomass from the on-reservation or federally managed forest land more economically viable. Adding value to traditionally non-commercial material also allows limited funding to be stretched across additional acres, which should increase the pace and scale of current restoration efforts on both tribal and federal land.

4. Are there other specific barriers the Confederated Tribes of the Colville Reservation has experienced when seeking to develop energy projects on Indian lands? And what other solutions should Congress consider for getting rid of or lessening barriers to developing projects on Indian lands?

ANSWER: For biomass related energy projects, the two main barriers have been (a) the reticence of federal officials to utilize all the discretionary authority that they possess when evaluating proposed projects, and (b) the timelines associated with the NEPA process and the potential for third party appeals for projects located on off-reservation federal land. For on-reservation energy projects involving forestry resources, Congress can be helpful by delegating to tribes the authority to permit and approve the projects with triggering the NEPA process.