



The Confederated Tribes of the Colville Reservation



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House Committee on Natural Resources
Subcommittee on Indian and Alaska Native Affairs

Oversight Hearing on “Tribal Autonomy and Energy Development: Implementation of the
Indian Tribal Energy Development and Self-Determination Act”

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On behalf of the Confederated Tribes of the Colville Reservation (“Colville Tribes” or the “CCT”), I appreciate the opportunity to testify on the implementation of the Indian Tribal Energy Development & Self Determination Act of 2017 (the “Act”), which was signed into law in December 2018.

Beginning in 2011, the Colville Tribes developed what ultimately became Section 202 of the Act, the Tribal Biomass Demonstration Project (“Project”). Unfortunately, when the committees of jurisdiction in the Senate considered the bill in early 2017, they failed to update the authorization dates for the Project. This error meant that when the Act became law on December 18, 2018, the Project authority would expire in fiscal year 2021, less than three years from the date of enactment. That unexpectedly short authorization window proved to be an insufficient amount of time for the Secretaries to implement the Project authority and for any Indian tribe to utilize it.

The Colville Tribes urges the Committee to update the dates in the Project to enable Indian tribes to utilize the authority. The Intertribal Timber Council, of which the Colville Tribes is an active member, has also recommended that the Project authorization dates be updated in the next Farm Bill. As explained below, the Colville Tribes is a participant in a planned biomass and biochar project in northeastern Washington that would benefit by utilizing the Project authority.

Background on the Colville Tribes

The Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from across eastern Washington state, northeastern Oregon, Idaho, and British Columbia. The present-day Colville Reservation is in north-central Washington state and was established by Executive Order in 1872. The Colville Reservation covers approximately 1.4 million acres, an area slightly larger than the state of Delaware. The CCT has nearly 9,300 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest and the second largest in the state of Washington. About half of the CCT’s members live on or near the Colville Reservation. Of the 1.4 million acres that comprise the Colville Reservation, 913,000

acres are forested land and 652,308 of those forested acres are commercial timber land. Because of this, healthy forest management is critical to the Colville Tribes and its membership.

In addition to the on-reservation forests, the former North Half¹ of the Colville Reservation includes significant acreage of Colville National Forest land where the Colville Tribes possess reserved rights for hunting, fishing, and gathering. Approximately 40 miles of Forest Service land in the North Half is contiguous to the northern Reservation boundary. The Colville Tribes and the Colville National Forest have carried out Tribal Forest Protection Act projects on Colville National Forest land and have worked cooperatively to prevent fire and disease on Forest Service lands. Despite the CCT's positive working relationship with its Forest Service neighbors, more tribal authority to carry out or direct activities on adjacent federal lands is needed. The Biomass Demonstration Project would benefit the Colville Tribes and other similarly situated tribes and local communities by allowing tribes to have an increased management role on federal lands that border reservation lands.

Wildfires on the Colville Reservation

The Colville Tribes has endured multiple major wildfire events during the past decade that have collectively burned more than half of the Colville Reservation's land base. In 2015, the North Star and Okanogan Complex fires collectively burned more than 255,000 acres on the Colville Reservation and more than 800 million board feet of timber, making it the most destructive wildfire event in terms of loss of timber on any Indian reservation in recorded history.

In 2020, the Washington Labor Day Fires burned the most acres (330,000) over a 24-hour period in Washington state's history. Two of those fires, the Cold Springs and the Inchelium Complex fires, burned nearly 200,000 acres on the Colville Reservation and caused one fatality. Nearly 80 homes and 70 other structures also burned.

Two separate but related factors increased the severity of some of these fire events on the Colville Reservation. The first was the undermanaged condition of some federal forest lands in the North Half and the surrounding areas. The other was the fact that air tankers and other suppression resources were tied up on other fires on those undermanaged areas and prohibited those suppression resources from being deployed to suppress fires on the Colville Tribes' on-reservation trust forest land. These concerns highlight why Congress should renew and extend the Biomass Demonstration Project authority in the Act.

¹ In 1891, many of the various aboriginal Indian tribes and bands of the Colville Indian Reservation approved the Agreement of May 9, 1891, under which the Colville Tribes ceded the North Half, which consists of roughly 1.5 million acres. However, the 1891 Agreement also reserved to the Colville Tribes and its citizens several important rights to the area, including the rights to hunt and fish. The ceded North Half is bounded on the north by the U.S.-Canadian border, on the east by the Columbia River, on the west by the Okanogan River, and on the south is separated from the south half of the Colville Indian Reservation by a line running parallel to the U.S.-Canadian border located approximately 35 miles south thereof.

The Biomass Demonstration Project

The Biomass Demonstration Project in section 202 of the Act amended the Tribal Forest Protection Act of 2004 to authorize projects for Indian tribes on federal lands adjacent to tribal lands that are under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture. Section 202 also separately authorized biomass demonstration project authority for Alaska Native Corporations on federal lands adjacent to Alaska Native Corporation land.

Section 202 is unique in that it directed the Secretaries to enter into at least four projects with Indian tribes annually for each year of the authorization (one annually for ANC projects). The projects could have terms of up to 30 years. This was intended to ensure that Indian tribes that wish to participate in the development of a biomass project could provide a reliable supply of biomass over a longer period from adjacent federal lands. The economics of biomass projects have required longer term contracts to make the projects economically viable, which is essential if new infrastructure is to be built in areas where it currently does not exist.

Section 202 also directs the Secretaries (at tribes' request) to incorporate tribal on-reservation management practices on the project lands. As the Committee is aware, many federal lands that are adjacent to tribal trust lands require fuels reduction or restoration activities—activities that Indian tribes are uniquely suited to perform because of tribes' experience managing their own forests and natural resources. This was one of the motivating factors for the Colville Tribes in developing the provision.

Allowing tribal management planning principles to be incorporated in these projects will also ensure that protection of cultural resources and sacred sites will receive the attention that they deserve. These cultural resources typically are not accounted for in federal land management plans. For example, the CCT manages certain areas of its on-reservation forests to promote growth of huckleberries, a culturally significant food for the Colville Tribes.

The Biomass Demonstration Project remains a viable tool for energy projects. The Colville Tribes is currently working with the Myno Carbon Corporation on a supply agreement to provide biomass from the CCT's on-reservation forests for a planned carbon removal facility in Kettle Falls, Washington.

As explained in more detail on the Myno Carbon Corporation's website,² the planned facility will intake approximately 183,000 Bone Dry Tons (BDT) of sustainably harvested timber waste feedstock to produce 40,000 BDT of biochar, which is anticipated to generate 18MW of renewable electricity. The planned facility is expected to remove 90,000 metric tons of CO₂e per year in the form of biochar and avoid 200,000 MT of CO₂e per year by mitigating slash pile burning and downstream emission reductions from biochar application.

² See <https://mynocarbon.com/myno-wins-bid-to-build-first-large-scale-carbon-removal-facility/>

For tribes that wish to construct their own biomass or biochar facilities, the Project authority will provide them an enhanced ability to obtain financing by providing a pathway for a long-term supply of biomass from federal lands.

The Project authority provides Indian tribes with a valuable tool not only for biomass projects, but also for protecting on-reservation forests from wildfire and insect dangers from adjacent federal forest lands. The Project authority should be renewed and its authorization extended to allow Indian country to fully realize its potential.
