

Cheyenne River Sioux Tribe
Flandreau Santee Sioux Tribe
Oglala Sioux Tribe



Rosebud Sioux Tribe
Standing Rock Sioux Tribe
Yankton Sioux Tribe

**COMMENTS OF
THE OCETI SAKOWIN POWER AUTHORITY
IN THE U.S. DEPARTMENT OF ENERGY
ROUNDTABLE DISCUSSION ON FUNDING AND FINANCING
TRIBAL ENERGY PROJECTS**

May 3, 2021

OCETI SAKOWIN POWER AUTHORITY

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Attachment 1: The Oceti Sakowin Power Authority – Leadership and Staff

EXECUTIVE SUMMARY

The Oceti Sakowin Power Authority (OSPA) is a unique organization: It was formed and is owned 100% by six Sioux Tribes that share territory with South Dakota and North Dakota, and it is the only Indian-owned wind farm developer in the U.S., with a mandate to build wind and solar renewable energy projects exclusively on Tribal lands. Starting in 2017, OSPA partnered with Apex Clean Energy, one of the country's most experienced developers of wind and solar energy projects. We are now developing the 450 MW Ta'teh Topah wind farm on the Cheyenne River Reservation, and the 120 MW Pass Creek wind farm on the Oglala Pine Ridge Reservation. Together, OSPA and Apex have invested over \$3M – and many times that in sweat equity – in early-stage development of the projects, and are now in the process of closing on \$15M in funding to fund late-stage development.

The two wind farms will cost about \$850 million to build and operate, and when construction commences, will create hundreds of construction jobs and dozens of permanent jobs, will drive literally tens of millions of dollars in taxes and fees to the Tribes, tens of millions more in lease revenues to the Tribes and individual Indian landowners over the 25-year life of the project, and millions of dollars in development fee revenues to OSPA. The OSPA Board of Directors has voted unanimously to reinvest those fees in developing the next round of wind and solar energy projects on the reservations of the OSPA member Tribes.

OSPA has been able to gain co-investor status, meaning that it has decision-making authority in the planning of the wind farms, and will participate in the development fees that will be earned upon successful completion of development. But this has been a long and very hard road – OSPA applied for grants, direct loans and loan guarantees from six different programs run by the Departments of Energy, the Interior, and Agriculture – and was rejected for all of them. As a result, OSPA was forced to raise capital entirely from private sources – and capital for early-stage development is the most expensive money available. The amount of development fees that OSPA will earn upon the successful completion of development will be only half of what OSPA could have earned – and reinvested in Tribal energy projects – if federally guaranteed debt financing was available to it.

CoBank – one of the nation's largest lenders for rural infrastructure projects, has stated that the lack of development capital is the single largest impediment to building rural infrastructure. CoBank has also confirmed that early-stage development capital is sufficiently high risk that it cannot qualify for traditional loans, and that development funding is generally not available from commercial banks.

The challenges in securing development funding are even more difficult for Tribes. The OSPA Tribes:

- Are among the poorest Tribes, occupying some of the poorest counties in the U.S.
- As such, their ability to provide collateral is severely limited, and in the case of the two wind farms under development, will soon be exhausted.
- At the same time, developing utility-scale energy projects on Tribal land is heavily regulated, and incurs higher compliance and transaction costs than similar projects built off-reservation.
- Existing energy transmission capacity is grossly inadequate.
- And recently, changes in the tariff of the Western Area Power Administration Upper Great Plains region and the Southwest Power Pool have dramatically increased the cost of interconnection to the national power grid, increasing OSPA's total estimated development costs by almost 50%.

OSPA is demonstrating what can be accomplished if it can obtain development capital on reasonable terms: a virtuous cycle in which OSPA, acting as co-developer, leads the effort to build highly impactful energy projects on Tribal land, then uses the development fees it earns to fund the next round of Tribal energy projects. With a relatively modest investment, the federal government can unleash hundreds of millions of private capital for the construction and operation of wind and solar farms, directed to a series of energy projects on Tribal land that will generate jobs and tens of millions of dollars in non-governmental revenues to the Tribes.

But to do this, government funding and financing programs must change the way awards are made. For example, the Tribal Energy Loan Guarantee Program, which was designed by Congress expressly to support the development of Tribal energy projects, does not in fact support development activities. The metrics used by DOE to grant loan guarantees under the TELGP program effectively exclude development, and instead drive funding to the construction of energy projects. This is ineffective and wasteful, because traditional funding from commercial banks and other private investors is readily available for construction – the challenge is in funding all the development work needed to prepare for construction. The Secretary of Energy and the Director of the Office of Indian Energy Policy and Programs have flexibility and discretion under the relevant statutes to change the way grants, direct loans and loan guarantees are awarded so that the federal programs can support the development of impactful energy projects on Tribal lands.

Based on OSPA's direct experience, DOE and other federal agencies should take the following actions to support the development of Tribal energy projects:

- Fix overly restrictive funding/financing requirements – requiring high bond ratings, completion of NEPA studies, and power purchase agreements.
- Fund at levels to support impactful, utility-scale projects and multi-Tribal projects.

- Tailor support to the poorest Tribes, which need the support the most. Eliminate co-funding and collateral requirements that are out of the reach of poor Tribes.
- Eliminate the preference for funding projects similar to “successful” past energy projects – the past projects are all in coal, oil and gas. DOE needs new metrics if it is to switch to supporting utility-scale renewable energy development.
- Keep Tribal majority ownership and profit participation as requirements, but not control. OSPA, like other Tribes and Tribally owned enterprises, lacks the expertise to manage the day-to-day operations of wind farm development, and so its experienced development partner will be the Managing Member of its development companies.
- Establish less restrictive metrics to mitigate risk in funding/financing programs, such as:
 - Considering the qualifications of the expert partner of the Tribe or Tribal entity.
 - Issue funds in tranches, based on successful completion of milestones.
 - In addition to grants, loans and loan guarantees, provide Program-Related Investments – if the project fails, funding is treated like a grant, but if it succeeds, it’s treated like a loan, with repayment plus reasonable interest.
 - Use expert subsidiaries like the National Renewable Energy Laboratory, or industry experts to evaluate business plans.
 - Accept a commitment to adhere to the “Programmatic Environmental Impact Study” prepared by the Western Area Power Administration and the U.S. Fish and Wildlife Service to support development funding, prior to the completion of the NEPA process.
 - Use the “Unsolicited Application Process” to evaluate unique projects.

Finally, there are two areas in which DOE is uniquely positioned to support Indian energy development – and has a unique trust obligation to do so:

1. Fund the cost of SPP interconnection “security deposits.” OSPA, and other Tribes in the Upper Great Plains region became subject to these only because WAPA chose to join SPP, and started to provide interconnection to the national power grid through the SPP tariff. Under WAPA’s former tariff – which still applies to WAPA interconnection customers outside the SPP service area – interconnection studies and deposits would cost well under \$1 million. But because the SPP tariff now applies, OSPA’s costs are over \$9 million, and may go higher. WAPA and DOE cannot evade their trust responsibility to the Tribes by adopting the tariff of a private company that does not share the trust relationship.
2. Build transmission infrastructure. The Tribal lands in the Upper Great Plains region do not have access to sufficient transmission to support the development of their wind and solar resources. This legacy of systemic racism must be cured if the Tribes are to benefit from the development of the resources they possess.

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May 3, 2021

The Oceti Sakowin Power Authority (OSPA) submits these Comments in response to the U.S. Department of Energy (DOE) announcement of its upcoming Roundtable Discussion on Funding and Financing Tribal Energy Projects, conducted by the DOE Office of Indian Energy and the DOE Loan Programs Office. In addition to submitting these Comments, OSPA representatives look forward to participating in the Roundtable Discussion on May 5. OSPA thanks DOE Staff for reaching out to Tribes regarding this critically important issue.

For the last six years, OSPA has been actively developing utility-scale wind farms on the reservations of two Sioux Tribes – an \$850 million renewable energy infrastructure project that will substantially advance the Biden/Harris Administration’s climate initiatives, and that will profoundly advance the economic interests of the Tribes and their Oyate (the People). OSPA and its partner have invested over \$3 million in early-stage development to date, and are currently in the process of closing on \$15 million to fund the next phase of development – all funds raised from the private sector, without federal funding/financial assistance.

During the last six years, OSPA has interacted extensively with the Departments of Energy, the Interior (DOI) and Agriculture (USDA). Despite the expressed support for OSPA from the Obama Administration, former Energy Secretary Moniz and former Interior Secretary Jewell, OSPA has not received any funding or financing assistance from any federal agency. Indeed, OSPA submitted a total of six applications for grants, loans and loan guarantees to DOE, DOI and USDA, and was rejected for all of them.

OSPA believes that it was unable to obtain funding/financial assistance from the federal government because it is unique in structure and uniquely ambitious in its mandate to develop multiple utility-scale projects on the reservations of its member Tribes. Federal programs designed to support Indian energy programs – including the Tribal Energy Loan Guarantee Program (TELGP) – simply do not anticipate unique, and uniquely impactful, projects such as ours. In addition, as discussed below, many federal projects will not fund development-stage projects, despite the clear need for such funding. In these Comments, OSPA recounts specific examples of



the challenges it has faced in seeking federal support, and makes specific recommendations for changes in federal programs that will lead to meaningful support for optimally impactful Tribal energy programs.

I. BACKGROUND

1. The Oceti Sakowin Power Authority

The Oceti Sakowin Power Authority was formed by six Sioux Tribes that share territory with the states of South and North Dakota: the Cheyenne River, Flandreau Santee, Oglala, Rosebud, Standing Rock and Yankton Sioux Tribes. Oceti Sakowin (pronounced O-CHET-ee Sha-KO-wee) is a Lakota term meaning “the Seven Council Fires” and refers to the way the Tribes got together since time immemorial to make big decisions and plans that affected all of the Oyate. Oceti Sakowin also means “The Great Sioux Nation.”

OSPA is a “Section 17” Corporation – that means it is a federally chartered corporation established under the Indian Reorganization Act of 1934. The six Sioux Tribes listed above all adopted the Charter by unanimous or super-majority votes of their Tribal or General Councils. The member Tribes are the sole, 100% owners of OSPA. OSPA is led by a Board of Directors (each member Tribe has one Board member and one vote) and is advised by a Council of Elders selected by the Tribes, and by a professional staff. The OSPA Charter was certified by the U.S. Department of the Interior in June 2015. The full list of OSPA Board members, Elder Council members and staff is appended at Attachment 1.

By forming a Section 17 Corporation and adopting and approving its Charter, the OSPA member Tribes and the U.S. Department of the Interior empowered OSPA to negotiate, execute and fulfill contracts with developers, financiers, and contractors without further Tribal and federal approvals. This establishes OSPA as a reliable business partner, insulated from Tribal politics and federal regulatory delay. And by banding together and pooling their resources, the member Tribes can achieve the large-scale wind generation and transmission systems needed to attract large out-of-state corporate and utility power buyers. We believe that the OSPA model is an effective structure for large-scale economic development projects for Tribes and on Tribal lands across this country.

2. The Country’s First Two On-reservation Utility-Scale Wind Farm Projects Are Now Under Development by OSPA and Its Partner, Apex Clean Energy

In August 2017, OSPA partnered with Apex Clean Energy to be its technical partner and co-developer. Apex is one of the largest developers of wind and solar energy projects in the U.S., and has successfully developed over 5,000 MW of wind and solar energy capacity that is in financing, under construction, or currently operating, representing over \$7 billion of investment. Apex’s website can be found at <https://www.apexcleanenergy.com/>.

Over the last three years, OSPA and Apex have completed early-stage development of their first two projects: the 450 MW Ta'teh Topah (Four Winds) wind farm on the Cheyenne River Reservation, and the 120 MW Pass Creek wind farm on the Oglala Pine Ridge Reservation. Both wind farms could be larger – more than two years of wind measurements have confirmed that the sites contain some of the most powerful and reliable wind resources in the country – but the size of both projects is constrained by currently available transmission capacity. Even with these limitations, the two wind farms will be one of the largest renewable energy complexes in the country – and at an estimated construction and operations cost of \$850 million, will be one of the largest infrastructure development projects in the history of South Dakota.

When these projects are fully funded and construction begins – now planned for 2023 or 2024 – these projects will drive literally tens of millions of dollars in tax and fee revenues to the Tribes, tens of millions more in lease revenues to the Tribes and individual Indian landowners over the 25-year life of the project, and millions of dollars in development fee revenues to OSPA, which has voted to reinvest those fees in developing the next round of wind and solar energy projects on the reservations of the OSPA member Tribes.

In addition, these projects are expected to generate 400-500 construction jobs and 28-35 permanent jobs. And OSPA has committed to using local and Tribal resources, including sand, gravel, cement, trucking and skilled and unskilled labor, to the greatest extent possible. Pre-construction, OSPA will identify partners and funding for developing and conducting job training in conjunction with the Tribal Employment Rights Offices, and Apex has already included Tribal members in its internship programs.

3. OSPA's Uniqueness Has Rendered It Ineligible for Federal Funding/Financing, As a Result, OSPA Has Had to Shoulder Extremely High Costs of Capital

OSPA is unique: It is the first multi-Tribal wind farm developer; the first 100% Indian-owned wind farm developer; and the only developer focused exclusively on developing utility-scale wind and solar farms on Indian reservations. But it has become clear to OSPA that its unique structure has a downside: federal agencies have not seen anything like it before, and many don't know how to react to OSPA's applications for federal support. The result – as OSPA discusses below, OSPA has been unable to secure funding for its development efforts from any government agency.

In the absence of federal support, OSPA has been successful in attracting funding and financing from the private sector – OSPA is now in the process of closing on its third tranche of private funding, and upon closing, will have raised a total of \$18 million for the development of its first two wind farms. But this process has taken years, and has been extremely expensive – early-stage development capital is some of the most expensive capital available from private sources.

OSPA has been singularly focused on raising development capital for a simple reason: If OSPA provides the funding, it exercises control over the planning and development of the wind

farms, and shares in the economic benefit of the projects. If OSPA cannot provide such funding, its member Tribes are reduced to passive lessors of land to a developer that exercises total control over the projects and keeps all of the revenues from development for itself. Any support by the federal government that would reduce OSPA's cost of capital would directly increase the value of the wind farm projects to OSPA member Tribes, and would provide more capital for OSPA to reinvest in developing its next round of renewable energy projects on the reservations of its member Tribes.

II. LACK OF DEVELOPMENT CAPITAL IS THE SINGLE LARGEST IMPEDIMENT TO INFRASTRUCTURE DEVELOPMENT ON TRIBAL LAND, AND IN RURAL AREAS GENERALLY

OSPA is the country's first Indian-owned developer of wind farms on Tribal lands. Its first two projects will cost a projected \$850 million to construct and operate, and will have development costs close to \$20 million plus an additional SPP interconnection study and deposit cost of \$9 million or more. In the world of energy production, several million dollars is not a lot of money. But for the poorest Tribes in the country, it's a huge amount. Because Tribes usually don't have access to this level of funds, it is typical for developers to provide the development funding themselves. But there's a catch – most developers take the position that, if they provide the development funding, they own and control the entire project, and the Tribes are treated as passive lessors of their land. All of the OSPA member Tribes have been offered this type of development deal, from some of the largest developers in the country. OSPA's experience with the industry at large demonstrates the critical importance of development capital – if you don't have it, it's the most expensive money there is; if you do have it, you can exercise decision-making control and realize the true economic value of a project.

1. CoBank – One of the Country's Largest Providers of Capital for Rural Infrastructure Projects – Has Identified the Lack of Early-Stage Development Capital as the Largest Impediment to Building Rural Infrastructure

CoBank is "one of the nation's largest lenders to agribusiness and rural infrastructure providers." <https://www.cobank.com/corporate/services/capital-markets> In a speech in 2015, Mary McBride – then President of CoBank – discussed how the lack of access to development capital is the largest impediment to rural development:

"But I'd also add one of the things . . . that's stifling entrepreneurship and growth is what I call 'access to technical assistance.' If you're an entrepreneur and you're alone in Greenwood, Mississippi or somewhere, trying to start a business and you need to develop financial projections, you need a business plan, you need accounting advice, you need legal advice. You don't have the same access you have when you're in Denver, Colorado where there's a business incubator and there are a lot of accounting and legal firms that will do pro bono work and such. And so how do we get that knowledge and that

assistance out to those entities? One of the areas that we lend a lot to is small water companies – a lot of you may not be aware that there are 50,000 water companies in this country – and we’ve encountered a situation where these small water companies couldn’t afford to do the engineering work to get to the stage to apply for a loan. So we set up a special loan pool – we call it a ‘bridge loan pool’ – it’s got different lending parameters. We’re able to say ‘we’re going to lend you \$200,000, help you get your engineering work so that you can apply for a loan’. It’s that type of thinking that I think is really needed in these rural areas, and financial institutions have to have the flexibility to do that. I can tell you that those loans we make in that framework would not qualify as regular loans. So you’ve got to have that ability to have flexibility.”

<http://livestream.com/CGI/events/4096617/videos/89835335> Based on OSPA’s experience, we can state that, if such development capital is hard to raise for rural projects in general, it is even more difficult to raise for infrastructure projects on Tribal lands. And it’s nearly impossible for unique, innovative and large-scale projects such as the OSPA wind farms.

2. Early-Stage Development Capital Is the Most Expensive Capital Available, and Is Not Available from Commercial Banks

OSPA, with its partner Apex Clean Energy, are co-developers of the wind farms on the Cheyenne River and Oglala Pine Ridge Reservations. Developers take on extraordinary risk throughout the development process: At the early stages, until wind and environmental studies are completed, there is risk that the wind resources may not be strong enough to make the project profitable, and risk that environmental factors, including the presence of endangered species, may make the projects inviable. At more advanced stages, there is risk that the composition of the land may make construction impossible, that the energy generated may cost more than prevailing market rates for power purchase agreements, or that interconnection with the U.S. power grid may not be obtainable on cost-efficient terms. Yet to complete the studies needed to eliminate or mitigate these risks, the developers must invest tens of millions of dollars, and thousands of labor hours.

The National Renewable Energy Laboratory (NREL) describes these factors in its recent *Wind Energy Financing Report*¹: “In general, the time and cost spent developing a wind project is considered entirely at risk because an unsuccessfully developed project has only a minimal asset value, and limited or no revenue potential.” *Id.* at 3 (footnote deleted) (emphasis added).

Banks generally will not fund development costs. Those that will provide debt financing for development work require an existing amount of equity already invested in the project, collateral and a loan guarantee – typically from the federal government.

¹ Paul Schwabe, David Feldman, Jason Fields and Edward Settle, *Wind Energy Finance in the United States: Current Practice and Opportunities*, NREL Technical Report NREL/TP-6A20-68227 (August 2017) (*NREL Wind Energy Financing Report*).

If capital is not available from conventional lenders, developers must acquire funding from “Angel” or Venture Capital investors – also called sponsors. These investors typically require an equity position in the project and/or a return expressed as a multiple of their investment, as opposed to a percentage of it. As the NREL *Wind Energy Financing Report* states: “Because the sponsor commonly faces the highest risk in the partnership, it will often have the highest return requirements sponsor equity is . . . the highest cost equity” *Id.* at 14.

3. Development of Wind and Other Renewable Energy Resources on Indian Land Has Higher Risk than Other Energy Projects – This Is the Void that the U.S. Government Must Fill for Tribal Developers

As described above, renewable energy development is inherently high-risk, and bears the highest cost of capital available. In this regard, OSPA shares the same risk position as other developers. However, because OSPA is Tribally owned, and is committed to developing utility-scale wind and solar projects exclusively on the reservations of its member Tribes, OSPA bears an even higher level of risk. Here are the contributing factors:

A. The Tribes that Founded and Own OSPA Are Among the Poorest Tribes and Counties in the U.S.

The OSPA Tribes are among the poorest in the United States, and occupy some of the poorest counties in the country. The Oglala Sioux Tribe and the Cheyenne River Sioux Tribe are members of OSPA and their Reservations are the sites of the first two OSPA wind farm projects. Per pre-Covid data from the U.S. Census Bureau, the Oglala Pine Ridge Reservation has an unemployment rate of 17.3% and a poverty rate of 48.1%, while the Cheyenne River Reservation has an unemployment rate of 22.6% and a poverty rate of 33.9%. Both reservations are comprised of counties ranked within the ten poorest counties in South Dakota. Cheyenne River does not have a casino. Oglala has two casinos, but given their locations in some of the most rural, thinly-populated areas in the country, they function primarily as jobs programs, and do not constitute a significant revenue source.

Funding and financing programs that require co-funding or 100% or more collateral are simply out of the reach of these Tribes.

B. The Tribes’ Ability to Provide Collateral Is Severely Limited

OSPA is currently in the process of closing on its third tranche of funding, which will raise a total of \$18 million for the development of its wind farms on the Oglala Pine Ridge and Cheyenne River Reservations – and this funding will be sufficient to fund the remaining development work. Those two Tribes have provided the collateral required for the debt funding. But this has literally exhausted the ability of the Tribes to contribute collateral.

As OSPA describes below, a recent and unexpected increase in “security deposits” required by the Southwest Power Pool (SPP) for transmission studies required for interconnection to the national power grid just added millions of additional dollars to the cost of developing OSPA wind farms – and SPP’s process leaves open the possibility that millions more of interconnection deposit costs may be incurred. This places OSPA in an extremely difficult position: if it cannot raise funds to cover the SPP security deposits – funds that do not require additional collateral – it will have to give up substantial control of the projects, and the fees it will earn as co-developer will be dramatically reduced.

C. Developing Wind Farms on Tribal Lands Is Heavily Regulated

OSPA is developing its wind farms on reservations, leasing land from individual Indians as well as Tribes, and interconnecting with the Western Area Power Administration – activities that constitute a “federal nexus” that requires compliance with the National Environmental Policy Act (NEPA). OSPA does not consider this a problem – to the contrary, being able to tell the OSPA member Tribes that the wind farms developed on their reservations will meet the comprehensive NEPA guidelines for protection of the environment has been an important contributor to OSPA’s success. But the NEPA process can be very costly, and worse, can take years. This can be a disincentive for developers of wind farms to choose sites on Tribal land.

Similarly, OSPA will be leasing land from individual Indians, and this requires approval of OSPA’s leases by the Bureau of Indian Affairs. The existing BIA rules did not meet the specific needs of the projects that OSPA is now developing, and so OSPA engaged with the BIA Upper Great Plains Regional Office to develop a unique model lease that combined the regulatory requirements of two different types of wind farm leases. OSPA is grateful to the BIA Staff for their dedication and creativity in responding to OSPA’s needs, and OSPA is extremely pleased with the results of this collaboration. Nevertheless, this regulatory involvement created a transaction cost that would not be borne by developers who were not committed to developing wind farms on Tribal land.

Again, OSPA emphasizes that it is not complaining about this level of regulation – as an entity owned by the Tribes, OSPA values the extensive protections for the environment, Tribal culture and history, and the rights of Tribes and individual Indians, that are protected by the applicable regulations.

But these regulations do add significantly to the timing and cost of developing wind farms on Tribal lands, and these can provide a potent disincentive for developers, who may choose to avoid them by avoiding energy development on Tribal lands. The federal government can help developers offset these disadvantages by offering funding and financing on attractive terms.

D. The Transmission Infrastructure Serving the Tribes Is Grossly Inadequate

NREL's recent *State of Wind Development Report*² reviews the status of wind resource development in the United States, by region. For the Midwest region, NREL finds there is “[i]nsufficient transmission to tap the wind-rich resources of the region and lower the cost of electricity.” *Id.* at 52. Among politicians and industry players, it has become a platitude that the Upper Great Plains region is “the Saudi Arabia of wind resources” but that there’s a lack of transmission capacity to bring wind energy from there to the major load centers in other areas of the country.

OSPA can speak to the real-life effects that such limited transmission options have had on the OSPA wind farms. As noted above, OSPA is now developing 570 MW of power – 450 MW on the Cheyenne River Reservation and 120 MW on the Oglala Sioux Pine Ridge Reservation. Both Tribes have the resources and the desire to develop much more wind energy, but the size of these initial projects has been limited by the transmission capacity that is available on the existing Western Area Power Administration transmission system.

Lack of transmission infrastructure is one of the many legacies of the systemic racism that has characterized this country’s relationship with Indians – on the reservations of the OSPA member Tribes, energy infrastructure is as lacking on Tribal land as adequate roads, broadband and reliable cellphone service. The absence of transmission capacity is an insuperable barrier to energy development, and limitations in existing transmission prevents the Tribes from reaching the economies of scale and scope that would make their wind farms more valuable.

E. Recent Developments Regarding Interconnection to the National Power Grid Are Imposing an Extreme Hardship on OSPA, and Other Energy Projects on Tribal Lands

A recent development regarding interconnection to the national power grid has presented a significant challenge to OSPA, and to other energy projects on Tribal lands in the Upper Great Plains. As OSPA describes in more detail in Subsection V (1) below, OSPA will connect to the national power grid by transmitting its power over WAPA facilities. WAPA, like other organizations that manage the power grid, conducts studies to determine how new power generators will be integrated with the existing grid, and if upgrades or new transmission construction will be required. WAPA and other grid managers require new power producers to pay a “security deposit” to cover the costs of these studies, and sometimes a down payment on potential network upgrade costs, in order to secure a place in their transmission queue.

Under WAPA’s tariff, which applies in most of its service area, the costs of these security deposits are well under \$1 million. However, in 2017, the WAPA Upper Great Plains region, which is where the OSPA Tribes are located, joined the Southwest Power Pool and started to provide grid

² Frank Oteri, Ruth Baranowski, Ian Baring-Gould, Suzanne Tegan, *2017 State of Wind Development in the United States by Region*, NREL Technical Report NREL/TP-5000-70738 (April 2018).

interconnection under the SPP tariff. This act increased the cost of interconnection security deposits to close to \$2.5 million. But in July 2019, SPP changed its interconnection tariff and procedures, and increased the cost of interconnection for the OSPA projects to over an estimated \$9.5 million. This one action has the effect of increasing OSPA's total wind farm development budget by almost 50% -- and under SPP's new rules, the costs of interconnection could go even higher.

This massive increase in cost – done without consultation with the Tribes – places an extraordinary burden on the OSPA member Tribes, and other developers of Tribal energy within the WAPA/SPP service area. As an agency of DOE, WAPA shares the federal trust responsibility toward the Tribes – OSPA asks DOE and WAPA to provide Tribes with relief from the crippling interconnection cost increases imposed by SPP.

4. OSPA Is Demonstrating What Tribes Can Accomplish If They Have Access to Development Capital on Reasonable Terms

OSPA is proud to be the first Indian-owned developer of utility-scale energy projects on Tribal lands, and it has accomplished much over the last six years. But it's been a very long and very difficult journey because of the lack of adequate capital.

OSPA's first two wind farms will create hundreds of construction jobs and dozens of permanent jobs, and will drive literally tens of millions of dollars in taxes and fees to the Tribes, tens of millions of dollars in lease revenues to the Tribes and individual Indians over the projects' 25-year lifespans, and millions of dollars in development fees to OSPA. The OSPA Board has voted unanimously to re-invest these development fee revenues into developing the next series of renewable energy projects on the reservations of OSPA's six member Tribes. This will create a virtuous cycle that will make OSPA's second round of energy project development on Tribal land much faster and with lower capital costs – generating more development funding for the third round. OSPA's vision is to accomplish long-term development of utility-scale and community-scale energy projects on the reservations of all its member Tribes.

The type of financing that OSPA can access will go far in determining how effective this virtuous cycle can be. As NREL notes, "Debt is generally considered a lower-risk investment and therefore a lower-cost funding source relative to equity. . . ." *Wind Energy Financing Report* at 15. OSPA could literally double the amount of development fees it will receive from successful development of the Oglala and Cheyenne River wind farms if it was able to fund the development with bank debt rather than early-stage private capital. If federal grant, direct loan and loan guarantee programs run by the Department of Energy and the Department of the Interior were made available to OSPA, it would be a catalyst for future energy projects across Indian lands.

III. THE DOE LOAN GUARANTEE PROGRAM ENTITLED “FEDERAL LOAN GUARANTEES FOR TRIBAL ENERGY DEVELOPMENT PROJECTS” DOES NOT SUPPORT DEVELOPMENT

As we have discussed above, over the last several years, OSPA has applied for six grant, direct loan, and loan guarantee programs run by DOE, DOI and USDA – and has been rejected for all of them. One of the primary reasons is that many of these federal programs start at the construction phase of a project, and do not fund development work, despite the clear directives of Congress. As we demonstrate below, the DOE’s Tribal Energy Loan Guarantee Program is a case in point.

1. Understanding What “Development” Is for Tribal Energy Projects

For a wind farm, “development” work means everything that has to be done before construction can commence. This includes setting up corporations, drafting contracts and other legal work; collecting and analyzing wind data over the course of several years; securing long-term leases and rights of way for the land where the wind and transmission facilities will be built; hiring engineering firms to complete studies and designs for turbine deployment, the underground collection system and transmission facilities, and the transport system needed to bring in equipment and materials; negotiating power purchase agreements; conducting animal and environmental studies and if required, completing the review process under the National Environmental Policy Act; selecting a wind turbine vendor and lead construction contractor; and obtaining the necessary federal, Tribal and state regulatory approvals. For a typical wind farm, the cost of this development work runs into millions of dollars – mid-single digits to low double digits. Once this work is completed, full funding for construction – in OSPA’s case, estimated at about \$850 million – in the form of tax equity investment and bond financing is available from banks and investment firms. *See NREL Wind Energy Financing Report.*³ Funding this development work is the largest hurdle any infrastructure project has to overcome.

2. Congress Has Expressly Directed DOE and DOI to Use their Grant, Direct Loan and Loan Guarantee Programs to Fund Energy Development Activities

It is self-evident that the TELGP and other programs in 25 U.S.C. § 3502 are intended by Congress to support the development of Tribal energy resources. The Section title is “Indian tribal energy resource development,” and all grant, direct loan, and loan guarantee programs under Chapter 37 are specifically mandated to support Tribal energy “development.” Throughout Section 3502, the term “development” is used in the broadest possible way for both DOI and DOE programs, describing:

³ NREL Technical Report NREL/TP-6A20-68227 (August 2017) at pp. 6-8.

- “managerial and technical capacity” 25 U.S.C. § 3502(a)(2)(A)
- “Promote the integration of energy resources” 25 U.S.C. § 3502(a)(2)(B)
- “. . . establish and carry out tribal environmental programs in support of energy-related programs and activities” 25 U.S.C. § 3502(a)(2)(D)
- “. . . training, . . . development of policies and tribal laws, . . . implementation of tribal environmental laws and policies” 25 U.S.C. § 3502(a)(2)(D)(i – iii).
- “education, research and development, planning, and management” 25 U.S.C. § 3502(b)(1)
- “planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land” 25 U.S.C. § 3502(b)(2)(D)
- “development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities” 25 U.S.C. § 3502(b)(2)(E)
- “activity to provide, or expand the provision of, electricity on Indian land” 25 U.S.C. § 3502(c)(2)

3. TELGP, by the Terms of Its Solicitations, Does Not Support Energy Development

It’s ironic but true – the DOE program purporting to support “Tribal Energy Development Projects” employs selection criteria that effectively disqualify all development activities. Here are examples taken from the DOE Loan Programs Office Loan Guarantee Solicitation Announcement Amended and Restated as of January 16, 2020 for Federal Loan Guarantees for Tribal Energy Development Projects.⁴

Page/§	Requirement
3, § C	“DOE will not assume pre-construction risks under this Solicitation.” Development costs are by definition “pre-construction,” and these are explicitly excluded from funding under this program.
4, § B(3)	Project must have a credit rating of “BB” from Standard & Poor’s or Fitch, or “Ba2” from Moody’s. These credit agencies will not issue a credit rating for wind farms unless there is a power purchase agreement or a long-term “feed-in” tariff.

⁴ Solicitation Number 89303018RLP000005.

	https://www.moodys.com/research/Moodys-assigns-PBaa3-rating-to-WindMW-GmbH-stable-outlook--PR_337510 ; https://www.environmental-finance.com/content/news/s-and-p-explains-credit-factors-in-rating-offshore-wind-farms.html . Wind farm projects generally cannot secure power purchase agreements until substantial development work has been completed and construction is imminent.
6, § B	<p>“DOE must complete NEPA review before it makes a decision to provide a loan guarantee.” Wind farms require substantial development work before the NEPA review can even begin – including selecting the sites for power and transmission facilities, securing leases and rights-of-way, conducting related cultural/historical surveys, conducting two years of raptor studies and other wildlife and habitat studies, etc.</p>
6, §§ B(3-6)	<p>Applicant is responsible for providing all NEPA studies to DOE. “An EIS typically requires an 18-24 month processing time, and an EA typically requires 6-9 months.” “NEPA review must be completed before a loan guarantee can be issued.” These provisions make clear that the DOE program will not fund NEPA studies, which are one of the most significant expenses that wind farm developers must fund during the development stage of a project on Tribal lands.</p>

Also ironic – the qualification metrics listed above steer federal grant, loan and loan guarantee money to fund construction after the project has been de-risked. If OSPA completed its NEPA process and had a power purchase agreement, it could obtain construction bridge loans from literally any commercial bank while it secured full construction funding from tax credit investors. As NREL states, risk associated with construction of wind farms is substantially lower: “Construction Risk: Fitch (2016) classifies the construction risk of wind projects as ‘low in complexity’ based on the industry’s extensive history constructing land-based projects.” *Wind Energy Financing Report* at 4. “Because of the large number of wind projects successfully completed, construction of land-based wind farms is generally well-understood by construction contractors, insurance providers, and equipment vendors among others.” (Fitch 2016). *Id.* at 8.

So the selection metrics employed by TELGP – and other federal programs – refuses to fund the \$5-\$20 million high-risk, early stage development work for which traditional bank financing is unavailable, and instead helps fund the hundreds-of-millions of de-risked construction work that is routinely funded by the largest banks and largest construction companies in the country.

IV. HOW TO ENSURE THAT FEDERAL GRANTS, LOANS AND LOAN GUARANTEES CAN SUPPORT FUNDING OF DEVELOPMENT COSTS, SO THAT CASH-POOR TRIBES CAN REALIZE THE ECONOMIC BENEFITS OF DEVELOPMENT ON THEIR LANDS

OSPA's extensive experience has shown that Tribes and Tribal entities can obtain substantial decision-making control over the planning process for wind farms, and participate in the millions of dollars in development fees obtained by developers, if it can raise the requisite development funds. After development is successfully completed, the relatively modest investment in development unlocks hundreds of millions of dollars in private construction and operations funding by tax credit and bond investors. Here's how to enable Tribes and Tribal entities to become effective co-developers.

1. Fix Overly Restrictive Terms for Issuing Grants, Loans and Loan Guarantees

Below, OSPA lists a series of conditions that are common in the grant, loan and loan guarantee programs operated by the Departments of Agriculture, Energy and the Interior that have rendered OSPA ineligible for assistance:

- Not Funding Development Work; Requiring Completed NEPA Studies; Requiring PPAs; Requiring High Bond Ratings. These restrictions all have the same effect – they disallow federal support for pre-construction work. By definition, this means that federal funds only go to companies that have already spent millions of dollars on completing development work – which by definition excludes cash-poor Tribes.
- Restricting Funding to Small-Budget Programs and Small-Dollar Projects. The prevailing practice among the agencies administering Indian programs is to fund small-dollar projects. We can understand the motivation – it stretches available dollars. But it excludes potentially transformational projects.
- Preference for Matching Funds. Generally, if agencies have competing applications for support, they favor the application that matches the grant or loan funds with funds from other sources. Again, an understandable restriction, but it has the effect of eliminating the poorest Tribes, which are most in need of support.
- No Credit for Multi-Tribal Projects. OSPA has actually been disqualified for a grant from the Department of the Interior because the application involved multiple Tribes. Apparently, the Staff had not seen such an application before and didn't know what to do with it, so it was rejected. This is a profoundly perverse result – multi-Tribal projects benefit more Indians, encourage efficient cooperation, and eliminate zero-sum competition over limited federal resources.
- Preference for Projects that Look Like Past "Success Stories". This seems like a reasonable ground for awarding support. However, in energy, all of the past Tribal success stories

involve coal, oil and gas projects. There is no history of successful Tribally-owned wind farms because OSPA is the first. This metric effectively prevents a transition from fossil fuels to renewable energy.

- Require Ownership and Revenue Participation for Tribal Programs, but NOT Control. Some federal programs designed to support Indian energy projects require that the Tribe or Tribal entity “own and control” the project. While this is a laudable ambition, a “control” obligation can actually render a Tribe ineligible for support. Tribes have great expertise in the knowledge of the land and landowners, with environmental and cultural factors, and regulatory matters that affect the wind or solar energy project. But Tribes generally do not have expertise in designing and building the wind or solar farm or managing industrial scale projects, and so are not the appropriate choice for managing the day-to-day development activities. As such, the Tribes benefit from partnering with an expert developer, and from having that development partner acting as the Managing Member of the development company. Depending on the way the funding or financing program is designed, this may not constitute “control” over the project, and could in fact invalidate a Tribal applicant. Instead, federal programs benefitting Tribes should require that Tribes own the majority of equity in the development company, and that they receive the majority of the proceeds generated by the company, but should avoid an “own and control” requirement.

Fixing these restrictions in current and future grant, loan and loan guarantee programs would enable a whole new class of high-impact projects. More importantly, it would allow Tribes and Tribally-owned entities to act as co-developers of renewable energy projects on Tribal lands, enabling the Tribes to exercise decision-making control in the design of the projects, and to participate fully in the development fees generated by the projects.

2. Establish Better Metrics to Mitigate Risk

The metrics for awarding support listed above have been adopted by agencies as a means of mitigating risk. However, as OSPA has experienced, these metrics are overly restrictive, exclude innovative and impactful projects, and often exclude the very applicants who need support the most. There are other metrics that Congress and the agencies can adopt that will be successful in mitigating risk of loss without these downsides:

- Consider Partnership with Highly Experienced Companies. This is perhaps the most important means of reducing risk in awarding grants, loans or loan guarantees. In OSPA’s case, we have partnered with Apex Clean Energy, a company with a long history of successful development of renewable energy projects.
- Issue Funds in Tranches, Following Successful Completion of Milestones. The need for meaningful development funding requires either increasing the budgets for Indian programs, or funding projects like OSPA’s out of the big-budget programs used to support non-Indian companies. A routine practice among these larger programs is to issue grants or loans, or structure loan guarantees, in tranches that require completion of pre-established milestones. Many agencies already apply this method for mitigating risk.

- Include Program-Related Investments (PRIs) in Addition to Grants. Many private foundations have included PRIs in their investment portfolios. With a PRI, if the project fails, the funds are treated as a grant. However, if the project is a success, the funds are treated as a loan, and the recipient pays back the loan and a return (usually at a discount below market rates) when the project starts to generate income. This is an effective way to recycle grant dollars, and fund future investments.
- Use Assets Like NREL to Evaluate Business Plans. The Department of Energy has a great asset in its National Renewable Energy Laboratory, and federal agencies could look to NREL for expert analysis of business plans. Federal agencies could also convene panels of experts from corporations willing to donate their time and expertise, or allow grant funding to hire expert consultants to evaluate business plans.
- Use the “Programmatic Environmental Impact Study” for the Upper Great Plains. WAPA and the U.S. Fish and Wildlife Service jointly conducted an extensive Environmental Impact Study (EIS) that surveyed environmental conditions across the Upper Great Plains (UGP) region. This study was designed to support a wide range of wind energy development projects across the region, and so is designated a Programmatic EIS (PEIS). Since the UGP PEIS was developed, every wind farm developed in the area has referred to the PEIS (also known as “tiering” off the PEIS) as part of their showing under the National Environmental Policy Act review. DOE programs – and other federal programs – should accept an applicant’s requirement to adhere to this PEIS, along with a restriction on using any funds for ground disturbing activities until NEPA review is completed, as a basis for issuing grants, loans and loan guarantees. This would not absolve the applicant from completing the NEPA process, but would allow the applicant to secure the funding to do so.
- Use the “Unsolicited” Application Process. The website of the DOE’s Energy Efficiency and Renewable Energy website offers an option to seekers of funding that may not meet the requirements of a specific EERE program: “Unsolicited Proposals: If EERE’s other funding options will not work for your project, submit an unsolicited proposal for funding to the Department of Energy.” <https://www.energy.gov/eere/funding/find-funding>
The opportunity to submit unsolicited proposals should be extended to all DOE funding/financing programs, at least for Indian Tribes – such an option for individualized review would help fulfill DOE’s obligation to conduct meaningful consultation with Tribes. As OSPA discusses above, it has been found ineligible for six grant and loan programs operated by DOE, DOI and USDA, because OSPA is a unique organization that did not fit into the pre-conceived categories of the programs. The opportunity to submit unsolicited proposals, and achieve individualized review for them, would go far in correcting this problem. The Office of Indian Policy and Programs should act as an intake point for Tribally-owned energy projects, to help them identify other DOE programs that may be appropriate, and to ensure review of unsolicited applications by decision-makers in those programs.

3. The Secretary of Energy Has Broad Authority to Change Funding and Lending Practices that Have Had the Effect of Excluding Impactful Tribally-owned Energy Projects

25 U.S.C. Chapter 37 provides the Secretary of Energy and the Director of the DOE Office of Indian Energy Policy and Programs (and also the Secretary of the Interior) broad discretion to engage in consultation with Tribes, and to establish practices and standards that optimize the utility of the agencies' programs for Tribal beneficiaries.

25 U.S.C. § 3502. Indian Tribal energy resource development	
Section	Text
§ 3502(b)(1)	The Director shall establish programs to assist consenting Indian tribes in: (D) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and (E) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.
§ 3502(b)(5)(A)	The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.
§ 3502(b)(5)(D)	The Secretary of Energy may reduce any applicable cost share required of an Indian tribe . . . [if it] meets criteria developed by the Secretary of Energy, including financial need.
§ 3502(c)(2)	. . . the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.
§ 3502(c)(5)	The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.
§ 3503(c)	(c) Other assistance (1) In carrying out the obligations of the United States under this chapter, the Secretary [of the Interior] shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land. (2) The Secretary may carry out paragraph (1) . . . (B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

The statute therefore provides broad authority for the Secretary of Energy and the Director of the Office of Indian Energy Policy and Programs to effect the changes in grant and loan eligibility criteria described in Subsections IV (1) and (2) above.

V. SPECIFIC ISSUES RE TRIBAL RENEWABLE ENERGY WHERE SUPPORT IS UNIQUELY AVAILABLE FROM, AND WITHIN THE UNIQUE RESPONSIBILITY OF, DOE AND WAPA

OSPA raises two issues that are of particular import in opening up Tribal lands to energy development projects: Funding Southwest Power Pool (and other Independent System Operator) “security deposits” for interconnection, and building new transmission accessible to Tribes.

1. Fund the Cost of “Security Deposits” Charged by Regional Transmission Organizations and Independent System Operators for Interconnection to the National Power Grid

A recent development regarding interconnection to the national power grid has presented a significant challenge to OSPA, and to other energy projects on Tribal lands in the Upper Great Plains. Access to a significant portion of the national grid is controlled by Regional Transmission Organizations and Independent System Operators. The Southwest Power Pool is the RTO that manages the grid for the Upper Great Plains area where the OSPA member Tribes are located.

RTOs and ISOs have complex processes for bringing new sources of energy production onto the national grid, and SPP’s process is typical. It involves a three-stage study process that takes place over a period of years. These studies identify existing transmission capacity on the grid, and determine what network changes – upgrades, new construction – may be needed to interconnect with the new power generator and transmit its power, and the associated costs of such network changes. Each study requires a “security deposit” that places a down-payment on the estimated cost of network changes.

In the case of SPP, OSPA and its development partner secured a position on the SPP “interconnection queue” in November 2017, and paid the security deposit for both projects. At that time, the total security deposit required for the full interconnection process was under \$2.5 million and fully refundable. But in July 2019, SPP changed its interconnection tariff and procedures, and increased the cost of interconnection to over an estimated \$9.5 million. This one action had the effect of increasing OSPA’s total wind farm development budget by almost 50%, and these deposits will now be at risk (*i.e.*, refundable only if certain conditions are met) if OSPA cannot complete the projects for any reason. Complicating things further, the deposits are variable and based on SPP’s estimates of network upgrade costs and allocations to new generation projects. The deposit amounts required by SPP could be higher, depending on the outcomes of

SPP studies, and OSPA would only have 15 business days to post the deposits once informed of the amount.

The results of the Phase 1 and 2 SPP interconnection studies for the projects that entered the interconnection queue in March 2017 have been posted over the last 6 months. Based on the Phase 1 study results, the security deposit for these projects has been set at a minimum average of \$59/kW – a 15-fold increase over the \$4/kW deposit required under the pre-2019 SPP rules. A third of the wind and solar projects withdrew from the queue after the Phase 1 study results were released and the deposit needed to be paid to SPP. Additional projects are expected to withdraw as a result of the Phase 2 study and additional deposit requirements.

The reason the SPP interconnection cost increases affect OSPA is because the OSPA member Tribes are interconnected with WAPA, and the WAPA Upper Great Plains region decided to join the SPP in 2015, and now is subject to the SPP tariff. In contrast, the WAPA interconnection tariff – which continues to apply to all WAPA interconnection customers except for those within the SPP service area – requires a total set of security deposits of less than \$1 million. See WAPA Open Access Transmission Tariff at §§ 3.3.1, 6.1, 7.2, 8.1, 10.1, 11.3, 13.3, and 29.2. <http://www.oatioasis.com/WAPA/WAPAdocs/WAPA-Tariff-Docs.htm>

But WAPA differs from SPP in one critical aspect – because WAPA is an agency of DOE, it shares the federal trust responsibility to protect and support Indian Tribes and Indians. WAPA’s – and DOE’s – trust obligations to Indians cannot be circumvented by the act of adopting the tariff of a private entity that does not share that responsibility. OSPA asks DOE to provide OSPA, and other Tribes and Tribal entities in the WAPA/SPP service territory, relief from the crippling interconnection cost increases imposed by SPP. OSPA is preparing a detailed position paper on this issue, and will be pleased to share it with DOE and WAPA in the near future.

2. Build Transmission Infrastructure

Reports from many sources – including NREL, WAPA, SPP, academics and industry groups – have detailed the need for more energy transmission infrastructure to bring power from the best generating sources to places with the greatest demand for power. In particular, there is broad agreement that new transmission is required to bring wind energy from the Upper Great Plains – indisputably the source of the strongest and most reliable on-land wind resources in the country – to more populated load centers in neighboring regions.

OSPA can speak to the real-life effects that such limited transmission options have had on the OSPA wind farms. As noted above, OSPA is now developing 570 MW of power – 450 MW on the Cheyenne River Reservation and 120 MW on the Oglala Sioux Pine Ridge Reservation. Both Tribes have the wind resources and the desire to develop much more, but the size of these initial projects has been limited by the transmission capacity that is available on the existing transmission system, including the WAPA facilities.



The Southwest Power Pool, which manages the energy grid in 14 states – including most of South and North Dakota – recently issued a report describing the need for more transmission and showing that, in its service area, investments in new and upgraded transmission pay for themselves. Moreover, such investments have resulted in lower retail energy costs, because local energy companies use the new transmission capacity to gain access to cheaper power sources, including renewable energy producers. <https://www.spp.org/value-of-transmission/>.

DOE’s programs – including the Tribal Energy Loan Guarantee Program and other programs from the Loan Programs Office, Energy Efficiency and Renewable Energy Programs, and WAPA’s Transmission Infrastructure Program can be a ready source of funding to increase transmission capacity to reach Tribes within the Upper Great Plains service area. In order to be effective, however, the DOE’s current loan and investment standards should be modified by administrative order to fund improvements to existing infrastructure in order to bring more transmission capacity to Tribes to support wind and solar farm development. In addition, NREL and WAPA could be instrumental in identifying the most efficient and cost-effective ways to increase existing transmission capacity to serve Tribal lands. The current grid in the Upper Great Plains region was built as a result of federal New Deal policies that invested heavily in rural electric infrastructure, and the Biden/Harris Administration’s commitment to renewable energy and development on Tribal lands requires a similar level of support.

VI. CONCLUSION

OSPA greatly appreciates the outreach by the Office of Indian Energy and the Loan Programs Office, and this opportunity to submit its written comments. We are at your disposal if we can provide any additional information, and we look forward to participating in the Roundtable Discussion on May 5.

Respectfully submitted,

Lyle Jack
Chairman of the OSPA Board of Directors
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605-407-9305

A handwritten signature in cursive script that reads "Lyle Jack". Below the signature is a solid horizontal line.

Jon Canis
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A handwritten signature in cursive script that reads "Jonathan E. Canis". Below the signature is a solid horizontal line.



**OCETI SAKOWIN
POWER AUTHORITY**

ATTACHMENT 1

THE OCETI SAKOWIN POWER AUTHORITY – LEADERSHIP AND STAFF

CHEYENNE RIVER SIOUX TRIBE

Ryman LeBeau
OSPA Board Director
and Tribal Council Representative of the
Cheyenne River Sioux Tribe

FLANDREAU SANTEE SIOUX TRIBE

Board Member Nomination Pending

OGLALA SIOUX TRIBE

Lyle Jack
OSPA Board Chairman
and former Tribal Council Representative and
Economic Development Director of the
Oglala Sioux Tribe

ROSEBUD SIOUX TRIBE

Daniel Gargan
OSPA Treasurer
and President of the Rosebud Sioux Tribe
Utilities Commission

Ronald Neiss
OSPA Elder Council Member
and Leader, Oyate for Fairness and Equal
Representation

STANDING ROCK SIOUX TRIBE

Warren Hawk
OSPA Board Director
and Tribal Council Representative of the
Standing Rock Sioux Tribe

YANKTON SIOUX TRIBE

Thurman Cournoyer
OSPA Board Vice Chair
and former Chairman of the
Yankton Sioux Tribe

Faith Spotted Eagle
OSPA Elder Council Member
and Co-Founder and Executive Director
of the Brave Heart Society

STAFF

Caroline Herron
Project Manager
Washington, DC

STAFF

Jon Canis
Secretary and General Counsel
Washington, DC