

Cheyenne River Sioux Tribe  
Crow Creek Sioux Tribe  
Flandreau Santee Sioux Tribe  
Oglala Sioux Tribe



Rosebud Sioux Tribe  
Standing Rock Sioux Tribe  
Yankton Sioux Tribe

**THE OCETI SAKOWIN POWER AUTHORITY  
SUPPLEMENT TO INITIAL STATEMENT OF INTEREST FOR  
U.S. DEPARTMENT OF ENERGY'S  
NATIONAL TRANSMISSION PLANNING STUDY**

**July 20, 2022**

The Oceti Sakowin Power Authority (OSPA) thanks the U.S. Department of Energy (DOE) for its latest outreach to Tribes, and solicitation of input for its National Transmission Planning (NTP) Study. OSPA filed its Statement of Interest with DOE on June 3, 2022. That Statement described OSPA's interest in the DOE transmission planning process – it described OSPA's seven member Sioux Tribes, discussed the OSPA Charter and its mandate to develop renewable energy on the reservations of all member Tribes, and described the desperate need for new and upgraded transmission if the Tribes are to develop the enormous wind and solar resources that they possess.

In this submission, OSPA identifies several factors, unique to the OSPA Tribes, that the NTP Study should consider during the planning process. OSPA looks forward to continuing to participate in the Study process.

**1. DEVELOPMENT OF RENEWABLE ENERGY ON INDIAN RESERVATIONS IS A HIGHLY EFFICIENT WAY TO MEET THIS ADMINISTRATION'S 2030 AND 2050 EMISSIONS GOALS**

The Biden/Harris Administration has stated its goals of achieving a 50%+ reduction in greenhouse gas pollution below 2005 levels by 2030, and achieving net-zero emissions economy wide by 2050. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/> Maximizing production of renewable energy on Tribal lands – and providing the National Power Grid expansions and upgrades necessary to achieve this – will be an important component in meeting these ambitious goals.

**A. The OSPA Tribes Cover Almost 20% of the Land Area of South Dakota**

The Reservations of the seven OSPA member Tribes cover more than 14,000 square miles – almost 20% of the total land area of South Dakota. The three largest Tribes by land area

– Cheyenne River, Oglala, Standing Rock – each have more land area than the states of Rhode Island and Delaware combined. Moreover, the largest Tribes by land area are contiguous with other OSPA Tribes:

<b>Tribal Reservations</b>	<b>Contiguous Land Area</b>
Cheyenne River & Standing Rock	~ 7,800 sq. mi.
Oglala Pine Ridge & Rosebud	~ 5,400 sq. mi.

A map showing the reservations of the OSPA member Tribes is appended at Attachment A.

Developing new transmission to and across these Tribal reservations can be enormously cost-effective and can minimize transaction costs. From the inception of OSPA in 2015, the OSPA member Tribes have acted as a cohesive unit, for example, every vote by the Board of Directors since OSPA’s inception has been unanimous. Coordination and cooperation by the Tribes in planning and deploying new and upgraded transmission should be expected. The NTP Study should take into account the enormous economies of scale and transactions savings that will be realized when building new or upgraded transmission to serve the Tribes.

**B. No NIMBY – The Tribes Want to Develop Renewable Energy Because It Is Consistent with Lakota/Nakota Culture and Values**

The OSPA member Tribes have been trying to develop their renewable energy resources for decades. Renewable energy is fully consistent with Lakota/Nakota culture and values, and is seen by the Tribes as a way to achieve meaningful economic development on the Reservations while fulfilling the Lakota/Nakota mandate to serve as responsible stewards of the Earth. New transmission construction will be embraced by the Tribes, who have been grossly underserved by the utilities that provide power to them. New and upgraded National Power Grid is also seen by the Tribes, and by the local co-ops as well, as a means of improving the resilience and reliability of electric power networks that regularly experience outages from extreme weather.

This absence of “Not In My Back Yard” opposition equates to cost savings in the permitting process, and overall savings in transaction costs. These substantial savings should be factored into the NTP Study.

**C. The OSPA Tribes Are Located in and Adjacent to Some of the Dirtiest Regions of the National Power Grid**

The OSPA Tribal reservations are located within the MRO West (MROW) subregion of the Emissions & Generation Resource Integrated Database (eGRID) maintained by the U.S. Environmental Protection Agency. <https://www.epa.gov/egrid/data-explorer> The output



emission rates for all the greenhouse gases and pollutants tracked by eGRID in the MROW subregion are above the national average, and MROW is adjacent to the dirtiest subregions in the continental United States (i.e., MRO East, SERC Midwest). Thus, new renewable energy generation in the region, accompanied with new interregional transmission facilities, would displace significant harmful emissions and accelerate the decarbonization of the National Power Grid. These substantial environmental benefits should be factored into the NTP Study.

## **2. KEY FACTORS TO CONSIDER IN PLANNING TRANSMISSION TO ENABLE ENERGY DEVELOPMENT ON TRIBAL LANDS**

There are a number of factors unique to the OSPA member Tribes – and to other Tribes in the Upper Great Plains region – that could play a major role in the planning and deployment of new or upgraded transmission facilities, but that may not be immediately apparent. OSPA discusses several of these below.

### **A. The Mni Wiconi Water Project – Connections and Rights of Way**

The Mni Wiconi (pr. Mini Wich-O-nee) water pipelines deliver water from the Missouri River to Tribal and non-Indian communities in South Dakota. Mni Wiconi means “Water Is Life” in Lakota. The Mni Wiconi Project was authorized by Congress in 1988, and built one of the largest water pipelines in the United States. <https://www.govinfo.gov/content/pkg/CRPT-113srpt74/pdf/CRPT-113srpt74.pdf> The Mni Wiconi pipeline system runs through the Reservations of two OSPA member Tribes – the Oglala Sioux Tribe and the Rosebud Sioux Tribe – both of which are sponsors of the Mni Wiconi Project. A map of the Mni Wiconi pipeline system is appended as Attachment B.

The Mni Wiconi pipeline system may be a significant source of rights of way (ROW), across both Tribal lands and non-Tribal lands. The ROWs for the core pipelines originating at the Missouri River are owned by the Oglala Sioux Tribe and held in trust for their benefit by the U.S. Bureau of Reclamation. OSPA does not know at this point if the existing ROWs possessed by the Mni Wiconi Water Project are adequate to accommodate aerial cables and towers, or underground transmission, or if they could be expanded to do so. But this is a matter that DOE should pursue with the Tribes and the U.S. Bureau of Reclamation.

If the Mni Wiconi ROWs could be used for new transmission, they could dramatically expedite development of new grid transmission to serve those areas. This would be of particular importance to the Oglala and Rosebud Sioux Tribes: The Oglala Pine Ridge wind farm currently under development is limited to 120 MW because of transmission constraints, even though the Tribe has the resources and the desire to build much more. The Rosebud Sioux

Tribe currently has no transmission capacity available to it, and so cannot develop any utility-scale renewable energy, although it has the wind and solar resources, and the desire, to do so.

### **B. State Rights of Way Along Railroad Lines – Including Defunct Lines**

As noted in its Statement of Interest, OSPA is currently developing two utility-scale wind farms, one on the Cheyenne River Reservation and one on the Oglala Pine Ridge Reservation. As part of the community outreach for this development, OSPA representatives held introductory talks with numerous South Dakota state legislators and members of the Administration under Dennis Daugaard’s Governorship. Members of the Administration Staff noted that the State owns rights of way along railroad lines across South Dakota, including lines that have long been out of service. The Staff raised the possibility that such ROWs could be put to use to build new power transmission lines.

If such ROWs are available, they could be very important to developing new transmission capacity to serve Tribes. Many rail lines that are now out of service run through or adjacent to the reservations and connect the Tribes, and ROWs associated with them have the potential to expedite the development of new transmission. The NTP Study should include an exploration of this possibility.

### **C. WAPA Rights of Way and Interconnections**

The WAPA service area covers all the OSPA member Tribes’ Reservations. WAPA has long-term right-of-way contracts with many OSPA member Tribes, and has a presence on those Reservations. The transmission facilities owned by WAPA, or the WAPA-Basin-Heartland Integrated Network, are the way all OSPA member Tribes can connect to the National Power Grid. This physical presence, plus WAPA’s innovative Transmission Infrastructure Program, and its unique role as a purchaser of energy for the federal government (discussed below), make WAPA a key player in any transmission planning involving the OSPA Tribes.

## **3. FEDERAL POWER PURCHASE AGREEMENTS FOR INDIAN ENERGY SHOULD BE INCORPORATED INTO THE PLANNING PROCESS**

OSPA understands that the NTP Study may not at first consider Power Purchase Agreements (PPAs) as within the scope of the study, which is focused on catalyzing the nationwide development of new and upgraded high-capacity electric transmission lines, consistent with the principals of energy justice. However, OSPA believes that the targeted issuance of PPAs by DOE, WAPA and other federal agencies can play a major role in financing new renewable energy generation, new transmission construction and expansion of existing transmission facilities, and so the role of PPAs should be incorporated into the NTP Study.



**A. The Critical Role of DOE-issued PPAs Has Been Recognized by DOE Under the Obama Administration**

In 2005, the Energy Policy Act was enacted into law. Among many other things, the law established support for Indian energy and preference for the federal government’s purchase of Indian energy. As described by the Government Accountability Office (GAO):

The Energy Policy Act of 2005 (EPACT05) includes several mechanisms that can support tribes in developing their energy resources. For example, the act provides for federal grants, loans, and technical assistance to tribes and tribal energy resource development organizations to carry out energy projects and to process, use, or develop tribal energy resources. Furthermore, EPACT05 authorizes federal agencies and departments to meet their own considerable energy needs by giving preference to majority tribally owned energy suppliers, with certain requirements, and provides an incentive for using renewable energy produced on tribal lands.

*U.S. Government Accountability Office, “Report to the Vice Chairman, Committee on Indian Affairs, U.S. Senate,” GAO-19-359, April 2019, at p. 2.*

In 2012, Energy Secretary Steven Chu issued a policy statement and guidance that expressly extended the Indian Preference for energy purchases from the Energy Policy Act of 2005 to DOE energy purchases. <https://www.energy.gov/articles/energy-department-issues-tribal-renewable-energy-purchase-guidance-and-project-development> That announcement was followed on February 5, 2013 by DOE’s issuance of Acquisition Letter No. AL 2013-02, which confirmed the application of the Indian Preference to all purchases of utility services by DOE.

Yet, despite these express directives, when GAO researched the issue, it concluded that “None of the three primary federal agencies with authority to enter into energy contracts – the General Services Administration (GSA), and the Departments of Defense (DoD) and Energy (DOE) – have used the tribal energy preference since it was established in the Energy Policy Act of 2005.” GAO-19-359 at p. i (Highlights).

**B. There Is an Example of Federal Issuance of a PPA to Purchase Energy from an Indian-owned Organization**

The federal government has only one example of a PPA for Indian-produced energy: On September 24, 2014, the General Services Administration executed a PPA with MG2 Tribal Energy, LLC. (Renewable Energy Contract No. GS-OOP-14-BSD-1016). That PPA apparently was

awarded without reference to the Indian preference. The PPA was issued early in the pre-construction process – a point of interconnection to the National Power Grid had not yet been determined. While this is only a single example, and was issued by GSA without reference to the Indian Preference provision of the Energy Policy Act of 2005, it nevertheless serves as a model for the federal purchase of wind power from Tribally-owned organizations.

### **C. PPAs Allow Tribes to Raise Early-Stage Private Capital, and Could Multiply the Impact of Bipartisan Infrastructure Grants and WAPA TIP Loans**

In comments submitted in an earlier DOE outreach proceeding, OSPA has detailed how the lack of early-stage development funding is “the single largest impediment” to the development of Indian energy. See Comments of the Oceti Sakowin Power Authority in the U.S. Department of Energy Roundtable Discussion on Funding and Financing Tribal Energy Projects, submitted to DOE May 3, 2021, at pages 4-9.

As OSPA described in those Comments, a PPA is as good as cash – developers holding a PPA can raise private capital from any number of banks or other investors on reasonable terms. PPAs can also serve as the basis for securing federal grants, loans and loan guarantees – potentially including grants from the new Bipartisan Infrastructure Law (which grants require matching funds from the recipients) or loans from the WAPA Transmission Infrastructure Program.

Because DOE-issued PPAs can generate the private capital needed to finance new transmission and upgrades to the National Power Grid, and make otherwise cash-poor Tribes and Tribally-owned organizations players in helping to deploy such infrastructure, the DOE issuance of PPAs should be incorporated into the NTP Study.

### **D. WAPA Could Play a Central Role in Selecting and Awarding Tribal Energy PPAs**

DOE, the General Services Administration and the Department of Defense are the three main federal agencies authorized to purchase power for the federal government. Moreover, WAPA expressly is tasked with helping all federal agencies meet their energy needs: WAPA “works with the Department of Energy’s Federal Energy Management Program to help federal agencies meet renewable energy goals, reduce emissions and foster markets for emerging technologies.” See <https://www.wapa.gov/Renewables/ForFederalAgencies/Pages/federal-agencies.aspx> WAPA could therefore play an important role in the purchase of Indian-produced power for all federal agencies. At the same time, WAPA is the regional power marketer serving the Upper Great Plains region where all of the OSPA member Tribes are located. All OSPA member Tribes are connected to WAPA, either directly or through the WAPA-



Basin-Heartland Integrated Network. As such, WAPA is the federal agency best positioned to market and deliver power generated by OSPA.

**CONCLUSION**

OSPA greatly appreciates the commitment of DOE to begin to fix the profound deficiencies in the U.S. National Power Grid by conducting the National Transmission Planning Study, and your outreach to Tribes to participate in that process. OSPA looks forward to continuing to participate, and we are at your disposal if we can provide any additional information or materials.

Respectfully submitted,

A handwritten signature in black ink that reads "Lyle Jack".

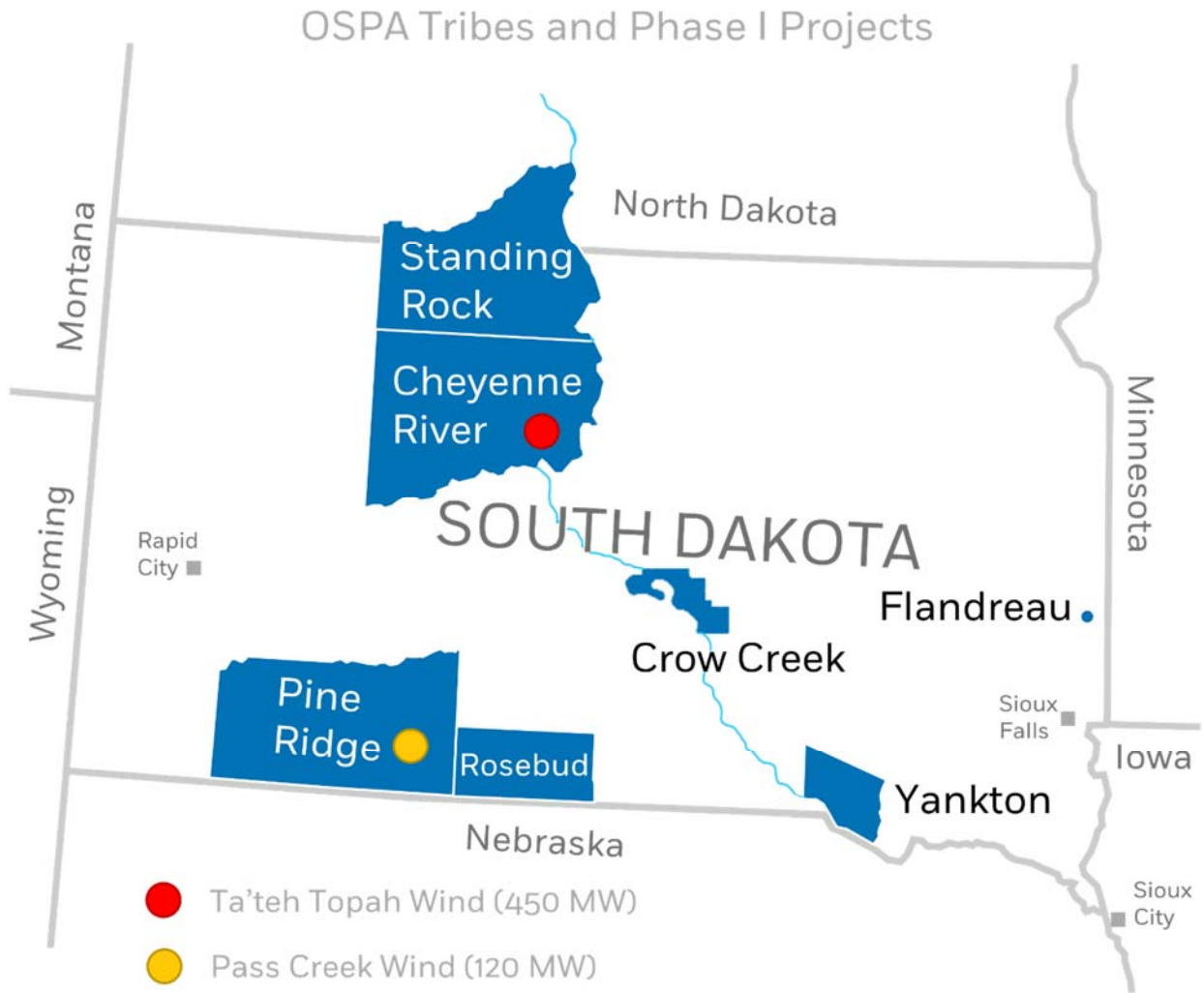
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**Attachment A: Reservations of OSPA Member Tribes**

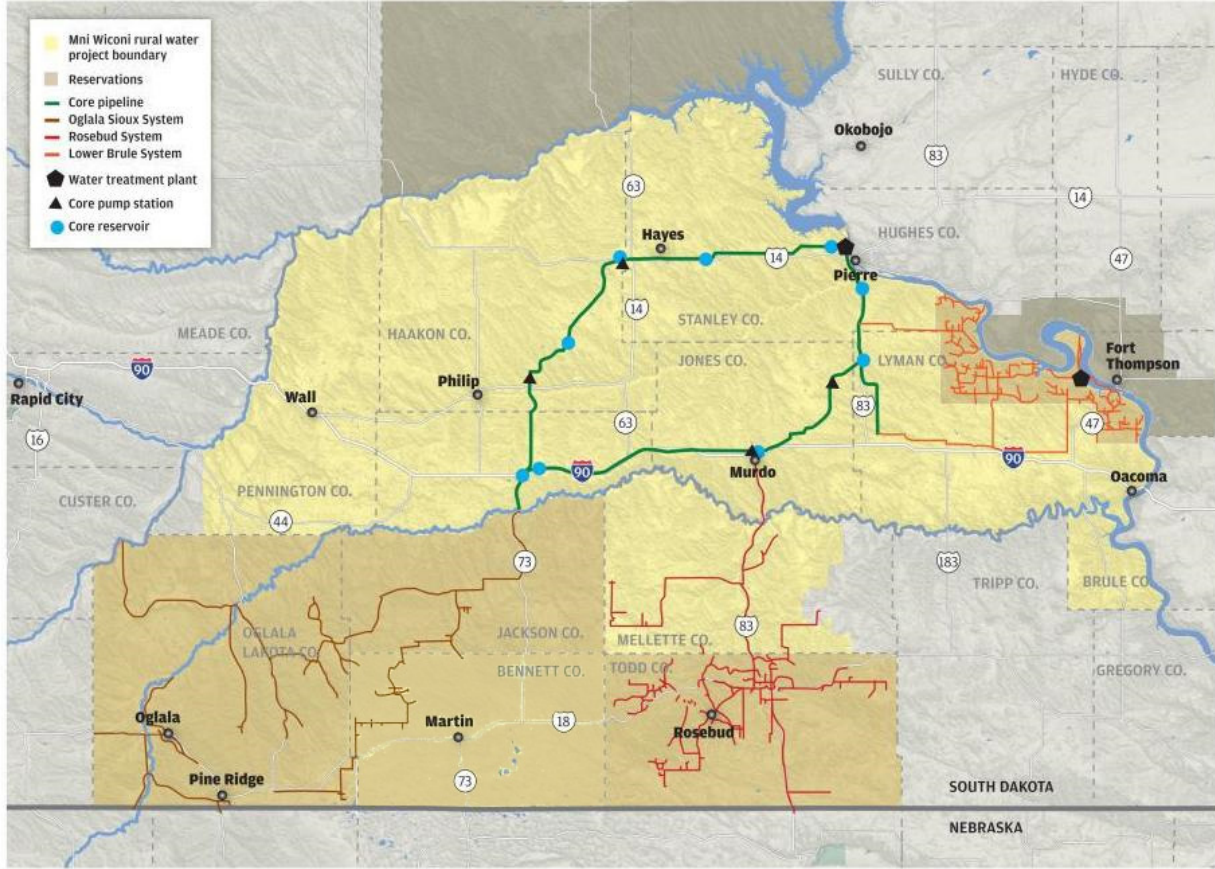






**Attachment B: Mni Wiconi Project Pipeline System**

**Mni Wiconi rural water project**



maps4news.com/CHERE, Lee Enterprises graphic