

# Low Carbon Energy Project Siting Advisory Board

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## MEETING SUMMARY, NOVEMBER 15, 2021

### Advisory Board Members participating:

- Association of Washington Business – Peter Godlewski
- Audubon Society – Adam Maxwell
- Climate Solutions – Vlad Gutman
- Front and Centered – Mariel Thuraingham
- Invenergy – Laura Miner
- Klickitat County – Dave McClure
- Makah Tribe – Haley Kennard
- Port of Benton – Diahann Howard
- Port of Grey’s Harbor – Gary Nelson
- Puget Sound Energy – Cassie Bordelon
- Puyallup Tribe – Lisa Anderson
- Sierra Club – Stephanie Hillman
- Washington Environmental Council – Rebecca Ponzio
- Washington State Building and Construction Trades Council – Mark Riker
- Washington State Labor Council – Joe Kendo
- Whatcom County – Amy Keenan

### State Agency Representatives and Facilitation Team participating:

- Department of Ecology: Joenne McGerr, Brendan McFarland, Diane Butorac
- Department of Commerce: Sarah Vorpahl
- Washington Governor’s Office: Becky Kelley, Caitlyn Jekel
- Ross Strategic: Tom Beierle, Tristan Márquez

### Meeting Action Items

Responsible Party	Action Item	Start Date	Date Due
Advisory Board members	For the next meeting, help identify the root causes and trade-offs of the systemic issues identified in the November meeting; help identify options for addressing these issues.	Nov 15	December 15th
Facilitation team	Synthesize the systemic issues identified in the November meeting.	Nov 15	December 15th

### Opening

Tom Beierle (Ross Strategic) welcomed Advisory Board members and meeting attendees and provided an overview of the meeting agenda and objectives. Advisory Board members joining for their first meeting introduced themselves and spoke about their interest and experience in facility siting and environmental review.

### State Updates

Becky Kelley and Caitlyn Jekel (Washington Governor’s Office) provided an update on a draft bill regarding the Washington Energy Facility Site Evaluation Council (EFSEC). It includes administrative and structural changes such as:

- Making EFSEC a standalone agency
- Expanding access to the pre-application process
- Adding eligible project types
- Updating the council membership to include Tribal representation
- Tightening up timelines for the process

Jekel provided an update on another draft bill to expand labor standard tax incentives created in the Clean Energy Transformation Act (CETA). It would make energy storage projects eligible and generally incentivize the growth of the manufacturing supply chain necessary to realize clean energy growth in Washington.

The Governor's Office has also asked the Department of Commerce and State Workforce Board to develop a proposal for more intentional convening around the workforce elements of the Washington State Energy Strategy to promote growth and training of the state's clean energy workforce.

Diane Butorac (Ecology) updated the Advisory Board on the Low Carbon Energy Project Siting interim legislative report from Ecology and Commerce due on December 1<sup>st</sup>. The report will outline the study process and provide information on potential improvements to siting, environmental review, and permitting and the approach to engaging Tribes, stakeholders, and agencies.

### *Overview of Environmental Review and Permitting*

Butorac and Brenden McFarland (Ecology) presented an overview of environmental review and permitting in Washington State. The presentation discussed the types and processes for reviews under the State Environmental Policy Act. It discussed project and non-project reviews, such as planned reviews. The presentation can be found [here](#).

In response to questions, McFarland clarified that there are different levels of permitting based on types and magnitude of environmental impacts from projects. Butorac clarified that Tribal consultation is not currently required as part of the Environmental Impact Statement (EIS) process, but that it is one of the ways that Tribes could be involved in the process. McFarland further explained that the State Environmental Policy Act (SEPA) rules require lead agencies to seek comment from affected Tribes.

An Advisory Board member commented it would be important to define what Tribal notices and consultation means in these processes and when it should occur. Other members added that it is best if consultation occurs early and often in the process so that Tribes are engaged in a meaningful way. Others mentioned the role of local government. A member suggested notices be sent to both the regulatory and political offices of Tribes. Another member noted that early engagement should also extend to affected communities as well.

A member asked about planned actions under the Growth Management Act (GMA) and how costly those actions were. McFarland provided examples and explained that planned actions can provide opportunities for considering siting and project reviews. Planned actions happen early in the process and are normally funded by local jurisdictions. In the past, funding has been made available for local governments to develop planned actions. A member noted that Klickitat County is not a GMA county but has developed an energy overlay zone using a similar approach.

Another member noted that the level of detail provided in the initial phases of the SEPA process may not allow Tribes and stakeholders to fully understand potential impacts. McFarland explained that the level of detail is different for SEPA reviews than for permitting because the environmental reviews occur early in the process.

### *Sharing and Discussion of Key Systemic Issues Related to Siting*

Beierle introduced the Advisory Board to the virtual white board tool, Mural Board, where members were asked to post answers to the question: *What do you see as the top 3-5 systemic issues related to siting of projects, environmental review and permitting processes, tribal treaty rights and cultural resources processes, and consideration of highly impacted communities?* The Advisory Board provided input and discussed grouping the issues into categories. The full list of systemic issues, grouped by categories, follows this meeting summary.

Issues identified through the white boarding exercise and discussion included:

- A lack of consistency and accountability in siting, environmental review, and permitting due to having multiple agencies with overlapping processes and sometimes contradictory interpretations. Employees within the same agencies sometimes provide contradictory information. There are inconsistent standards across levels of government.
- Consultation with Tribal governments should be required and should happen earlier and more frequently in the process. A system should be designed to help Tribes easily define their concerns and the impacts of proposed actions on their treaty resources.
- Rural communities are particularly challenged during siting, environmental review, and permitting processes and often do not know of opportunities for engagement.
- Environmental justice review standards are unclear. Environmental health disparities should be mapped. Rural communities should be included in environmental justice conversations.
- Greenhouse gas analysis and boundaries are not clear.
- Some types of impacts should be weighted differently than others.
- There is a lack of clear expectations and understanding about permitting requirements and impact mitigation.
- Project proponents sometimes provide inadequate or incomplete information on projects that make it challenging to understand impacts. Agencies lack a clear process to address this.
- Timing of permitting processes and appeals can be unpredictable, with issues being raised at too many points. Other states' timelines should be looked at to see how Washington compares. There may be an opportunity for more concurrent steps rather than consecutive steps.
- The benefits and impacts of clean energy projects should be accurately measured based on science. There is a need to define the environmental externalities that must be addressed.
- Agencies sometimes lack funding to provide dedicated and timely review.

### *Public Comment*

Justin Allegro of the Nature Conservancy informed the Advisory Board about the Conservancy's Power of Place effort to develop a robust modeling and mapping effort for forecasted renewable energy and energy transmission development by state. It will be published in 2022.

## Closing

The facilitation team will synthesize the issues identified by the Advisory Board ahead of the December meeting and use the topics as the subjects of future Advisory Board meetings. The next meeting will focus on unpacking these systemic issues and identifying potential solutions.

## KEY SYSTEMIC ISSUES FROM ADVISORY BOARD DISCUSSION

This section documents the answers Advisory Board members gave to the question: *What do you see as the top 3-5 systemic issues related to siting of projects, environmental review and permitting processes, tribal treaty rights and cultural resources processes, and consideration of highly impacted communities?* Responses were documented in Mural, grouped, and discussed with members during the meeting.

### CLEAR EXPECTATIONS AND COMMUNICATIONS

- Lack of knowledge as to whom needs communication and well (early and often)
- Lack of knowledge of permitting requirements
- Investor confidence and need for some certainty early in process
- Lack of communication in advance of application submittal (start the process before the process)
- Lack of clarity in the state's environmental standards and expectations, both for measuring impacts and mitigation of identified impacts
- Cost for EIS is indeterminate

### CLARITY OF MITIGATION OPPORTUNITIES

- Clear expectations for potential mitigation
- Unknown ways to mitigate for certain impacts, like vessel traffic and orca impacts. Major project applicants would benefit from having pre-approved and ready to go mitigation, which would also provide assurance to environmental interests that the mitigation is real and meaningful.

### IMPROVED PLANNING

- Need for identification of opportunity zones and no-go zones for clean energy projects
- Need for transmission and distribution planning to be based on siting potential

### INFORMATION FROM PROPONENTS

- Inadequate/incomplete information from project proponents and lack of clear process for permitting agencies to address this
- Stricter scoping requirements

## TRIBAL TREATY RIGHTS AND TRIBAL RESOURCE PROTECTION

- Tribal Consultation should be compulsory
- Need for appropriate and meaningful Tribal consultation mechanism that occurs prior to decision-making and allows Tribes to define impacts and concerns
- Consultation with Tribes regarding Salish Sea treaty rights
- Lack of process and clarity around how to engage with Tribal governments and what to do with information and clear consequences of not doing engagement work
- Tribal governments brought in well after feasibility and design (should be brought in much earlier)
- Consideration for migratory species in siting (in particular those which are treaty resources)
- Protection of treaty resources and spaces (both marine and terrestrial)

## ENVIRONMENTAL JUSTICE CONCERNS

- Environmental Health Disparities mapping
- Community consultations
- Environmental justice review standards are lacking and thus a true review ends up being some unicorn in the permitting world

## RURAL COMMUNITIES

- Guidance on permitting new low carbon technologies particularly in rural and resource lands
- Rural communities are challenged
- Local governments need to understand and implement consultation

## STATE AND LOCAL AGENCY CAPACITY

- Lack of funding for agencies to provide dedicated, and timely review

## ENVIRONMENTAL REVIEW AND PERMITTING PROCESS IMPROVEMENTS

### *Multiple Agencies and Processes*

- Agency separation between personnel responsible for decision from agency staff responsible for SEPA document preparation
- Inappropriate lead agency designations for resources and expertise lead to inadequate review requiring supplementation and delays
- Lack of lead agencies to hold others accountable to process and schedule
- Too many levels of government involved, or inconsistent standards (maybe only perception)
- Conflicting interpretations of regulations between local and state regulatory officials
- Venue shopping between state and local permitting authorities
- Lack of (awareness of) shared mission/goals
- Plethora of permits and overlap

## *SEPA*

- Require specific policies to allow agencies to exercise substantive SEPA authority
- Assumption that changes to existing facilities require less rigorous review
- Sorting out SEPA determination
- Align requirements for a "reasonable" alternative to be in line with a proposal objective and purpose
- Scope of an EIS studies permitted activities from other regulatory entities. For example, projects requiring wastewater, air, or wetland permits do not need to be assessed within an EIS because an alternative permit process determines the project's impact on the environment. These impacts are known and regulated.

## *Timing*

- Unpredictable timing for permit processes
- Consecutive processes as opposed to concurrent processes
- Indeterminant time frame for SEPA
- Timeframe for an EIS is undefined and problematic for companies wishing to get product to market within a certain timeframe
- Process compressed without consideration of impact

## *Analysis of Impacts*

- How to navigate potential vessel traffic increases in the Salish Sea
- Equal weight given to different issues ranging from viewshed to vessel traffic impacts that have different consequences and relationship to laws
- Accounting for cumulative land-use impacts in avoidance, minimization, and mitigation
- Evaluation process and procedures as well as science-based analysis should be base for decision making

## *Greenhouse Gas (GHG) Emissions*

- Accurate GHG analysis based on best science
- How to navigate greenhouse gas emissions
- Weighing benefits of clean energy against impacts

## *Appeals/Challenges*

- The appeals process length is unknown and adds additional time and cost to businesses desiring to locate or expand in Washington
- Washington is competing with other states for major clean energy projects and needs a permitting and appeals process for these projects that doesn't create a disadvantage for the State. Washington has some existing advantages in clean energy project siting, but the uncertainty associated with timelines is a major disadvantage for the state. We should look at the other states to get a sense of how WA's timelines compare to other states.
- Strengthen project challengers' standing threshold
- Uncertain and numerous appeals opportunities

## *Inefficient and Unpredictable Processes*

- New information from project proponents during permitting review process and lack of clear process for permitting agencies to address this
- Later permits result in significant changes not accounted for in earlier permit decisions and never revisited
- Issues raised at too many points in the process
- Low predictability for the process
- No criteria for what signify an MDNS (Mitigated Determination of NonSignificance) and a DS (Determination of Significance)
- Design and technical information cloaked in secrecy under confidentiality concerns keeps stakeholders uninformed

#### *Ocean Resources Management Act (ORMA)*

- ORMA integration to the process