

# Low-Carbon Energy Project Siting Advisory Board

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## MEETING SUMMARY, FEBRUARY 9, 2022

### Advisory Board Members participating:

- Association of Washington Business – Peter Godlewski
- Audubon Society – Adam Maxwell
- Climate Solutions – Kelly Hall
- Invenergy – Laura Miner
- Klickitat County – Dave McClure
- Makah Tribe – Vice-Chairman Patrick DePoe
- Port of Benton – Diahann Howard
- Port of Grays Harbor – Gary Nelson
- Puyallup Tribe – Lisa Anderson
- Renewable Energy Group – Kent Hartwig
- Spokane City – Breean Beggs
- Washington Environmental Council – Rebecca Ponzio
- Washington State Association of Counties – Paul Jewell
- Whatcom County – Amy Keenan

### State Agency Representatives and Facilitation Team participating:

- Department of Ecology: Joenne McGerr, Brenden McFarland, Diane Butorac
- Office for Regulatory Innovation and Assistance (ORIA): Shanelle Pierce, Kelly Craig
- Washington Governor’s Office: Becky Kelley
- Ross Strategic: Tom Beierle, Tristan Márquez

### Meeting Action Items

Responsible Party	Action Item	Start Date	Date Due
	None		

### Opening

Tom Beierle (Ross Strategic) welcomed Advisory Board members and meeting attendees and provided an overview of the meeting agenda and objectives. He presented on the planned topics for upcoming 2022 meetings.

### State Updates

Becky Kelley (Washington Governor’s Office) provided updates on Governor Inslee’s clean energy, Tribal consultation, and siting-related bills. This includes House Bill 1812 to modernize the Washington Energy Facility Site Evaluation Council (EFSEC), make it a standalone agency, and include Tribal government representatives on the council. The bill is out of Appropriations and headed to the House floor. The Governor’s Office is working on two tax incentive bills (House Bills 5744 and 1988) for the deferral of sales and use taxes for the construction of new clean energy-related projects. The office is also working on House Bill 1753 to support effective and early consultation with Tribes related to Climate Commitment Act investments. The governor’s full [climate package and budget proposals](#) for the 2022 legislative session are available online.

## State Agency Pre-Application Resources

Two state agencies presented on available pre-application resources. These presentations can be found on Ecology's [website](#):

- State agency permitting process improvements for pre-application phase, *Diane Butorac, Ecology*
- Permitting resources, *Shanelle Pierce and Kelly Craig, Office for Regulatory Innovation and Assistance (ORIA)*

A member suggested permit approvals could be done based on a project's commodity. Joenne McGerr (Ecology) noted that environmental review and permitting are required to address issues related to each project and are site-specific. Diane Butorac (Ecology) noted that the Advisory Board could discuss what constitutes a clean energy project in the future and this could be related to a commodity.

## Insights from Applicants

Beierle presented a summary of previous comments from Advisory Board members on the pre-application phase. Advisory Board members that have been involved as applicants in environmental review and permitting processes were invited to provide thoughts on the process. Laura Miner (Invenergy) and Kent Hartwig (Renewable Energy Group) discussed what their organizations did to prepare for siting, environmental review, and permitting in Washington and other states, as well as lessons learned from the experience.

- Siting considerations included land use, energy resource availability, topography, transmission routes, cultural resources, and environmental resources.
- Permitting, zoning and knowing the top issues that the lead agency is going to be interested in, before beginning the application process is useful.
- Presenting a thorough SEPA checklist and application makes the process easier.
- It can be helpful to have an early sense if a lead agency will make a Determination of Significance (DS) or if a Mitigated Determinations of Non-Significance (MDNS) process would be done and why. This allows applicants to better assess the timeline and complexity of the environmental review and permitting processes and determine if they want to modify the project, which could allow an MDNS to be done. Butorac noted that having enough information on the proposal for the lead agency to make the determination is important and if this is not available then that can be a factor. Brenden McFarland (Ecology) clarified that it may be helpful for agencies and applicants to communicate early in the process, but there is some concern that this may be perceived as excluding public engagement.

## Advisory Board Discussion of Pre-Application Process

The Advisory Board split into two breakout groups to discuss issues in the pre-application process and what information would be useful to improve the process.

Advisory Board members provided the following key insights in breakout discussions:

- Applicants, Tribes, and stakeholders would all benefit from earlier pre-application understanding about potential critical issues of concern (e.g., that could cause a DS) so these

issues can start to be addressed before an environmental review begins; this would help reduce surprises and conflicts that may emerge later in the process or in permitting.

- Once applicants submit an application, the clock starts ticking and if there has not been enough discussion on complex issues or information needed, then that can affect the path chosen.
- For applicants, time is money. A slower siting, permitting, and review process impacts their ability to get products to market and compete.
- Tribal engagement typically ends up happening late in the process when plans are relatively established (e.g., mitigation measures already determined) and there is less chance of influencing project design.
- Applicants sometimes have difficulty engaging Tribes or stakeholders early in the process.
- Tribes are constrained by capacity, resources, and competing priorities and what is a priority to applicants isn't necessarily a priority for Tribes. Ideally, Tribes would have 6-12 months to review applications; 30 days is not enough.
- Applicants could fund Tribes to support Tribal staff for review and engagement.
- The pre-application process should be mandatory. Applicants should be required to participate in a pre-application meeting where the lead agency coordinates with other agencies ahead of a permit application submittal. Pre-application meetings provide an opportunity to identify early indications of any significant issues or fatal flaws. Ideally, these meetings should include a visit to the project site. Applicants should be charged a fee to compensate agencies for staff time. Kittitas County has a required pre-application meeting for some types of projects, charging applicants \$500-600.
- It is helpful to include local entities with knowledge of stakeholders and issues that can help applicants know who to meet with and what issues may arise. Counties often play this role (e.g., with knowledge of key local/state/federal agency contacts, Tribal contacts, and key stakeholders), but don't necessarily know all of the players. State agencies (e.g., ECY, WDFW) are also good contacts for who may be interested stakeholders.
- Getting a DS and doing an Environmental Impact Statement (EIS) may not be a big deal for an applicant who has done 80-90% of the analytical work already. Doing an EIS may save time in the long run; a MDNS could be sent back on appeal to do an EIS.
- It would be helpful to get an earlier sense of what lead agencies are thinking, even if that means "getting to no" quicker, so that applicants can move on to other alternatives or projects.
- Local governments are always looking to get as much information as early as possible from applicants to provide them with feedback. However, the information isn't always available, which makes it hard to identify the correct environmental review path.
- Confidentiality is important to applicants during the information gathering process to help applicants comfortably provide more information earlier. Some entities use non-disclosure agreements to protect applicant confidentiality and proprietary information, but these do not always work.
- Applicants consider a lot of publicly available information and agency staff members are very valuable throughout the process. Applicants are generally pretty committed to a project once the initial screening is complete.

- Before interacting with developers, property owners (e.g., ports) who lease and sell land to them can conduct due diligence with Tribes, and communities to determine the best locations for projects. This is complementary to the due diligence that developers would do on their own.

### *Closing*

The next meeting will be on March 16<sup>th</sup> and will focus on Local Government, GMA, and Planned Actions.