

**Prepared Statement of Jack Ferguson
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**Oversight Hearing on “Tribal Prosperity and Self-Determination
through Energy Development”**

U.S. House of Representatives, Committee on Natural Resources

October 4, 2016

Good morning Chairman Bishop and members of the Committee. My name is Jack Ferguson and I am a member of the Colville Business Council, the governing body of the Confederated Tribes of the Colville reservation (“Colville Tribes” or the “CCT”). I also serve as the Colville Tribes’ delegate to the Intertribal Timber Council (“ICT”). My testimony today is behalf of both the Colville Tribes and the ITC and focuses on the need for Congress to authorize new tools to promote tribal biomass development and forest health on federal forest land.

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from all across eastern Washington State. The present day Colville Reservation covers approximately 1.4 million acres and its boundaries include parts of Okanogan and Ferry Counties. The CCT has more than 9,400 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest and the second largest in the state of Washington. About half of the Colville Tribes’ members live on or near the Colville Reservation. Of the 1.4 million acres that comprise the Colville Reservation, more than 922,240 acres are forested land.

The Colville Reservation originally consisted of nearly three million acres and included all of the area north of the present day Reservation bounded by the Columbia and Okanogan Rivers. This 1.5-million-acre area, referred to as the “North Half,” was opened to the public domain in 1891 in exchange for reserving hunting and fishing rights to the CCT and its members. Most of the Colville National Forest and significant portions of the Okanogan National Forest are located within the North Half. Both forests are contiguous to most of the northern boundary of the Colville Reservation.

The Need for Reliable Wood Supply for Biomass Projects

Between fuel costs, hauling distance, access to the power grid, and fluctuating incentives for renewable energy, profit margins are razor thin for forest biomass energy. As such, certainty of wood supply is absolutely critical for tribes or third party financiers to invest resources in biomass projects.

The Colville Tribes developed the Tribal Biomass Demonstration Project, which is included as section 6 in the Native American Energy Act (H.R. 538) and was included in

versions of that legislation introduced in prior Congresses. Section 6 would add a new section to the Tribal Forest Protection Act of 2004 (“TFPA”) that would establish a five-year demonstration project. The demonstration project would require the Secretaries of Agriculture and Interior to enter into contracts or other agreements with Indian tribes to promote biomass energy production by providing reliable supplies of woody biomass from federal land.

The demonstration project in H.R. 538 would *require* the applicable Secretary to enter into at least four new projects during the five-year authorization that meet the requisite eligibility criteria—a total of 20 projects. Existing authorities authorize, but do not direct, federal agencies to enter into such arrangements. It would also allow for tribal management practices to apply to areas included in contracts or agreements entered into under demonstration projects. As this Committee has examined in prior hearings on Indian forest management, tribal forest sustainable management practices are much more effective and efficient than those of federal land managers.

Contracts or agreements entered into under the demonstration project could have maximum terms of 20 years, with the ability to renew for additional 10 year terms. The ability to enter into agreements with terms longer than 10 years – the current limit under existing authorities – will greatly contribute to the ability of Indian tribes to secure financing and otherwise develop biomass projects.

The demonstration project is also included in S. 209, which is part of the House-Senate conference on the Energy Policy Modernization Act (EPMA). Mandatory agreements with federal land management agencies like those provided in the Tribal Biomass Demonstration Project would be extremely helpful in providing some level of certainty of wood supply and enhancing forest health on federal lands. The Colville Tribes and the ITC urge the Committee to ensure that this provision is included in any final version of the EPMA.

Congress should Provide Additional tools to Expedite Harvest of Small Diameter Logs and Improve Forest Health on Federal Lands

Additional tools should be provided to federal agencies to accelerate and sustain the production of small diameter material available for biomass projects and to otherwise improve forest health on federal lands. Like the Native American Energy Act, many of these tools are currently being discussed as part of the House-Senate conference on the EPMA. Examples include:

- Timelines for TFPA Projects: The TFPA currently allows tribes to request forest health treatments be conducted on federal land adjacent to tribal forests. However, only a handful of TFPA projects have been implemented in the 12 years since enactment. Like many other reservations, the Colville Reservation’s forests face an imminent threat from pests that have infected large areas of the Colville and the Okanogan National Forests, specifically the spruce budworm and mountain pine beetle. Some of the infected areas are currently just a few miles

north of our Reservation boundary. Wildland fire from neighboring federal lands also continues to pose a danger to the Colville Reservation. Many areas of the neighboring national forests contain overstocked stands with fuel loadings well outside historic ranges. When fires occur on these stands they are extremely difficult to manage and pose an extreme risk to the CCT's trust lands.

The ITC and the U.S. Forest Service have worked to improve TFPA implementation and there is a growing number of projects in the pipeline. Both the ITC and the Colville Tribes supports provisions in H.R. 2647, the House substitute amendment to EPMA, and Senator Daines' "Tribal Forestry Participation and Protection Act" that would improve the certainty and timeliness of TFPA projects.

- 638 Authority for TFPA: The ITC and the Colville Tribes support the use of "638" contracting for all federal departments to allow tribes to directly conduct TFPA projects to protect their lands and communities. This authority, also under current discussion in the EPMA conference, would allow tribes to bring more of their knowledge of the landscape to federal forest management. In the future, the Colville Tribes would also like to see additional authority to contract other Forest Service activities under 638 authority.
- Tribal management pilot project: Finally, ITC and the Colville Tribes support the provisions in the "Tribal Forestry Participation and Protection Act" that authorize the Secretaries of Agriculture and Interior to work with tribes to carry out additional forest health projects using the federal laws and regulations that are currently used on tribal trust forests. This is a discretionary, limited authority under which tribes and federal land managers can replicate lessons and efficiencies found on tribal forests. This authority could also be used to implement section 6 of the Native American Energy Act and promote biomass.

The Colville Tribes and the ITC appreciates the Committee convening this hearing and its interest in expanding tribes' ability to develop energy resources.
