



# Tribal Energy Equity Summit

MAY 22-25  
OJIBWE & DAKOTA TERRITORY  
ST. PAUL, MINNESOTA

# Proceedings Summary





## Dear Relatives,

For four days in May 2023, the Tribal Energy Equity Summit convened, for the first time in history, Native American tribal leaders with officials from the federal government – including the Federal Energy Regulatory Commission (FERC), U.S. Department of Energy, and the U.S. Department of the Interior – for the purposes of establishing relationships and catalyzing more meaningful and effective dialogue about critical energy considerations such as siting, transmission, interconnection and the many resources currently available to tribes to support a just transition to a clean energy future.

For a first-ever invitation-only event planned in such a short amount of time, we were encouraged by the tremendous turnout and overwhelmingly positive feedback from our tribal and federal participants. Powerful conversations were had, meaningful collaborations were sparked, and momentous agreements were made.

This report summarizes and is an accurate representation of the proceedings, as documented by Summit facilitators Lesley and Paul Kabotie and their team of professionals at Indigenous Collaboration. It is the first in a series of Summit follow-up activities promised for participants, as well as those who could not be in attendance, to continue the dialogue and momentum which was kindled as we gathered together as guests of the Mille Lacs Band of Ojibwe on the sacred homelands of the Dakota Oyate people.

On behalf of the entire Alliance for Tribal Clean Energy team, thank you for your support of Native American energy sovereignty and the self-determined pursuit of a just transition.

**Wela'liog,**

Chéri



Chéri A. Smith (Mi'kmaq Descendant)  
President & CEO



*the Alliance is a 501(c)(3) nonprofit organization*

May 22-25, 2023  
hosted at Mille Lacs Band of Ojibwe  
Hotel Intercontinental St. Paul, Minnesota

# PROCEEDINGS SUMMARY

The 2023 Tribal Energy Equity Summit was a momentous convening of Tribal and federal officials -- who came together for the very first time -- to engage in meaningful and effective dialogue about the historical traumatic impacts of electrification on Tribal communities. The Summit provided a safe space for Tribal leaders to engage with federal leaders and begin to explore how we can move forward together to ensure the transition to clean energy is equitable and just.

**200+** Attendees

**50+** Tribal Leaders from

**42** Native American Tribes and Alaska Nations

**50** Tribe-Supporting Organizations

**17** Officials from FERC, including the Chairman

**12** Officials from Departments of Energy & Interior



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This report contains the results of consensus and caucus work conducted by participants of the 2023 Tribal Energy Equity Summit, facilitated by professionals from Indigenous Collaboration, a Native-woman-owned Public Benefit Corporation.

## **1 - 6 History of Energy Regulation and Development and its Impact on Tribes**

This section describes the substance and outcomes of conversations that were designed to inform the entire Summit engagement and associated decision-making. In this highly interactive session, Tribal participants were guided to identify and weave together their personal experiences with and the documented historical trauma of energy development and regulation in Indian Country.

## **7 - 9 Tribal Statement of Intent & Approaches to Communicating It**

This section details how Native participants articulated how Native American Tribes desire to “show up” as leaders in the transition to a clean energy future and considered strategic approaches to ensuring this transition is equitable and just.

## **10 - 11 Analysis of the Obstacles & Issues**

This section represents the Tribal leader-participants’ analysis of issues and obstacles blocking progress toward advancing the Statement of Intent.

## **12 - 13 Strategies for Collaboration**

This section documents the strategic approaches developed by the Tribal leaders.

## **14 Next Steps**

This section documents the stated next steps for the different participant groups as the Summit came to a close.



# HISTORY OF U.S. ENERGY REGULATION AND DEVELOPMENT WITH NATIVE AMERICAN TRIBES

In setting the stage for embarking on analysis, strategic decision-making, and planning, it was essential to create a “snapshot” of the energy development and regulation landscape in America. This history has included development, policies, projects, and regulation and has both excluded and impacted Native people, as well as impacted their communities, resources, and land.

This session was open only to participants who identify as Native Americans. Participants shared information on the history of energy development and regulation in “Indian Country.” Participants recounted historical data and information as it exists in their memories and in the stories shared by elders. These discussions were co-created by the participants and helped set the stage for continued analysis, decision-making, and approaches for engagement and communication about energy policy.

The facilitators initiated the sharing session by asking participants to recall the energy policies of specific time periods and their impacts on Native American communities and individuals.

**These comments were taken directly from the hand-written notes placed on the wall during the facilitated session with Tribal Leaders. The comments have not been edited.**

## »» PRE 1900

### Complete disrespect, systematic genocide, and stealing of resources

- Barriers of entry- BIA
- March 11, 1824, BIA established.
- 1855 Treaty Ratified
- *Johnson v. McIntosh, Doctrine of Discovery*
- Treaties
- Industrial Revolution
- War with Tribes to gain resources.
- Hydroelectric dams
- Strip tribes of mining rights
- Taking logging rights
- Indian Boarding Schools, by 1920 - 20,000 kids

- Natural Gas regulation begins, Municipal award, Franchised SVC territories to local NG Utilities
- Dam licenses awarded "first come, first serve" basis. Largely controlled by each individual state.
- Late 1800s-160 acres each Tribal member
- 1904 electrical plant with dam
- Treaty fishing rights (dams kill fish)
- Konohiki (resource managers)
- Treaty (River, Road, Telecom)

- Dawes Act, Right of Way Agency Restriction
- Nomadic agreement w/ land
- Allotment Act 1887
- Rivers and Harbors act requires congressional license to dam Navigable streams.
- Federal Power Communication, Secretaries of War, Agriculture and Interior make up commission.
- Tribal land Allotments reduced from 160 acres to 10 acres to accommodate project.
- Ft. Laramie Treaty, land, and water Jurisdiction article. Crow -US govt article 5
- Salmon Decline in MN

- Mandan Arikara Hidatsa align to live together on Missouri River. Becoming three affiliated tribes
- Department of Interior, BIA 1932
- Indian regulatory act - Cultural restrictions
- Not allowed to manage own finances
- FPC has 1 Employee, Executive secretary, 32 staff on loan from War department, Department of Interior
- Indian Self Determination Act
- Dams, Power lines, Irrigation
- Termination era, Taking of additional Rights.
- I.R.A.
- 1924 Citizenship Act

## »» 1900-1959

### Forced integration and legal exploitation of resources for the benefit of non-natives

- Natural gas shipped between cities, Inconsistent regulation and gap in Natural gas transportation.
- FPC became an independent executive branch commission with five commissioners.
- Murders in OK for Land Rights
- Indian Reorganization Act 1934
- Amendments to National Gas Act give FPC authority to issue certification of public convenience and necessity before pipeline facility and sales of natural gas in interstate commerce.
- Boarding schools
- 1924 Native Americans' right to vote.
- Rights of way b117
- Hanford
- Right of Way, Highway gas pipeline electric power lines
- States become more active in the creation of state public utility commissions.
- Federal waterpower act leads to federal power commission (FPC) to license and regulate nonfederal hydropower projects.
- Supreme Court decides natural gas producers selling into interstate pipelines fall under FPC jurisdiction.
- IMLA 1938 Indian minerals leasing act.
- US Designation 1924 (all)
- TXN infrastructure across tribal lands
- MHA Nation forced off Missouri River due to garrison dam build.
- Oil and natural gas leases
- World War II
- WAPA Flooding-Hydro
- Standardized government, forced upon tribal nations that did not work for all of us.
- Supreme Court rules states can't regulate rates/interstate commerce.
- Federal Power Act gave rate and accounting jurisdiction to the Federal Power Commission over wholesale sales and transportation of electricity in interstate commerce.
- Natural Gas Act gives the Federal Power Commission oversight of rates charged by interstate natural gas transmission companies.
- Volume of National gas producers and small interstate pipeline companies results in a backlog of cases FPC.
- 1900s Federal Powers Act, 1960s Tuscarora rule, Laws of general applicability apply to tribal lands
- Pick-Sloan Act
- Navajo Uranium Mining
- Rural Electrification REA (New Deal)
- Jicarilla first oil well
- Dams constructed that nullify fishing rights.



## »»» 1960-1979

**Tribes “grow their own” capacity and organize to use U.S. system to assert Sovereignty and to exercise Self-Determination and Treaty Rights.**

**National crisis compelled federal acknowledgement of legitimacy, and tribes begin to be recognized as stakeholders.**

- Only 2 natural gas-producing areas have rates set.
- CERT
- Oahe Dam
- First tribal utility started.
- Bold and decision usual and accustomed
- Tribes start going to court.
- NAGPRA cultural protection
- NEPA, environmental protection
- Indian Religion Act
- Relocation Act to Natives more white
- More large-scale hydro
- Vietnam
- Western Area Power Admin - WAPA
- Pick-Sloan Flood Control Act, Yellowtail Dam
- Natural Gas policy act Removed most price controls for NG and incentives for new production.
- 1970s energy crisis and 1973 oil embargo resulted in petroleum shortages and increased prices
- FPC concludes area - Wide pricing unfeasible. Adopt national price ceilings for the sale of natural gas into interstate pipelines.

- FPC starts changing its approach to rate setting, including rates based on geographic areas of the U.S. and interim ceiling rates.
- 1967 Yellowtail Dam Crow Nation (regulate flow of bighorn river for hydroelectricity and irrigating)
- Jurisdiction over oil pipelines transferal from interstate commerce commission to FERC
- DOE Act 1977 created Federal Energy Regulatory Committee (FERC) as an independent regulatory commission under DOE.
- Construction of NSP plant
- 638 contracting
- Re-using of Bonneville Power Administration and other dams on Columbia River
- Hydro Power uses Tribal water (rights) then makes Tribes pay for power.
- Lower Snake River Dams
- Electric and water available to Tribal homes 1968
- Prairie Island Nuclear Plant
- Housing, solar panels, energy dev, Enviro-racism
- Dams - Flood Control

## »» 1980-1999

### **Equities from Treaty Rights and presence at “the table” start to pay dividends - beginnings of formal Tribal Consultation... except for energy.**

- Natural Gas Policy Act, Order 436 of 1985 voluntary pipeline open access
- Regained Federal recognition.
- Negotiation of mineral rights
- NAGPRA burial sites, water and sewer development
- Nuclear Waste Policy Act 1982
- Gaming regulations
- Natural gas return to nation
- NAGPRA enacted 1990.
- Natural Gas Policy Act order 636 mandatory unbundling and open access
- Crow Coal with Shell oil
- Energy Policy Act, Order No. 2000, Regional Transmission Organization (RTD)
- Natives started going to the U.N
- Indian self-government
- Pyramid Lake, CuiCuitictla & Toiticutla lawsuit 1990 federal new lands project water and electrical plant
- De-regulation -> Crisis -> Re-Regulation
- Deregulation opens opportunities to test and explore development management options.
- Open Access Transmission Tariff (OATT)

## »» 2000-2019

### **Tribes can quantify benefits and burdens of development, asserting economic and jurisdictional Sovereignty to achieve parity and exercise leadership. U.S. energy system begins to shift from last century.**

- FERC recognizes tribal electric authority.
- Utility power agreements, Capacity building
- Community solar LLBO 2016
- JANPA (Jicarilla Apache Native Power Authority)
- MTERA founded.
- Section 106 THPO
- MISO 2001(Mid-continent Independent Systems Operator), SPP (Southwest Power Pool) 2004, Energy Policy Act 2005
- Fighting for Tribal rights continued
- Casino expansion, electric upgrade
- Non-Indian Solar Boom
- Hydro relicensing stakeholder competing
- Apsaalooke Coal Mine
- Energy is new “gaming” for tribes.
- ITESOA
- States start to engage in clean energy/renewable initiatives.
- Began MISO market participation.
- Tribal consultation
- Salish and Kootenai get the dam back and take over utility via relicensing.
- Dakota Access Pipeline (DAPL)

## »»» 2020-2023

**Federal system still focused on convenience and outputs without acknowledging the process and investment that long-term sustainability requires.**

**Billions of dollars thrown at renewables is hollow and wasteful without a realistic approach to develop and regulate generational benefits.**

- Litigation of FCRPS Bi-op lower Snake River
- 8(A) Power marketing
- Covid
- Energy & Business services consulting
- FERC Today \$520M budget FY2024, Annual Charges and filing fees, zero net appropriation, budget publicly available.
- FERC today 1566 staff members (Rate and tariff analysts, engineers, accountants, Economists, Environmental protection specialists, etc.)
- IRA grants
- Clogged interconnection queue not same market

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- Lawsuits against Geothermal on sacred lands
  - BIL grants
  - Corporations our new enemies, taking without asking.
  - 15,000 Navajo without electricity
  - Senate passes the largest investment in Native programs in history, more than \$31 Billion.
  - Nevada Greenlink North, Nevada Greenlink West
  - \$600 million for Native communities' critical economic and infrastructure investments.

## STATEMENT OF INTENT

Tribal participants discussed how Tribes desire to “show up as leaders” in the transition to a clean energy future, exercising sovereignty and jurisdiction over their power, and the significance of working collaboratively with U.S. federal agencies and others, particularly as they anticipated meeting, networking, and engaging with representatives at this Summit.

The following Statement of Intent was developed to guide future engagement and dialogue between Tribal and Federal governments:

**We demand to be met where we are  
in energy development and regulation – and to be  
included at the leadership tables that inform, educate,  
and share policy and regulations – to remediate past  
harms, to promote and protect sovereignty and  
inclusivity, and to ensure generational benefits and  
equity for all Native Americans.**

# APPROACHES TO COMMUNICATE INTENT

Having clarity of the intent, participants considered strategic approaches to maximize the effectiveness of interaction and engagement with federal agencies and policy-makers, and other actions that can be taken to ensure energy equity from this point forward.

The focus question put before the group was:

## **What are effective ways to communicate our position for Tribes to drive the U.S. energy transition and adapt the federal regulatory system?**

Following is the data that resulted from the participants' shared consideration of the question. The bulleted brainstorming data itself does not represent the consensus of the group, rather, it documents what individuals in the room were thinking about as they discussed each of the following categories deemed necessary for a just transition.

The consensus then emerged from this seed data. Some ideas are specific; others are more general. They were all deemed important for gaining clarity about the approaches that will guide actions, engagements, and communication going forward.

### **PUTTING FORTH A COLLECTIVE MESSAGE**

- Energy independence
- Approach FERC as a collective
- Electing a non-partisan Tribal Energy commissioner
- NCAI unified message - 300+ Tribes
- Create communication plan
- Know what we want to say

### **HAVING ACCESSIBLE & UNDERSTANDABLE TRIBAL ENERGY RESOURCES**

- FERC Resource Guide For Tribes
- Learning the lingo of U.S. Energy opps for Tribes so we can "speak" the same language
- Tribal template for all Tribes to follow
- "Energy For Dummies 101" -> Help Tribes understand technical aspects
- Incorporate local workforce development opportunities for communities (all sizes)
- Stories - convey successes / challenges w / FERC regs
- Convey what has and hasn't worked
- Read the business process manuals of RTO/ISO before framing specific asks

## **CULTURAL AWARENESS & RESPECT**

- Expecting us to explain our culture to them is not a good place to start a trusting relationship
- Staying true to our Tribal identities, communities, and beliefs when advocating and positioning ourselves for change
- The government and agencies to develop cultural competency
- FERC to follow Treaty responsibilities

## **BUILDING TRANSPARENT RELATIONSHIPS**

- Show up
- Seek guidance from a Tribe that has track record of success working with FERC
- Accountability of developers / partners to respect and adhere to culture and environment of communities
- States should include Tribes as partners or Tribal renewable energy resources as potential solutions to achieving important energy and climate change goals!
- Open and transparent communication at all levels
- Identify stable, reliable, consistent contacts at State, Federal & Tribal levels
- Create one-on-one/face-to-face space – site visits
- One-on-one consultations

## **EXERCISING SOVEREIGNTY THROUGH TARIFFS**

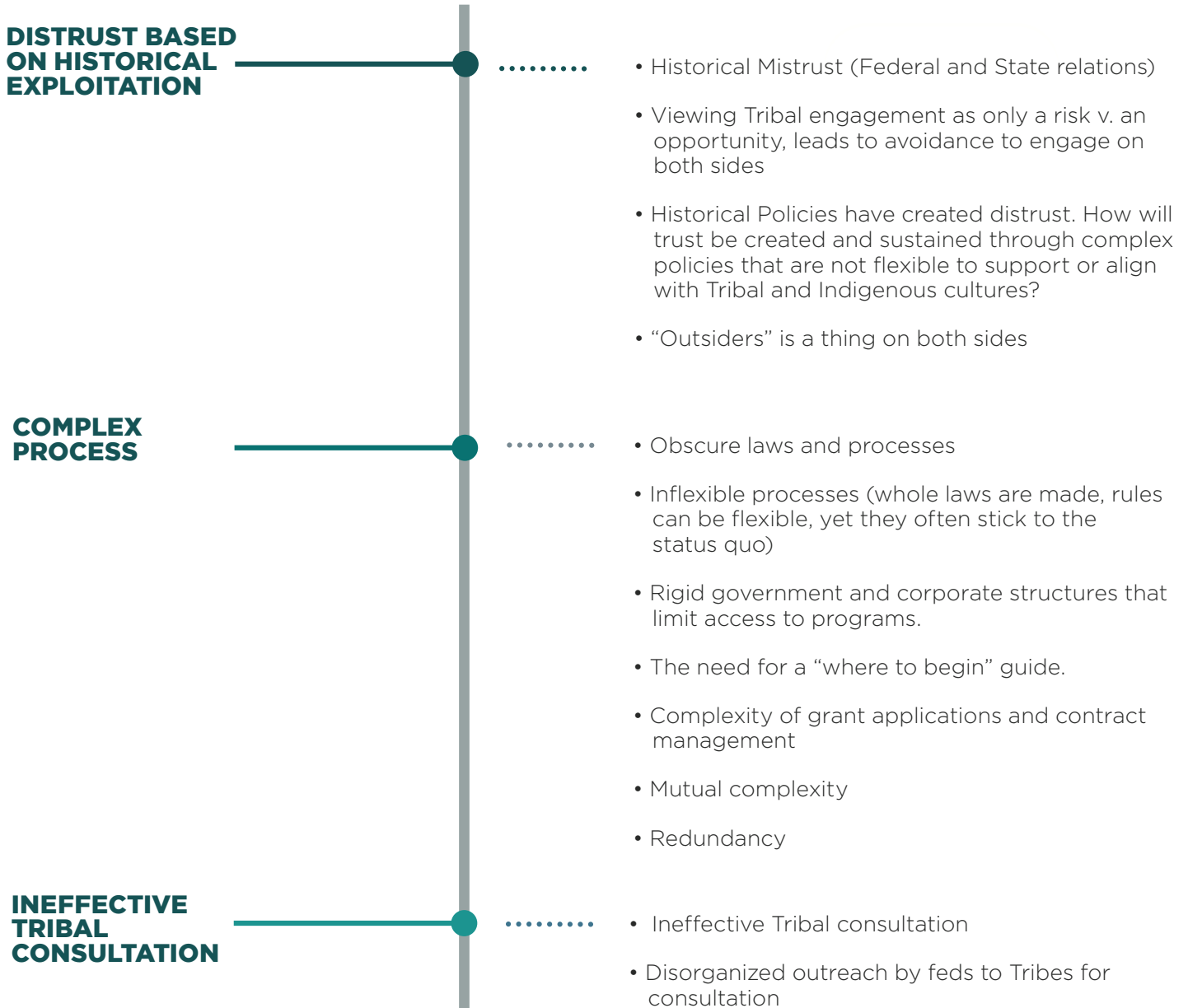
- Learn the tariff formation process
- FERC recognize Tribal jurisdiction in tariffs

# OBSTACLES

Participants were asked to consider obstacles that hinder the full realization of the Statement of Intent. The focus of the obstacles workshop was analysis. Participants were asked the following question:

## ***What are the obstacles that block Tribal participation and leadership in energy regulation and transmission?***

As honest dialogue is required for a clear-headed analysis of this serious question, participants grappled with the issues and obstacles, then determined that there were six underlying major themes:



**UNDERDEVELOPED CAPACITY**

- Local capacity (pre, during, and post development)
- Balancing immediate needs against long-term vision
- Fear of failure
- Underdeveloped capacity (time, money, focus, expertise)
- Undeveloped technical expertise with complex problems
- Limited resources

**MISUNDERSTANDING SOVEREIGNTY IN REGARD TO TRIBES**

- Tribes expected to waive sovereign immunity.
- Tokenism/ Narrow mind of Tribal expertise (limited to “cultural” experts)
- Incomplete and Biased understanding of Tribal rights and interests by developers and feds
- Undeveloped understanding of Tribal issues at FERC
- Putting Tribes in irrelevant categories (i.e., “stakeholders”) as opposed to “Sovereign Governments” or “Treaty Partners”

**EXPLOITIVE PRACTICES**

- Adversarial history of privatizing Tribal resources for profit
- Conflicting energy ideologies
- Intentionally excluded from economic benefits of natural resources
- Declining energy sources (coal) - “unjust transition”
- High cost of inaccessible capital and financing mechanisms for projects



# STRATEGIES FOR COLLABORATION

In this workshop, all summit participants developed potential actions that could be taken to strategically advance the Statement of Intent. Through group dialogue, the group wove those action elements into consensus statements describing the strategic approach moving forward.

## *What Strategic Actions Can We Take To Collaboratively Address The Obstacles?*

### CREATING A TRIBAL STRATEGY

- Regional transition Tribal advisory bodies
- Create Tribal utility commissions in every state or region
- Mobilize a Native American needs commission
- Educate on the potential of Green/clean energy Act - Especially economic opportunities for Tribes (messenger matters, credibility)
- Develop small goals that help meet larger goals
- Identify and reveal benefits quickly
- Include urban Indians
- Standard model for Tribal revenue from energy projects

### CREATING NEAR TERM MEASURES OF ACCOUNTABILITY

- Follow up convening, continue this conversation and action items/ next steps for Federal partners(accountability)
- Collaboration and accountability at each stage: Plan, Do, Act, Check
- Hold Feds accountable
- Reconcile and compensate for historical taking that continues to steal benefits for corporate and federal power structures
- Tribes as Cooperating agencies to impact design and pre application infrastructure

### CHANGING THE LAWS

- Change the laws - FERC statutes which harm Tribes
- Eliminate DOE redundancy and duplication
- Complex Processes simplify grant writing, reporting and materials develop material for general audience
- Integrate Tribal approval as mandatory step
- Acknowledge Tribal Sovereignty within the legal framework of energy development and regulation

## **ESTABLISHING COLLABORATIVE LEADERSHIP BODY TO CHAMPION CHANGE**

- Meet regularly
- Coming together is the only way. We are all related; We must take care of each other.
- Create energy action plan on Tribal/national level
- Develop campaign to teach sovereignty at all levels
- Begin to create a unified voice

## **SHARING KNOWLEDGE ON BOTH SIDES**

- Cultural sensitivity training
- Develop trainings (Tribal leaders- energy federal/industry leaders – Tribal and regulation 101)
- Educate on Tribal Sovereignty
- Implement institutional knowledge transfer (continuity)
- Actively engage to breakdown silos
- Role engagement, walk in another's shoes, see from a different perspective and practice, practice,
- Encourage site visits to/from Tribes
- Uniform processes
- Exchange information early and often

## **INVESTING RESOURCES TO INCREASE TRIBAL CAPACITY**

- Resources allocated for Tribal capacity building
- Invest in capacity, training for Tribal and non-Tribal
- Technical expertise and sharing and pairing information
- Invite Tribes into non-Tribal programs
- Workforce development at technical and political levels
- Promote collaborative partnerships to fill near term capacity needs (Tribal -> private, Public -> private)
- Multilayered capacity building for Tribes via networked partnerships

# NEXT STEPS

Achieving meaningful change is a long-term effort that requires the coordinated, persistent involvement of many to launch the work that paves the way for community and Tribal government readiness, federal government and other non-Tribal agency, regulatory, and legislative readiness, collaboration, policy and MOU development, asset deployment as well as collective contribution to the process.

As the Summit came to a close, participants created and committed to a short list of Next Steps:

WHAT	WHO	STATUS
Documentation of session to Alliance For Tribal Clean Energy by June 2	<b>Indigenous Collaboration</b>	<b>Complete</b>
Alliance for Tribal Clean Energy to post Summit transcriptions TribalCleanEnergy.org & email all registered participants	<b>Alliance Staff</b>	<b>By Aug 10<sup>th</sup></b>
FERC will then review, share with colleagues to facilitate inter-office planning	<b>FERC Team</b>	<b>By Aug 31<sup>st</sup></b>
DOE posts Office of Indian Energy's Tribal Clean Energy Summit presentations online: <a href="https://energy.gov/indianenergy/tribal-clean-energy-summit-2022">energy.gov/indianenergy/tribal-clean-energy-summit-2022</a>	<b>DOE Team</b>	<b>Complete</b>
DOE -Actively use listening & comment period that's beginning tomorrow for following 2 weeks	<b>Interior</b>	<b>Complete</b>
Tribes - Use this info to help with Strategic Planning & commit to change	<b>Tribes</b>	<b>In Progress</b>

**The Tribal Energy Equity Summit was produced by the Alliance for Tribal Clean Energy, 501(c)(3), and facilitated by Indigenous Collaboration, PBC.**



## **About the Alliance for Tribal Clean Energy**

The Alliance for Tribal Clean Energy is an Indigenous-led 501(c)(3) nonprofit organization that supports the self-determined efforts of Native American tribes to transition to a clean and regenerative energy future. The Alliance’s no-cost offerings include the critical technical and financial assistance and wrap-around services necessary to build tribal capacity to access and manage the unprecedented amounts of federal funding currently available for developing clean energy infrastructure. The Alliance provides services to tribes through four key pillars of support: Technical Assistance & Project Finance, Energy Policy Advocacy, Education & Workforce Development, Events & Information Resources.

The Alliance provides assistance to tribes through a curated network of preferred energy service providers and developers who are carefully vetted by a Native-led committee of energy experts to minimize the chances for exploitation. The Alliance is funded by philanthropy, including the MacArthur Foundation, Energy Foundation, and Invest in Our Future fund. For information on joining the Alliance as a tribal partner or preferred provider, visit [www.tribalcleanenergy.org](http://www.tribalcleanenergy.org)



## **About Indigenous Collaboration**

Indigenous Collaboration, P.B.C. is a Native-owned / woman-owned corporation providing consensus-based consulting services, event facilitation, organizational tools, and technologies that support engagement and collaboration. Indigenous Collaboration specializes in efforts and initiatives within Native communities, Tribal governments, and with non-profits, government entities, and enterprises doing work with Native populations that contribute to the well-being of Indigenous peoples. For information on the many services Indigenous Collaboration offers, visit [www.indcollab.com](http://www.indcollab.com)

