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## **WESTERN RESOURCE ADVOCATES RESPONSE TO CETA PRINCIPLES OF ENGAGEMENT**

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Western Resource Advocates (WRA) appreciates the opportunity to provide comments to the Colorado Electric Transmission Authority (CETA) in regard to the proposed principles of community engagement. WRA is a regional nonprofit 501(c)(3) organization fighting climate change and its impacts in the West. Through its Clean Energy Program, WRA works to advance clean energy, transmission infrastructure, and regional electricity markets. WRA is a reputable and collaborative public interest partner across the Interior West, participating in both regional and state-level initiatives and regulatory forums. Specifically, WRA works with diverse stakeholders to support wholesale market expansion and transmission development initiatives that are necessary to enable the ongoing clean energy transition while sustaining reliability, delivering customer benefits, and fostering technological innovation.

On a broader policy and process perspective, WRA seeks clarity on the intended purpose of the proposed principles identified below. WRA supports the need for best practices, but the scope of application deserves more dialogue. Moreover, it is unclear if these principles are “recommended” versus “mandatory” expectations, and it is unclear how these principles may apply to the different partnership types specified in CETA’s Partnership Policy. WRA is also concerned about the enforceability of these requirements, as well as potential overlap or conflict with legislative and regulatory requirements. Specific to each principle, WRA provides detailed comments and redline changes to some of the principles below.

### **INFORMATION SHARING**

CETA’s draft principle is as follows:

**Principle 1: Require a transparent, credible, and open process.** To build a credible stakeholder and community engagement process, CETA will require its partners to engage in open communication about projects and their impacts, provide access to fact-based educational materials and other resources, and provide an open and transparent exchange of information.

CETA’s minimum requirements include:

- **Process Documentation:** Maintain thorough documentation of all steps leading to project decisions, including meeting notices, agendas, summaries, public input opportunities, and supporting technical information.
- **Public Information Repository:** Create and maintain a publicly accessible repository of project information, including a project timeline with highlighted public engagement opportunities.
- **Timely Updates:** Provide regular and timely updates on project status to local communities and affected stakeholders.
- **Project Points of Contact:** Clearly identify project points of contact for community questions and stakeholder feedback.
- **Transparency about Other Infrastructure Projects:** Inform the public about other facilities project sponsors build, own, or operate.

## WRA Comments:

In regards to project development and siting, the primary consideration for project developers when siting a generation/storage project is access to transmission with capacity to carry electricity to load centers. Generally, developers will only consider sites within 10 miles of transmission with the necessary capacity. This was reflected in the Bureau of Land Management Solar Programmatic Environmental Impact Statement preferred alternative 3 and alternative 5<sup>1</sup> when screening for potential development sites. Locating generation projects within 10 miles of transmission ensures projects remain economically viable while minimizing transmission infrastructure sprawl across the landscape. New transmission capacity will increase the number of proposed generation projects and necessary supporting infrastructure. Information disseminated to host communities should include all relevant information and identify all potential impacts.

To effectuate these suggestions, WRA recommends the text of Principle 1 be amended as follows (additions underlined, deletions ~~strikethrough~~):

- **Transparency about Other Infrastructure Projects and Reasonably Foreseeable Connected Developments:** Inform the public about other facilities project sponsors plan to build, own, or operate, as well as reasonably foreseeable estimated increases in third-party generation, substations, or storage projects in proximity to new transmission.

## COMMUNICATION

CETA's draft principle is as follows:

**Principle 2: Require meaningful engagement with local communities.** To ensure that local input is integrated into the decision-making process, CETA will require its partners to conduct early, responsive, and inclusive communication with local communities and stakeholders. CETA's minimum requirements include:

- **Comprehensive Engagement Plans:** Develop community engagement plans detailing public outreach goals, budgets, staffing requirements, pre-application community engagement schedules, and strategies to reach diverse community interest groups.
- **Pre-Application Information Sessions:** Hold information sessions in local communities before filing applications with permitting authorities, scheduling these sessions at times and places convenient for the community.
- **Private Tribal Meetings:** Conduct private meetings with Tribal governments to share and discuss sensitive information respectfully.
- **Inclusivity and Diversity:** Ensure that engagement efforts identify all affected interests and actively seek out marginalized or underrepresented groups within the community to provide a truly inclusive process.
- **Adaptable and Responsive:** Design engagement methods that are tailored to address regional and local issues, cultures, and relationships. Continuously monitor the effectiveness of these methods, actively seek feedback from stakeholders and the public, and modify engagement processes as necessary to ensure they remain relevant and effective.
- **Flexibility in Project Design:** Show willingness to adapt project design and location based on community feedback.

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<sup>1</sup> [https://eplanning.blm.gov/public\\_projects/2022371/200538533/20103398/251003398/Fact%20Sheet%20-%20Updated%20Western%20Solar%20Plan%20Draft%20PEIS%20-%20Jan%202024.pdf](https://eplanning.blm.gov/public_projects/2022371/200538533/20103398/251003398/Fact%20Sheet%20-%20Updated%20Western%20Solar%20Plan%20Draft%20PEIS%20-%20Jan%202024.pdf)

- **Land Agent Code of Conduct:** Instruct project sponsors' land agents to be respectful, forthright, and truthful, clearly identifying themselves as project representatives.
- **Language Services:** Provide language translation services when significant non-English-speaking populations are present.
- **Documentation of Public Input:** Record local community input and the project sponsor's responses, especially regarding siting considerations.

### WRA Comments:

When conducting meetings with Tribes, proponents should conduct outreach to Tribes with historical ties to the area (see list of [Colorado Tribes](#)), not just adjacent Tribal reservations and governments. Indigenous communities often have different ideas about what constitutes a “cultural resource.” For example, many consider landscapes sacred, and this can lead to conflicts over proposed projects. The legal challenges for SunZia in the San Pedro Valley<sup>2</sup> and the proposed wind project near the Sand Creek Massacre National Historic Site<sup>3</sup> have faced significant opposition and impediments to development due to cultural impacts. Insufficient consultation with Tribes can result in higher clean energy project costs.<sup>4</sup> Performing adequate cultural resource surveys and conducting early, meaningful engagement with Tribes can help projects avoid conflicts and minimize litigation over proposed projects. Additionally, it is important that proposed projects within the Brunot Treaty Area adequately consult with the Ute Mountain Ute and Southern Ute Indian Tribes about the impacts of any new development on wildlife. The 1873 Brunot Agreement guarantees hunting, fishing, and gathering rights for the Ute Tribes across approximately 3.7 million acres of western Colorado. Since 2008, the Southern Ute Tribe has co-managed wildlife populations within the Brunot Area under a Memorandum of Understanding with Colorado Parks and Wildlife.<sup>5</sup> Under recently passed Colorado Senate Bill 24-212,<sup>6</sup> renewable energy project developers are required to consult with Tribes on the impacts of proposed projects within the Brunot Area. Proposed transmission projects in the Brunot Area must also ensure treaty rights are protected by conducting the same outreach and consultation required of renewable project developers.

Further, the Colorado Public Utilities Commission (“the Commission”) recently opened Proceeding No. 24R-0306E to establish rules clarifying the process by which regulated electric utilities identify impacts to sites of historic and cultural significance to federally recognized Tribes and present relevant information to the Commission. While the rulemaking is ongoing, the initially proposed rules indicate that utilities may have new requirements to consider impacts to sites of historic and cultural significance and to report on any consultation with Tribes in proceedings related to transmission investments. In addition, the Commission has been considering additional steps to advance equity through Proceeding No. 22M-0171ALL, which may result in the adoption of new community engagement requirements for utilities and/or the Commission itself in a subsequent rulemaking.

Requirements stemming from these Commission proceedings and Senate Bill 24-212 may lead to numerous entities seeking to engage with communities and Tribes on energy projects. Accordingly, WRA recommends that CETA's principles reflect a commitment for its community and Tribal engagement

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<sup>2</sup> <https://insideclimatenews.org/news/08052024/sunzia-transmission-line-legal-challenges-continue/>

<sup>3</sup> <https://bigpivots.com/near-sand-creek-massacre-site/>

<sup>4</sup> <https://grist.org/indigenous/ignoring-indigenous-rights-is-making-the-green-transition-more-expensive/>

<sup>5</sup> <https://www.southernute-nsn.gov/natural-resources/wildlife-resource-management/hunting/brunot-area-hunting-and-fishing/>

<sup>6</sup> <https://leg.colorado.gov/bills/sb24-212>

requirements to dovetail with legislative directives and regulatory requirements, ensuring that this engagement is streamlined and not overly burdensome for these groups.

WRA also proposes that CETA Board and Staff receive training to understand best practices in Tribal engagement and outreach, including any federal laws or treaty rights that may require official Tribal consultation (see [Colorado State-Tribal Consultation Guide](#)). Finally, WRA proposes that CETA develop a Tribal outreach strategy plan to engage with Federally Recognized Tribes and Tribes with ancestral ties to Colorado.

## COMMUNITY BENEFITS

CETA's draft principle is as follows:

**Principle 3: Advocate for public resources and both financial and non-financial benefits that support local communities.** CETA recognizes that local communities should benefit from hosting transmission projects in their community and may need additional resources to effectively evaluate proposed transmission projects and influence project design and siting decisions. CETA will advocate for:

- **Fair Landowner Compensation:** Establish a consistent methodology for determining landowner compensation to ensure that all landowners receive fair and equitable compensation, regardless of when they sign an easement agreement. While this consistent methodology should be applied as uniformly as possible for a project, there should also be limited flexibility for unique circumstances.
- **Tangible Community Benefits:** Ensure transmission projects contribute to local community improvements, such as better roads, enhanced local workforce, improved emergency services, or upgraded public spaces.
- **Self-Determination of Benefits:** Provide mechanisms for local communities to determine the allocation of community benefits.
- **Third-Party Advisory Resources:** Offer resources for local communities to hire third-party consultants to advise on the proposed project and the permitting process.
- **Mediation Services:** Offer mediation services to help facilitate discussions and resolve issues between the community and project developers.

### WRA Comments:

To ensure community benefits meet the needs of host communities, it is vital that project proponents enter into good faith negotiations with communities early in the process. Many communities in rural parts of Colorado have little to no experience with the scope and scale of proposed projects and the possible community benefits that developers may be able to support through Community Benefits Agreements. Host communities must be made aware of the potential outcomes from a community benefits negotiation to identify and develop plans that meet the needs of those individual communities. In addition to Third Party Advisory Resources, CETA may wish to reference the provision of guidebooks and repositories<sup>7</sup> of Community Benefits Agreements to host communities, which can empower communities to fully understand what is possible with a Community Benefits Agreement.

Several parts of the state that qualify for the energy community tax credit adders from the IRA,<sup>8</sup> particularly in southeastern Colorado, overlap with communities that have limited access to public parks, public lands,

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<sup>7</sup> Examples include: Data for Progress' [Community and Labor Benefits in Climate Infrastructure](#); Power Switch Action's [Guidebook and Example Database](#); and The Sabin Center for Climate Change Law's [report on Best Practices for CBAs](#).

<sup>8</sup> <https://arcgis.netl.doe.gov/portal/apps/experiencebuilder/experience/?id=a2ce47d4721a477a8701bd0e08495e1d>

and outdoor recreation opportunities.<sup>9</sup> Community Benefit Agreements can be powerful tools to increase access to the outdoors and close the nature gap for disproportionately impacted communities. For example, Community Benefit Agreements can maintain or improve access to public lands and natural areas, develop outdoor spaces, or offset impacts by acquiring high-quality land in the community that may be used for outdoor recreation or conservation. WRA recommends the CETA principles encourage consideration of these types of community benefits.

## ACCOUNTABILITY

CETA's draft principle is as follows:

**Principle 4: Require long-term commitments to host communities.** Transmission infrastructure is used for decades; a similar commitment should be enforced for local communities hosting that infrastructure. CETA's minimum requirements include:

- **Construction Stage Engagement:** During construction, designate a point of contact or community liaison to hear concerns, address them, ensure safety, and minimize adverse unintended consequences.
- **Restoration Commitments:** Ensure roads and public facilities are returned to their pre-construction status.
- **Clear Monitoring Metrics:** Establish clear metrics to monitor and enforce project commitments to local communities.
- **Dispute Resolution Processes:** Establish and implement processes to resolve disputes regarding project commitments.
- **Operation Stage Engagement:** During the project's operation stage, foster long-term engagement with communities through locally based efforts and activities. These can include site visits, monitoring, research and educational programs, and regular information updates on the project's effects on the community.

### WRA Comments:

Local opposition to proposed energy development projects is often related to communities' real or perceived fear of adverse impacts to the environment and wildlife. As part of the community engagement process, project proponents should try to provide the best available data about impacts a community may experience from the project itself and reasonably foreseeable interconnected development. The process for community engagement and negotiating Community Benefits Agreements will often be used to agree on activities that go above and beyond what is required under the law to mitigate adverse impacts to the environment and wildlife. As part of the principle related to Restoration Commitments, project proponents should include restoration of impacts to the environment, wildlife, and important habitat to the greatest extent possible. WRA also supports the CETA principle to create a dispute resolution process.

To effectuate these suggestions, WRA recommends the text of Principle 4 be amended as follows (additions underlined, deletions ~~strikethrough~~):

- **Restoration Commitments:** Ensure that impacted roads, ~~and~~ public facilities (including parks and open space), and community natural resources (e.g. wetlands and wildlife habitats) are restored to their pre-construction status, or if restoration is not possible, replaced in kind.

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<sup>9</sup> [https://conservationco.org/wp-content/uploads/2022/11/11.17-V2-PROTEGETE\\_HANDBOOK.pdf](https://conservationco.org/wp-content/uploads/2022/11/11.17-V2-PROTEGETE_HANDBOOK.pdf)

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