From: Ellen Banks
To: erda.sm.scopingplan
Subject: Submit a comment on Indigenous Sovereignty to NYS
Date: Tuesday, May 17, 2022 8:30:08 AM

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Thank you for this opportunity to provide comments on the draft Scoping Plan. As required by New York's nation-leading climate law, the CLCPA, climate and environmental justice must be the driver of the outcomes of this Scoping Plan.

I am an ally to the Haudenosaunee Confederacy, the Shinnecock Nation, and the Setalcott Nation whose members were engaged in the drafting of these comments. These Nations are sovereign Nations with political, cultural, and religious agency over their ancestral homelands that is New York State.

It is imperative that Indigenous communities are properly consulted and given decision-making power around the processes taking place at the Climate Action Council (CAC) given the vast implications of policies, land practices, and funding mechanisms being considered. The Executive and the CAC must use appropriate State-to-Nation channels to ensure collaboration from Indigenous communities as to the Scoping Plan in a manner that respects the timeline for the unique decision-making processes within the Nations. Appropriate consultation must occur with both state and federally recognized tribes as well as non-recognized tribes with populations in New York State.

Indigenous communities in New York State are on the frontline of direct impacts of climate change and have a unique historical relationship to the land and understand best practices for stewardship. They are well informed about how to meet the energy needs of their people. Their voices are critical to ensuring that New York State meets the ambitious climate goals set out in the Climate Leadership and Community Protection Act. There are presently many barriers Indigenous communities face in accessing and benefiting from the renewable energy transition that must be rectified in the final Scoping Plan. These barriers and concerns can only be addressed when robust, genuine, and dedicated State-to-Nation dialogue is conducted over time.

Yet, it is clear from the draft plan that there still has been little or no communication between the state and the Indigenous Nations that will be impacted by the law's implementation. The need for authentic consultation has been repeatedly raised both at meetings of the CAC and the Climate Justice Working Group (CJWG) without a consistently clear response from the state about how it plans to truly grapple with this vital aspect of our climate law.

The Scoping Plan fails to acknowledge the Indigenous Nations within the territory of New York State, but otherwise refers to them in a general acronym for people of color. It only mentions Indigenous Nations or Indigenous Peoples a handful of times and in those few times collapses them with other stakeholders, without recognizing the very particular distinction of their sovereignty. Indigenous Nations have governing power and ecological intelligence that reaches forward and back since time immemorial. There cannot be a policy or directive that meets the overwhelming response to climate change without these Nations at the table exercising their substantive rights and knowledge, including their collective rights of self-

determination and land stewardship. NYS cannot merely recognize their participatory rights as people of color under marginalized communities. This illuminates the historical and current tactics NYS uses to try to delegitimize Indigenous Nations exceptional and unparalleled right to the conservation and protection of land and our non-human relatives. The sovereign status of Indigenous Peoples must be upheld in the climate transition as distinct from other stakeholders.

More specifically, the final Scoping Plan must address the following:

1) The future of nuclear power in NYS must grapple with the content of "Nuclear Reactors Are Not Green," a Red Paper by the Onondaga Nation, the Haudenosaunee Environmental Task Force, and the American Indian Law Alliance (available at hetf.org). The paper was written so that the voice of Indigenous Peoples can be heard, in order to document the vast harms from the nuclear power industry and so that the process of healing from these harms can begin. The list of past and ongoing treaty violations is long and troublesome and the deaths of, and devastating human health damage to, Indigenous Peoples are merely collateral damage to corporations and US governments. Prolonging the use of aging nuclear reactors without a viable plan for the handling of spent fuel rods at the expense of electric ratepayers is not an acceptable "solution." The billions of dollars that have been designated for nuclear bailouts would be better spent on promoting truly green alternative energy generation, electric car promotion and infrastructure, and high-speed rail projects. The Red Paper brings light to the dangers of the three aging nuclear power reactors in Scriba, New York and the direct harm that would result to the Onondaga people, and Nation lands and waters, from the continued operations of these aging nuclear reactors and from any accidental release of radiation, or worse; how these three aging nuclear reactors in Scriba are interfering with the stewardship responsibilities of Nation leaders to protect the natural world for future generations; and the dangers to the Onondaga Nation, its waters and its people from the current transport of nuclear wastes down Interstate Route 81, directly through the Nation's currently recognized territory. This legacy of impact must be the guide to discussions around the fate of nuclear power in NYS.

2) There is a dire need to overcome grid interconnection issues currently in place for numerous Indigenous Nations in order for them to become energy independent. The Onondaga Nation has ongoing issues with National Grid who previously wanted the Nation to sign away its sovereign immunity in order to interconnect a solar project, which the Nation of course refused to do, so now loses 80% of the benefits of the project by paying for an insurance policy on it. This is completely unacceptable. Akwesasne and Tuscarora have also faced issues with their local utility around interconnection and service line agreements. Members of the Shinnecock Nation, where homes are collectively managed, do not have mortgages and are not able to take advantage of solar tax credits, making upfront costs prohibitive. All this speaks to fundamental roadblocks put up by NYS and the utilities operating within NYS that need to be removed. The final Scoping Plan must address these in order to support Indigenous energy sovereignty.

3) More must be included in the Scoping Plan to support Indigenous-led climate solutions like the work of Shinnecock Kelp Farmers who are growing seaweed to improve water quality in Shinnecock Bay and process the harvest into fertilizer to be used on local golf courses, universities, and other properties. The fertilizer will not only address nutrient runoff from these institutions but also avoid additional carbon emissions generated by importing fertilizers. Seaweed in feed can also significantly reduce methane emissions from beef cattle - by as

much as 82 percent - making it an important part of reducing emissions in the agriculture sector. Other forms of seaweed farming could be used in general carbon sequestration efforts as well.

4) We have a waste crisis on Long Island and across the state that directly impacts First Nations living in fenceline communities due to poor waste management practices that must be addressed in the Scoping Plan. In particular, tribal members of the Setalcott and other First Nations are living near the Brookhaven Landfill in a community with the lowest life expectancy on Long Island; a community with the 2nd highest Emergency Room hospital admissions for asthma. The draft Scoping Plan fails to mention zero waste strategies to reduce waste that include ending the practice of landfilling. The draft Scoping Plan fails to ensure that we end our dependence on toxic plastic. The draft Scoping Plan fails to call for the elimination of incineration, which impacts host communities as well as the communities where the ash is held. The Setalcott Nation supports anti-landfill community composting initiatives in North Bellport. More must be done in the Scoping Plan to empower such community-led solutions to waste management. The Setalcott Nation is in favor of initiatives for First Nations to steward the land in ways that supports a fossil free society, preserves natural landscapes of forestry, and provides opportunities for restorative agriculture and other restorative practices for land and water.

5) The impacts of large-scale renewable energy development on Indigenous cultural resources must be addressed in the Scoping Plan. As the state looks to increase the number of wind turbines, solar panels, battery storage units, and ancillary infrastructure statewide, it must recognize that doing so necessarily means increasing the number of acres of developed land. By permitting development on hitherto undeveloped, or barely developed land, the state will also be permitting land disturbances. And land disturbance, especially in sensitive areas, has the potential to impact or destroy Indigenous Nations' cultural resources including marked and unmarked graves and former village and hunting sites, among others. What has unfolded around the Horseshoe Solar Project in Caledonia and Rush in Western, NY with its impacts to the traditional lands of the Seneca Nation must be avoided at all costs. The best way to do this is to require consultation—with both Nations still living on their ancestral homelands and with those that have been displaced—early in pre-application processes and throughout permitting. The Office of Renewable Energy Siting should hire a Native Nations liaison to facilitate consultation, provide a single point of contact for Nations, developers, regulators, and others, and help guide conversation or mediate should applications or permitting plans become controversial. Additionally, NYS should enact the Unmarked Burial Site Protection Act to regulate the discovery of burial grounds, human remains, and funerary objects to help end the desecration of Indigenous ceremonial sites throughout NYS.

Addressing climate change necessitates the centering of Indigenous sovereignty, worldviews, and programs. New York's implementation of CLCPA will be a failure if it does not act in accordance with this truth. The current Scoping Plan is completely inadequate on this front and it cannot continue.

Sincerely,

Ellen Banks