

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of  
Application No. 2009-1

WHISTLING RIDGE ENERGY LLC

WHISTLING RIDGE ENERGY  
PROJECT

**EXHIBIT No. 3** 39.00

CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION PREFILED TESTIMONY

Witness #3: Warren Spencer, Jr.

Q Please state your name and address.

A My name is Warren Spencer, Jr., and my address is P.O. Box 151, Toppenish, Washington 98948.

Q What is your present occupation, and what are your responsibilities?

A I am the Yakama Nation Tribal Council Secretary to the Roads, Irrigation, and Lands Committee. My responsibilities are to uphold the Treaty Reserved Rights protected under the Treaty of 1855.

Q Can you describe the structure of the Yakama Nation government and how consultation should occur with the Yakama Nation?

A The Yakama Nation Tribal Government consists of 14 elected officials, of which I am one, who represent the 14 tribes and bands of the Yakama Nation. The 14 elected officials, known as the Tribal Council, govern by resolution, which requires a majority vote. Members of the Tribal Council serve on eight standing committees that have oversight of each of the Yakama Nation technical programs. While we operate by a committee system, all matters must be ratified by the full Tribal Council.

Consultation with the Yakama Nation is on a government-to-government basis. The programs provide initial recommendations as an initial, informal consultation, however, if these recommendations are disputed, the issue must be elevated to the committees and the Tribal Council.

Q Can any single Council person bind the Yakama Nation?

A No.

Q Do Wilbur Slockish and Johnny Jackson represent the Tribal Government?

A No. Their title is inherited and not a formal recognition of the Tribal Government. They represent the lands and area of which they are chief, however, this representation is not a designation of the Tribal Government. Correspondence with Mr. Slockish and Mr. Jackson cannot be considered consultation with Yakama Nation.

Q Does the Yakama Nation Cultural Resources Program have proper authority and authorization to participate in this hearing?

A Yes. The Cultural Resources Program has several signed committee actions directing the programs participation in this matter. The Culture Program has a directive to protect, preserve and perpetuate cultural resources under Tribal Resolution T-66-84. The Lands Committee has authority over these matters by way of Tribal Resolution T-92-87. Other Resolutions such as T-38-56 and T-10-61 dictate authority and daily operation of the Council. All matters of great importance will be forwarded to the General Council, the Yakama people.

Q To your knowledge, has the EFSEC process fulfilled its duties to consult with Yakama Nation in a manner respectful to Tribal sovereignty?

A No. The EFSEC process has failed to facilitate proper consultation with Yakama Nation. This was demonstrated in the lack of recognition provided Yakama Nation in the overall process, and our testimony in Stevenson, Washington.

Q What is the stance of the Yakama Nation Tribal Government regarding the Whistling Ridge Energy Project and the placement of turbines on Chemawa Hill?

A The Cultural Resources Program has been directed, through Committee Action of the Roads, Irrigation, and Lands Committee, to participate in the negotiation of turbine placement on Chemawa Hill. We will participate in the hearing process in order to be recognized and participate in the consultation process.