

April 9, 2021

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Energy Facilities Site Evaluation Council  
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Olympia, WA 98504-3172

Delivered electronically to: [amy.moon@utc.wa.gov](mailto:amy.moon@utc.wa.gov)

Dear Ms. Moon,

The Confederated Tribes of the Umatilla Indian Reservation's Department of Natural Resources (DNR) was contacted by Historical Research Associates, Inc. (HRA) regarding the proposed Horse Heaven Wind Farm project in early 2020 to assist with an archaeological pedestrian inventory survey and later in 2020 to conduct a traditional use study. Recently, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) has been contacted by local governments and organizations from the Tri-Cities area inquiring if we have or intend on submitting comments regarding the proposed Horse Heaven Wind Farm project to the Washington Energy Facility Site Evaluation Council (EFSEC). The CTUIR DNR cannot identify any correspondence we have received from the State of Washington or EFSEC regarding this project. Under Washington's Centennial Accord as well as other laws, rules and guidance, state agencies are responsible for consulting with affected Tribes. The CTUIR DNR formally requests to consult with EFSEC regarding this project.

In 1855, predecessors to the CTUIR—ancestors with the Cayuse, Umatilla, and Walla Walla Tribes and bands of Indians—negotiated and signed our Treaty with the United States. The Treaty is a contract between sovereigns and is “the supreme Law of the Land” under Article VI of the United States Constitution. In this Treaty, the CTUIR ceded millions of acres of land to the federal government, and in exchange received assurances that various pre-existing tribal rights would be protected and our interests would be respected, in perpetuity. A paramount objective in the Treaty negotiations was protecting and maintaining our tribal culture, traditions, way of life, and First Foods—water, fish, big game, roots, berries, and other plants, and, critically, access to them and the habitats and ecosystems that support and sustain them, then, now, and forever. This is a duty the United States undertook in the form of the Trust Responsibility to honor the obligations of the Treaty. This objective—protecting, maintaining, and perpetuating our culture—remains paramount for the CTUIR. We have worked for decades with the State of Washington to ensure the laws enacted and enforced protect not just our rights under the Treaty of 1855, but protect the invaluable sites and resources left by our ancestors for our descendants.

CTUIR DNR Letter to EFSEC  
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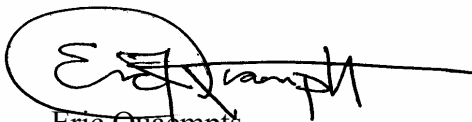
In reviewing Section 4.2.5.3 (Mitigation Measures) of the Application for Site Certification (ASC) (page 4-122) on your website, it states that the project would not have a significant impact to historic and cultural resources should mitigation measures outlined be followed. Yet the mitigation measures do not account for historic properties of religious and cultural significance to Indian Tribes (HPRCSITs). Furthermore, Appendix C – SEPA Checklist states under question 13 (c), that “the CTUIR are separately conducting a confidential Traditional Use Study that would inform their assessment of potential impacts from the Project to resources of interest.” Given that the CTUIR’s traditional use study (TUS) is still being conducted, the CTUIR does not agree that a determination stating “that the project would not have a significant impact to historic and cultural resources” be made. A determination of effect cannot be made while this critical study is being conducted.

The CTUIR now understands that the applicant has withdrawn their request for expedited review and now intends to conduct an Environmental Impact Study (EIS). Because this project proposes to make significant changes to the Horse Heaven Hills landscape, the CTUIR DNR agrees that an EIS is necessary. The CTUIR’s TUS will assess impacts that will occur to historic properties of religious and cultural significance in the project area to the CTUIR. Once CTUIR’s TUS is complete its results should be incorporated into the EIS to inform reasonable alternatives or mitigation measures upon those historic properties identified.

Finally, the CTUIR did receive a public notice from EFSEC regarding a hearing on the Horse Heaven Hills Wind Project last month. However, the notice was dated March 9, postmarked March 26 and received on March 29, the day before the open house/informational public meeting/land use consistency hearing on March 30, from 5pm to 9pm. In the future, we recommend more lead-time in scheduling events. Additionally, this notice was sent to the Chair of the CTUIR General Council. Please be sure to send all future notices to the Chair of the CTUIR Board of Trustees (BOT) who presides over the BOT which is the elected body that administers the authority of the CTUIR. A copy should also be sent to DNR.

These are initial comments of the CTUIR’s Department of Natural Resources’ Cultural Resources Protection Program. The CTUIR requests consultation from Washington EFSEC regarding the proposed Horse Heaven Wind Farm project. Please contact Audie Huber, DNR Intergovernmental Affairs Coordinator, at [AudieHuber@ctuir.org](mailto:AudieHuber@ctuir.org) to begin the consultation process.

Respectfully,



Eric Quempt  
Director, Department of Natural Resources

CC: Sydney Hanson, WA State Department of Archaeology and Historic Preservation