



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

March 23, 2023

Sent via Electronic Mail

Kathleen Drew, Chair
ENERGY FACILITY SITE EVALUATION COUNCIL
kathleen.drew@efsec.wa.gov

Adam Torem, Administrative Law Judge
ENERGY FACILITY SITE EVALUATION COUNCIL
adamtorem@writeme.com

Re: Adjudication Procedures in Docket No. EF-210011


Dear Chair Drew and Judge Torem,

The letter responds to Judge Torem's request for written feedback regarding the location and structure of the Energy Facility Site Evaluation Council ("EFSEC's") adjudicative hearing for the Horse Heaven Hills Wind & Solar Project ("Project"). On behalf of the Confederated Tribes and Bands of the Yakama Nation ("Yakama Nation"), I strongly advocate that you hold the adjudicative hearing in person and that information regarding sensitive cultural matters be protected to the greatest extent possible.

An in-person hearing format will benefit EFSEC and the parties. As we have all experienced in the last few years, this type of hearing can certainly be conducted virtually but often at the cost of clear and efficient communication. Due to the large and complicated nature of the Project, we anticipate that multiple witnesses will be using maps or other demonstrative exhibits during their testimony. Specific to Yakama Nation participation, we anticipate bringing direct testimony from Yakama Nation members on sensitive cultural information. There is no substitute for the ability to have Yakama Nation members look at the Council and other parties directly as they share their cultural knowledge utilizing the same oral traditions in which the knowledge was imparted onto them. Some witnesses may not be comfortable testifying virtually at all given the sensitivity of the information.

In addition to our request for an in-person hearing, we respectfully request that all protective measures possible be afforded to testimony and evidence regarding the Project's potential impacts to Traditional Cultural Properties. Under RCW 34.05.449(5), "[t]he hearing is open to public observation, except for the parts that [EFSEC] states to be closed under a provision of law expressly authorizing closure or under protective order entered by [EFSEC] pursuant to applicable rules." We understand the need to document the adjudicative process and will continue to work with Judge Torem and the other parties to ensure that the record is preserved in the most protective way possible under applicable law.

Sincerely,



Shona Voelckers, WSBA No. 50068
YAKAMA NATION OFFICE OF LEGAL COUNSEL

Yakama Nation, Post Office Box 151, Toppenish, WA 98948 (509) 865-5121