



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

May 15, 2025

FILED ELECTRONICALLY: <https://comments.efsec.wa.gov/draft-peis-comments>

Kurt Becket, Chair
Washington State Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, WA 98503-3172
ATTN: Electrical Transmission Draft PEIS Docket No. 181034
c/o: Patty Betts, Patty.Betts@efsec.wa.gov, (360) 974-9521
Sean Greene, Sean.Greene@efsec.wa.gov, (360) 485-1592

RE: YAKAMA NATION'S FIRST COMMENT ON DRAFT PROGRAMMATIC ENVIRONMENTAL
IMPACT STATEMENT FOR HIGH-VOLTAGE TRANSMISSION FACILITIES

Dear Chair Becket,

I am writing on behalf of the Confederated Tribes and Bands of the Yakama Nation ("Yakama Nation") in response to the Washington State Energy Facility Site Evaluation Council's ("EFSEC") notice of issuance for the the Draft Programmatic Environmental Impact Statement ("Draft PEIS") requesting public comment on high-voltage electrical grid transmission facilities with a nominal voltage of 230 kilovolts (kV) or greater. As summarized below, the Yakama Nation has substantive and procedural concerns regarding the scope and process of this Draft PEIS, specifically including, but not limited to, a lack of meaningful tribal consultation to date, an overbroad study scope, inappropriate streamlining of project applications without sufficient project-specific environmental review, and incomplete consideration for project-specific adverse effects to the Yakama Nation's resources.

The Yakama Nation reserves the right to amend or supplement its comments on the Draft PEIS based the emergence of new or additional information and/or conclusions during the EFSEC's on-going PEIS drafting process. The Yakama Nation's comments are not intended to be inclusive of and shall not be limiting upon all concerns in protection of the Yakama Nation's resources, which may be adversely impacted or are otherwise threatened by programmatic or project-specific environmental reviews. The Yakama Nation reserves and does not waive any right or privilege that it may be entitled to under applicable law. This comment is submitted through a public process with the intention of generally informing EFSEC's work in good faith.

I. Inherent And Treaty Reserved Sovereignty

The Yakama Nation is an inherently sovereign Native Nation that is federally-recognized pursuant to the Treaty with the Yakamas of 1855 (“Treaty”).¹ The Yakama Nation exercises inherent and Treaty-reserved rights and privileges on and off the Yakama Reservation, throughout the Treaty-territory of mapped ancestral homelands, and across all usual and accustomed areas.² The Yakama Nation’s Treaty authority is the supreme ‘Law of the Land’ pursuant to the United States Constitution and constitutes a basis to protect the Yakama Nation’s natural and cultural resources throughout the Treaty-enumerated territories.³ Federal judicial enforcement empowers the Yakama Nation to act as a Co-Manager of the Columbia River fishery.⁴ The natural and cultural resources in Yakama Nation’s enumerated Treaty-territory have sustained our way of life since time immemorial and still provide for the unbroken traditional and cultural activities related to exercising root gathering, fishing, ceremonial practices, and passing on religious teachings or indigenous knowledge.

The Draft PEIS will affect geographic areas within the Yakama Nation’s Treaty-territory. The Yakama Nation holds continuing interests in protecting the lands, waters, animals and Traditional Cultural Properties throughout its ancestral homelands, both on and off of the Yakama Reservation.

i. Government-To-Government Consultation

Under Yakama protocol, meaningful consultation occurs on a government-to-government basis between the elected Yakama Tribal Council and corresponding agency representatives that are empowered with relevant authority to affect the subject matter at issue. The Yakama Nation is a sovereign government, not a ‘stakeholder’ or public interest organization. This Draft PEIS has implications that directly affect the Yakama Nation’s interests and the failure to engage in early and meaningful consultation is both procedurally and substantively insufficient for EFSEC to consider potential adverse effects.

EFSEC is mandated to provide early and meaningful consultation with the Yakama Nation on potential impacts to tribal rights and interests on tribal lands and lands “possess[ing] rights reserved or protected by federal treaty, statute, or executive order.”⁵ This consultation must occur independently of the public comment process with the specific intention of identifying and considering potential impacts to tribal rights, interests, and resources before policy decisions are memorialized in the Draft PEIS. Failure to consult would be unacceptable—particularly in the context of a document with statewide implications and the potential to significantly affect treaty-reserved fishing, hunting, and gathering rights, as well as access to sacred and culturally significant sites.

¹ Treaty with the Yakamas, U.S. – Yakama Nation, June 9, 1855, 12 Stat. 951.

² *Id.* art. I, cl. 2; art. II, cl. 2; and art. III, cl. 1-2. *See also* Exhibit A – Map of Yakama Nation Territory.

³ United States Constitution, art. VI, cl. 2.

⁴ *See United States v. Washington*, 384 F. Supp. 312, 382 (W.D. Wash. 1974), *aff’d*, 520 F.2d 676 (9th Cir. 1975); *see also U.S. v. State of Oregon*, 666 F.Supp. 1461 (D. Or. 1987).

⁵ RCW § 43.21C.405(5) (2023).

ii. Environmental Justice For Overburdened Communities

The scope of the Draft PEIS is required to consider and analyze probable significant adverse environmental impacts on ‘overburdened communities’ that are direct, indirect, and cumulative.⁶ Overburdened communities mean any “geographic area where vulnerable populations face combined, multiple environmental harms and health impacts” and includes the more than 11,000 enrolled Yakama members living on traditional homelands on and off of the Yakama Reservation.⁷ The Washington State Environmental Justice Council (“EJ Council”) was further created to advise on the state’s policy aims to “reduce exposure to environmental hazards within Indian country, as defined in 18 U.S.C. Sec. 1151, due to off-reservation activities within the state, and to improve state practices to reduce contamination of traditional foods wherever they occur.”⁸ EFSEC should incorporate the EJ Council policy “affirming the rights of Tribal Nations and upholding free, prior, and informed consent . . . including the principle that Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants . . . affirming sovereignty and self-determination” into the Draft PEIS.⁹

The Draft PEIS must be clear that the Yakama Nation’s consultation rights or its ‘Free, Prior, and Informed Consent’ in the context of a programmatic environmental review cannot be manipulated as a substitute for project-specific consultation obligations.

II. Geographically Suitable Areas

The scope of the Draft PEIS is limited to “geographic areas that are suitable for the electrical transmission facilities with a nominal voltage of 230kV or greater” based on climatic and geophysical attributes conducive to a proposed project.¹⁰ EFSEC is specifically directed to solicit input from tribal sovereigns as to the suitability of geographic areas within the scope of the Draft PEIS.¹¹ The Draft PEIS specifically excludes undersea or oceanic geographic areas because such proposed projects are “too specific or detailed for the broad focus” of the present environmental review.¹² Underwater transmission cables in fish-bearing waterways will significantly impact fisheries, river management, and hydrologic functions that are of the utmost importance to the Yakama Nation. The electromagnetic fields from transmission cables are not well understood for impacts on migratory fish, particularly salmonids, and easily pass the threshold criteria to determine that precautionary environmental reviews must be required for project-specific proposals. Additionally, in-water siting and maintenance impacts to riparian zones can harm fish habitat, water quality, and Treaty-reserved fishing areas. The Draft PEIS must explicitly

⁶ RCW § 43.21C.405(3)(a)(iv) (2023).

⁷ RCW § 70A.02.010(10) (2021).

⁸ RCW § 70A.02.005(2) (2021).

⁹ Letter from the Washington State Environmental Justice Council to the Washington Department of Archaeology and Historic Preservation (Jul. 12, 2024) (Attached as Exhibit B).

¹⁰ RCW §§ 43.21C.405(2) and (4) (2023).

¹¹ *Id.* at § 43.21C.405(4).

¹² Draft Programmatic Environmental Impact Statement, EFSEC, Table 1.5-1: Exclusion Criteria at 1-7 (Mar. 31, 2025).

disclaim its exclusion of proposed projects in sensitive riparian corridors to allow for robust project-specific avoidance and mitigation strategies.

By extension of the Draft PEIS rationale, the scope of geographically suitable areas must exclude all underwater projects occurring in waters of the state, specifically including the entirety of the Columbia River and its underlying bed. The Columbia River is a transnational river that directly and indirectly affects multiple states and tribes throughout its basin. Any proposed project within the waters of the Columbia River will need specific and detailed environmental review, which is inappropriate for the broad focus of this Draft PEIS.

This Draft PEIS also prescribes avoiding “impacting areas sensitive to degradation, including adjusting the layout of new transmission facilities to steer clear of *sensitive water features*.”¹³ Where the “avoidance criteria cannot be met, additional environmental review and mitigation measures would be required to address related project-specific impacts.”¹⁴ The effect of this guidance is that ‘sensitive water features’ are already excluded from the Draft PEIS and require further environmental review if the proposed-project cannot avoid these sensitive water features. EFSEC should clarify the Draft PEIS to further define the nature of sensitive water features in addition to being “susceptible to degradation from construction activities” and provide clear guidance that the Columbia River and waters of the state require project-specific information, which cannot be substituted by the broad Draft PEIS.¹⁵

i. Draft PEIS Lacks Specific Consideration For Impacts To Waters Of The State

The Draft PEIS provides an inadequate description of applicable state water laws and provides an overly optimistic description of the overall availability of surface and groundwater throughout the state. In approximately half of the 62 Water Resource Inventory Areas (“WRIA”) throughout Washington State, the instream flows often severely limit the use period for new unmitigated surface water rights. Washington law recognizes connectivity between surface and groundwater, including groundwater withdrawal impacts to surface water bodies depending on certain aquifer parameters and other criteria.

Under certain circumstances it may not be possible to permit new unmitigated groundwater withdrawals in WRIAs with instream flow rules or in other over appropriated basins such as the Yakima River basin. The broad nature of the Draft PEIS only provides a summary of obstacles to obtaining new unmitigated water rights, stating “[w]ater availability varies across the state, and new water rights can be challenging to obtain in some areas due to limited supply.”¹⁶ It is stipulated that proposed projects must “adhere relevant federal, state, and local laws and regulations” and that any applicant will “provide information in the project-specific application to assist the State Environmental Policy Act (SEPA) Lead Agency in determining if the project adheres to all relevant laws and regulations” but the Draft PEIS does not specify and is too broad regarding the actual

¹³ *Id.* § 3.1.3.2 Avoid-3 at 3-7. (emphasis added).

¹⁴ *Id.* § 3.1.3.2 at 3-6.

¹⁵ *Supra* note 13.

¹⁶ *Id.* § 3.4.2.1. at 3-97.

information requirements to determine legal availability of water.¹⁷ EFSEC should clarify to avoid the possibility that proposed projects could be licensed prior to the issuance of valid water rights.

In certain circumstances, it may not be possible for the state Department of Ecology to issue a new water right for a specific location or source, nor would a proposed project have a guaranteed water purveyor within a suitable distance to the proposed project location. EFSEC should update the general requirements for applicants to provide documentation for the legal availability of water rather than vague guidance to request “information.” Without project-specific information about water availability, including but not limited to, the water right priority date, period of use, diversion/withdrawal rate, and diversion/well location(s), it is not possible for EFSEC to evaluate the environmental impacts of a proposed project as they relate to the utilization of water resources.

The Draft PEIS listed mitigation measures for impacts on water quantity, include using alternate water sources (e.g., trucking in water). As provided, the proposed mitigation does not adequately consider impacts to other water-dependent resources such as salmon bearing streams or wetlands, and needs to more explicitly encourage finding alternate water sources that have less impact on the environment.¹⁸ This means that the rational for impact significance after applying mitigation understates both the impact and the amount or type of mitigation to apply. It may be incorrect to conclude that “[a]dverse impacts can be avoided or minimized by using alternate water sources (e.g., trucking in water)” when alternative water sources in over appropriated WRIs shuffle adverse effects rather than mitigate them.¹⁹ Table 3.4-6 provides a rational to rate impacts to water availability as ‘less than significant’ without ensuring that actual mitigation measures meet the criteria for mitigation prescribed in Section 3.1.²⁰ Table 3.4-6 references the use of alternate water sources as part of its rational for the less than significant rating, but Section 3.1 lists no such mitigation measure. The Draft PEIS should put any proposed project on notice that mitigation may include using alternative water sources to reduce impacts to critical habitats and inherent tribal or Treaty-reserved resources to the greatest extent practicable. Additionally, if this mitigation guidance is not included in Table 3.4-6 then the rating for significance should be removed and reevaluated.

The suitability map for water resources, Figure 3.4-4, fails to provide proposed projects with realistic guidance on the level of conflict to expect regarding water resource impacts for the action alternative. The Figure does not appear to provide any level of insight into the suitability of a given site related to impacts from water quantity given the information provided under section 3.4.6.1 and in appendix 3.4-1. The map misleads proposed project applicants in regards to the level of conflict related to water quality, specifically where it suggests there will not be conflict when likely the opposite is true. For example, in the Yakima River Basin the suitability map identifies a significant number of non-salmon bearing intermittent streams dependent on irrigation return flow or ephemeral streams as having a medium to very high conflict rating. In contrast those streams that

¹⁷ *Id.* § 3.1.3.1 Gen-2 at 3-3.

¹⁸ *Id.*, Table 3.4-6: Summary of Impacts, Mitigation Measures, and Significance Rating for Water Resources at 3-128.

¹⁹ *Id.*

²⁰ *Id.* § 3.1.3.3 at 3-11. (quoting WAC 197-11-768).

have Endangered Species Act (“ESA”)-listed steelhead or bull trout have no rating. The information provided in appendix 3.4-1 provides a wholly inadequate and incomplete description of what data sources were used to develop the water resources suitability maps. Furthermore, the appendix is insufficient as to how subject matter experts weighted those individual data sources to come up with the suitability layers. As such it is not possible to comment as to why the information presented by the map would be so confounding for the Yakima River Basin in particular.

III. Cumulative Impacts

The Yakama Nation has carried a disproportionate burden of industrial-scale transmission infrastructure development in Washington State for many generations. The U.S. Department of Interior summarized direct and indirect cumulative impacts as follows,

“The conversion of the Columbia River to serve industrial purposes is one of many contributors to the catastrophic decline of salmon and other riverine resources. The government constructed the dams at a time when the salmon runs already were depleted by decades of preceding unsustainable commercial cannery operations and widespread habitat destruction from mining, logging, irrigation, agriculture, transportation system development, and non-federal dam construction. The destruction of the salmon runs, accelerated by the federal dam system, has resulted in decades of accumulating effects, whether because of reduced harvest opportunities and connections to traditional fishing areas, or lost access to usual and accustomed places now inundated by reservoirs.”²¹

The transmission infrastructure supporting the federal hydrosystem and the U.S. Department of Energy’s Hanford Site are representative of innumerable direct and indirect cumulative impacts that have damaged or destroyed natural and cultural resources, restricted or eliminated access for harvesting activities under the Treaty, and adversely affect the quality of life for Yakama People ranging from unmitigated housing dislocation to food contamination. It does not seem possible to determine the additional cumulative impacts of further development when the Draft PEIS itself has no limitation on the maximum new transmission development that it proposes to consider. A meaningful cumulative impact analysis of regional and long-term effects on the Yakama Nation’s rights and resources is important, but too often proposed project developers interpret “cumulative” to mean that the cost of adequate mitigation comes due on the proverbial ‘next project.’ And environmental regulatory agencies are too susceptible to omitting substantive consideration for the cumulative effects of existing or major foreseeable projects that injure or threaten tribal resources.

i. Traditional Cultural Properties

A programmatic environmental review can never substitute for project-specific site surveys in regards to cultural resources. The Draft PEIS narrowly interprets cultural impacts through the lens of National Historic Preservation Act (“NHPA”) Section 106,

²¹ Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes, U.S. Department of the Interior, 63 (Jun. 2024).

which should put proposed projects on notice that all project developers and regulatory agencies must meet NHPA requirements on project-specific information. Accounting for the cumulative degradation of landscapes and associated practices that are essential to the Yakama way of life must be done on a project-specific basis.

The Draft PEIS omits Tribal lands by disclaiming that within the exterior boundaries of a Reservation require project-specific assessments. Under the Healthy Environment for All (HEAL) Act, ‘Tribal lands’ are defined to include “sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.”²² Further, the EFSEC may not map “confidential information, such as locations of sacred cultural sites or locations of populations of certain protected species.”²³ Taken together, this means that the Draft PEIS cannot cumulatively assess direct and indirect adverse impacts to cultural resources on a programmatic level while also complying with necessary omissions on Tribal lands. This specifically includes the Yakama Nation’s Traditional Cultural Properties throughout its ancestral homelands. The Draft PEIS should be clear that a programmatic environmental review can never be regarded as a work-around to evade project-specific considerations.

The Draft PEIS must include notice to proposed projects that their engagement with impacted tribal entities on adverse impacts to Traditional Cultural Properties is a general condition and a prerequisite to any impact determination. The Yakama Nation has attached a map of its enumerated Treaty-territory, which is the minimum geographic scope of impacts to the Yakama Nation, providing that usual and accustomed areas, open and unclaimed lands, and other indigenous activity areas may also implicate the Yakama Nation’s inherent or Treaty-reserved interests. Similar to its disclaimer for on-Reservation lands, the Draft PEIS cannot represent to proposed projects that the Yakama Nation’s laws to preserve, protect, and perpetuate its cultural resources have been satisfied by a programmatic environmental review.

ii. Pre-Mitigation Surveys

The Draft PEIS prescribes mitigation measures for adverse impacts to cultural properties, including “historic and cultural resource survey methodologies prior to conducting the surveys” and that DAHP and the Tribes “*should* be included in development of the area to be surveyed (the APE) and survey methodology.”²⁴ The Draft PEIS must avoid conflating the requirement to survey proposed development areas to identify what cultural resources may be adversely affected and measures that constitute subsequent mitigation for a proposed project’s adverse effect. Identification surveying may describe the underlying resource, but that alone is not ‘mitigation’ for the impact(s) to said resource(s). If a proposed project cannot avoid adverse impacts, then it is not in the public interest for the state to subsidize damaging cultural resources by minimizing substantive mitigation for development impacts.

The Draft PEIS requirement for monitoring and discovery plans is another example where monitoring to for inadvertent discoveries, as proposed projects are required to do,

²² RCW § 70A.02.010(13) (2021).

²³ RCW § 43.21C.405(6) (2023).

²⁴ *Supra* note 20 § 3.15.4 Hist./Cultural-3 at 3-718. (emphasis added).

confuses mitigation for adversely impacted resources (purportedly an offset for the diminished resource) with a regulatory tool to prevent the proposed project from even more adverse effects.²⁵ Inadvertent discovery plans provide the protocol for a project to stop damaging an unknown site (for example a burial site) but this protocol is not inherently mitigating known impacts to other identified resources in the proposed project's development area (for example a previously identified village site). Not only 'should' impacted tribes be engaged by the proposed project and have consultation with the regulatory agencies, but this is essential because no entity other than the Yakama Nation is qualified to describe the meaning or consequence of its own Traditional Cultural Properties.

IV. Conclusion

The Yakama Nation remains committed to developing responsible energy infrastructure that aligns with inherent and Treaty-reserved rights, cultural values, and environmental stewardship. This Draft PEIS is a state legislative mandate to the EFSEC, but it cannot substitute for critical resource information that is substantively produced through project-specific environmental reviews and procedurally evaluated through consultation and engagement to avoid, minimize, and mitigate adverse effects to the Yakama Nation's natural and cultural resources. To schedule consultation with the Yakama Nation or clarify these comments, please contact the Yakama Nation's Environmental Coordinator, Kate Valdez, valv@yakamafish-nsn.gov, Energy Specialist, Paris Valdez, valp@yakamafish-nsn.gov, and Senior Attorney, Anthony Aronica, anthony@yakamanation-olc.org.

Respectfully,



GERALD LEWIS, CHAIRMAN
YAKAMA NATION TRIBAL COUNCIL

²⁵ *Id.* Hist./Cultural-6 at 3-719.

EXHIBIT A – MAP OF YAKAMA NATION TERRITORY

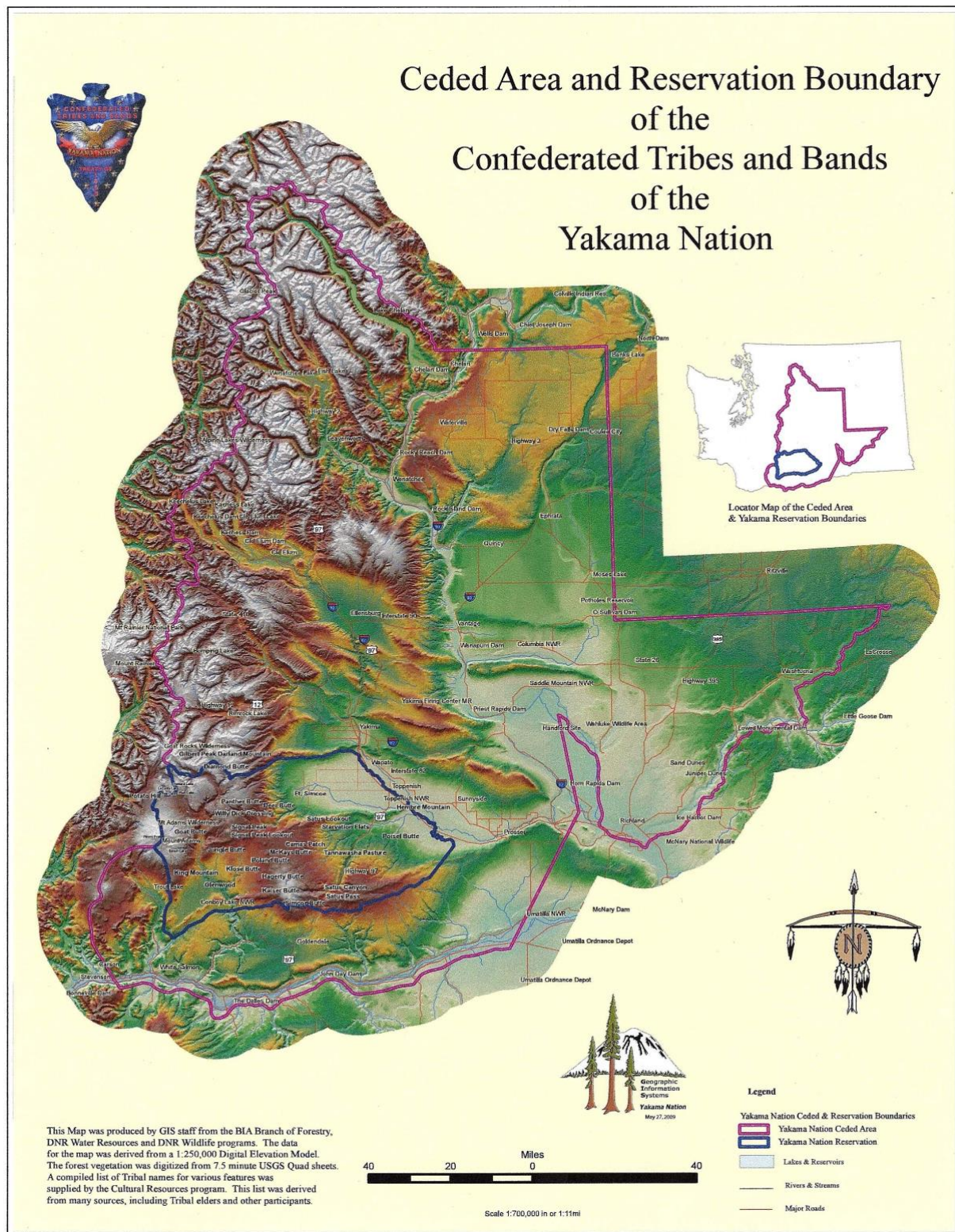


EXHIBIT B – LETTER FROM THE WASHINGTON STATE ENVIRONMENTAL JUSTICE COUNCIL
STATING THE POLICY OF FREE, PRIOR, AND INFORMED CONSENT (JUL. 12, 2024)

[Attachment coversheet only. Attached Letter included and paginated separately].

July 12, 2024

Allyson Brooks, State Historic Preservation Officer
Washington Department of Archaeology and Historic Preservation
PO Box 48343
Olympia, WA 98504-8343

Dear Dr. Allyson Brooks,

The Washington State Environmental Justice Council (EJ Council) was created through the Washington State Healthy Environment for All (HEAL) Act to promote environmental justice and serve as a forum for Tribes and communities ([chapter 70A.02 RCW](#)). The EJ Council is writing to share our opposition to the proposed pump storage project at *Pushpum* (FERC Project No. 14861) that would cause negative and irreparable damage to Traditional Cultural Properties and traditional foods and medicines and inflict an environmental injustice on the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and its subsidiary Rock Creek Band members.

The EJ Council recognizes the Yakama Nation's inherent sovereignty and rights reserved by the [Treaty of 1855](#) and upholds the Yakama Tribal Council Resolution adopted on May 24, 2021, opposing "the pump storage development at *Pushpum* to protect sacred religious and ceremonial places of inherent importance to Yakama culture." *Pushpum*, also known as Juniper Point, is within the Yakama Nation Treaty territory under Article I of the Treaty of 1855 and has been a site of religious, ceremonial, and cultural importance to the Yakama People since time immemorial. On July 2, 2024, the EJ Council adopted a policy affirming the rights of Tribal Nations and upholding free, prior, and informed consent as follows:

The Environmental Justice Council (Council) affirms the rights acknowledged under the [United Nations Declaration of the Rights of Indigenous Peoples](#) and emphasizes the importance of practicing free, prior, and informed consent. The Council also upholds the [Principles of Environmental Justice](#) adopted at the First National People of Color Environmental Leadership Summit in 1991, including the principle that "Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants, [other laws, and executive orders], affirming sovereignty and self-determination." The Council knows the urgency of the climate crisis (particularly for Tribes and other frontline communities) and supports the need to transition to safer, cleaner, and more sustainable energy

production. The Council further upholds that when this transition involves a project of non-Tribal proponents, it must happen only with free, prior, and informed consent from Tribes who have been, and continue to be, the stewards of the land since time immemorial.

Thereafter the EJ Council adopted a statement to stand with the Yakama Nation in opposition to this proposed pump storage project. The EJ Council centers both the letter and the spirit of the HEAL Act in standing with the Yakama Nation and its subsidiary Rock Creek Band members in their opposition to the proposed development at *Pushpum*. The HEAL Act describes environmental justice to include addressing disproportionate impacts of environmental decisions by prioritizing overburdened communities (including Tribes) and eliminating harm to these communities from government decision-making. The HEAL Act defines “environmental harm” to include “loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods.” It is essential that the Washington State and Federal governments work side by side to eliminate environmental harms given that both governments are working to advance environmental justice.

Washington State and the Federal Government run the risk of repeating history by permitting the Goldendale development at the expense of harming Tribal Nations’ sacred lands and waters. The impacts to Celilo Falls, Bradford Island, and Bateman Island at the hands of both the State and Federal Governments are nearby examples from a pattern of harm toward Traditional Cultural Properties and traditional foods. A June 2024 Department of Interior report, [Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes](#), outlined the unique and disproportionate harms to Tribes (at page 42):

The dams silenced these sites that for thousands of years were filled with the noise of rushing water and people communing, praying, fishing, trading, and celebrating. As Yakama Tribal members and others expressed in consultation, all that remains now are the memories of those who once lived there, stripping future generations of the opportunity to witness and experience some of the most important places for Tribal fishing and culture. Although it is difficult to describe catastrophic loss, one Yakama Tribal member compared the loss of Celilo Falls to what it would be like for the United States to lose New York City because of their similar societal roles as centers of culture, trade, history, and tradition.

Repeating history by approving the Goldendale permit application without free, prior, and informed consent from impacted Tribes is in an environmental injustice.

FERC's lack of government-to-government Consultation with Yakama Nation on this proposed project means that the legal requirements for Consultation and the EJ Council's recognized principles of environmental justice have not been met. In alignment with the principles, policies, and analyses outlined above, the Department of Archaeology and Historic Preservation (DAHP) should not sign the Programmatic Agreement for this project until Consultation has been conducted with Yakama Nation and Yakama Nation has **consented** to the Programmatic Agreement.

As outlined in [RCW 70A.02.020](#) of the HEAL Act for non-covered agencies, we urge DAHP to incorporate the "principles of environmental justice assessment processes set forth in RCW 70A.02.060" into this decision-making process. The EJ Council is a partner in this work as outlined in [RCW 70A.02.110 \(11\)\(e\)](#) which indicates the EJ Council may provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities.

We look forward to a positive response.

In Solidarity,

Washington State Environmental Justice Council

Recipients

- Allyson Brooks, State Historic Preservation Officer, Washington Department of Archaeology and Historic Preservation

Copied

- Jaime Loichinger, Office of Federal Agency Programs, Advisory Council on Historic Preservation
- John T. Eddins, Office of Federal Agency Programs, Advisory Council on Historic Preservation
- Rob Whitlam, Ph.D., State Archaeologist, Washington State Department of Archaeology & Historic Preservation
- Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission
- Chair Willie L. Phillips and Members of the Federal Energy Regulatory Commission
- Vince Yearick, Director, Division of Hydropower Licensing, Federal Energy Regulatory Commission
- Michael Tust, Interagency Hydropower Coordinator, Federal Energy Regulatory Commission

- Elizabeth Molloy, Tribal Liaison, Federal Energy Regulatory Commission
- Gerald Lewis, Chairman, Yakama Nation Tribal Council
- Governor Jay Inslee, Governor of Washington State
- Becky Kelley, Senior Policy Advisor on Climate, Office of Governor Jay Inslee
- Carrie Sessions, Senior Policy Advisor on Environment & Water, Office of Governor Jay Inslee
- Anna Lising, Senior Policy Advisor on Climate, Office of Governor Jay Inslee
- Jerry Rivero, Environmental Justice & HEAL Implementation Coordinator, Office of Governor Jay Inslee

Appointed Environmental Justice Council Members:

- The Honorable Jarred-Michael Erickson, Interim Environmental Justice Council Co-Chair
- Co-Chair Maria Batayola
- Council Member Nichole Banegas
- Council Member Maria Blancas
- Council Member Tatiana Brown
- Council Member Running-Grass
- Council Member Rosalinda Guillen
- Council Member Aurora Martin
- Council Member David Mendoza
- Council Member Esther Min
- Council Member Todd Mitchell
- The Honorable Misty Napeahi
- AJ Dotzauer, Delegate for the Honorable Misty Napeahi
- Council Member Lua Pritchard
- The Honorable Monica Tonasket
- Council Member Raeshawna Ware
- The Honorable Jeremy Wilbur

Environmental Justice Council Ex Officio Agency Liaisons:

- Ex Officio Liaison for Puget Sound Partnership Lea Anne Burke
- Ex Officio Liaison for Department of Commerce Michael Furze
- Ex Officio Liaison for Department of Agriculture Nicole Johnson
- Ex Officio Liaison for Department of Ecology Millie Piazza
- Ex Officio Liaison for Department of Health Lauren Jenks
- Ex Officio Liaison for Department of Natural Resources Eliseo (EJ) Juárez

- Ex Officio Liaison for Department of Transportation Ahmer Nizam