



Confederated Tribes and Bands of the Yakama Nation  
Established by the Treaty of June 9, 1855

Post Office Box 151  
Toppenish Washington 98948

Sonia Bumpus  
Energy Facility Site Evaluation Council  
PO BOX 43172  
Olympia WA, 98504-3172

March 2, 2021

RE: Horse Heaven Wind Facility Application

Dear Ms. Bumpus,

The Yakama Nation Cultural Resources Program (CRP) has reviewed the Horse Heaven Wind Facility documents available on the Energy Facility Site Evaluation Council (EFSEC) website. We are highly concerned with the content of this application, the nature in which our correspondence with Scout Clean Energy has been characterized, the manner in which cultural resources have been considered, and impacts to Traditional Cultural Properties.

The applicant has asked for an expedited review, citing RCW 80.50.10 and WAC 463-60-021. They note that this RCW and its associated WAC exempt the applicant from having to demonstrate need for a new energy facility, and compel the Council to presume need for increased energy development. We strongly oppose this assumption. Rather, we find that energy production in our region is directly tied to our hydroelectric grid, for which careful analysis is greatly needed. Wind and solar energy require an alternative stable power source on the grid. Increased wind and solar development will eventually compel the need for more hydroelectric or coal power. Further, oversupply of energy within our region directly impacts the manner in which hydroelectric power is managed within our Columbia River system. This has dire consequences for Columbia River salmon and other fish species upon which the Yakama Nation depends culturally. We believe the *need* for each new proposed facility should be addressed, and the impact of new grid supply should be evaluated cumulatively. We do not concur with expedited review and request that EFSEC deny the applicant's request.

We remain concerned with impacts to wildlife such as birds and bat species. We oppose the acceptance of these mortality rates as a cost of "green energy". The proponent has stated compliance with all required studies, however, they have not clearly stated in their application how many avian and bat mortalities they expect. They mitigate through construction buffers, but do not clearly examine their project's impact over the long term for these species. We request a cumulative (region wide) analysis to determine the true project impact to these species.

The Yakama Nation CRP is strongly opposed to the manner in which the applicant has characterized its correspondence with our Program. In Section 1.12.2, the applicant lists all of its meetings with our staff, noting those meetings, emails, and phone calls as "consultation". It further states that HRA's correspondence is evidence of Tribal coordination and consultation. We reject this characterization. Since our initial meeting with the applicant, the Yakama Nation CRP has stated and reiterated that our communication has been technical and that consultation must occur on a government-to-government basis. We further emphasized to the applicant and their contract archaeologist (HRA) that consultation *cannot be delegated* to the contract archaeologist or environmental firm. We asked that our meetings and correspondence not be mischaracterized by the applicant as proof of consultation in


this manner. Should the applicant wish to engage in a more formal interaction with the Yakama Nation, they may contact our Tribal Council and arrange a meeting. This course of action was suggested at the outset of our correspondence. It should be noted, that it is more appropriate for EFSEC and Benton County to consult with our Tribal Council as consultation is a government-to-government engagement. In fact, EFSEC's requirement that the applicant provide proof of consultation incorrectly places the applicant in the consultation role. We ask that EFSEC consider a revision to this requirement to place consultation in the appropriate government setting. This is particularly important as applicants are focused on providing *proof*, yet not presenting to the Council what issues have been discussed.

The Yakama Nation CRP has identified several Traditional Cultural Property concerns. These involve Chandler Butte, Webber Canyon and other locations throughout the project lands, all of which may suffer impacts as a result of this proposal. Among our many concerns, we are disheartened to learn from the application that despite promises for avoidance, a new BPA substation is planned near Webber Canyon. We ask EFSEC's confidential engagement to discuss and address project impacts to Traditional Cultural Properties.

Archaeological resources in the application and report are interpreted under the incorrect regulatory law. As this project is under state-level regulation, state law RCW 27.53 applies. Yet the applicant has weighed all cultural resources according to federal law, and in a number of instances states that the Washington Heritage Register protects resources. This is abjectly incorrect. Such errors have led to massive site damage on other facilities. Again, this very issue was discussed with Scout as well as their archeological contractor in the past, and we are perplexed that the incorrect legal interpretations have been utilized again in the applicant's filing with EFSEC. We continue to request full avoidance of archaeological resources and reject excavation and data recovery as acceptable mitigation measures. We further request revision of the application and report to reflect the correct suite of laws. We ask EFSEC to reconsider the practice of uploading the survey report to their public website. Though redacted, these reports contain content protected by law.

In closing we would like to emphasize that we have found error and fault in the applicant's consideration of cultural resources, specifically as it pertains to the correct utilization of regulatory context. We have concerns regarding the project's impacts to Yakama Nation Traditional Cultural Properties, the manner in which the applicant has characterized its correspondence with the Yakama Nation CRP, its analysis of wildlife impacts, and failure to analyze project *need* and consequences to the electrical grid in our region. We ask that EFSEC engage with the Yakama Nation in resolving these concerns. We further ask for a denial of the applicant's request for expeditious review.

Thank you,

Casey Barney   
Interim Program Manager, Yakama Nation Cultural Resources Program

Cc:

George Selam, Yakama Nation Tribal Council Cultural Committee Chairman  
Gerald Lewis, Yakama Nation Tribal Council Cultural Committee Secretary  
Delano Saluskin, Yakama Nation Tribal Council Cultural Committee/Tribal Council Chairman  
George Meninick, Yakama Nation Tribal Council Cultural Committee  
Jerry Meninick, Yakama Nation Deputy Director of Cultural  
Jessica Lally, Yakama Nation Cultural Resources Program Archaeologist  
Ethan Jones, Yakama Nation Office of Legal Counsel  
Amy Moon, Energy Facility Site Specialist, EFSEC

Sydney Hanson, Department of Archaeology and Historic Preservation