

Environmental Justice Council

May 24, 2023 Meeting Materials

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Consejo de Justicia Ambiental

Miércoles, 24 de mayo de 2023

De 4:00 p. m. a 7:00 p. m.

Para unirse al seminario web, haga clic en el siguiente enlace:

<https://us02web.zoom.us/j/81747864781>

O llame por teléfono al +1 253 215 8782 (EE. UU.)

Id. del seminario web: 817 4786 4781

Encuentre su número local: <https://us02web.zoom.us/j/81747864781>

Objetivos de la reunión:

- Elegir al representante tribal del comité ejecutivo y al copresidente interino.
- Informar y debatir sobre el plan de trabajo del Consejo de mayo a septiembre de 2023 y el posible retiro del Consejo en junio.
- Tener información actualizada sobre la sesión legislativa de 2023 y los presupuestos finales, e iniciar el debate sobre la elaboración del presupuesto de la agencia HEAL (por su sigla en inglés, Ley de Medioambiente Sano para Todos) y los requisitos de financiación de la HEAL.
- Debatir y proporcionar ideas y comentarios sobre el Borrador del Proceso de evaluación de la justicia ambiental de la agencia HEAL y el posible consenso del Consejo sobre las orientaciones relacionadas con los próximos pasos.
- Identificar las cuestiones sobre poblaciones vulnerables y comunidades sobrecargadas del Consejo de Justicia Ambiental, las agencias HEAL y los legisladores.

Orden del día

Lo invitamos a participar a las 3:50 p. m. a una presentación sobre cómo activar los subtítulos y cómo acceder al canal de interpretación en español.

De 4:00 p. m. a 4:05 p. m.	I. Bienvenida y pasaje de lista para verificar que haya cuórum	El honorable Jarred-Michael Erickson Copresidenta Maria Batayola Miembros del Consejo
De 4:05 p. m. a 4:10 p. m.	II. Aprobación del orden del día por parte del Consejo III. Aprobación de las notas de la reunión del 22 de marzo de 2023 por parte del Consejo	Miembro del Consejo Esther Min Miembros del Consejo
De 4:10 p. m. a 4:20 p. m.	IV. Elección del representante tribal del comité ejecutivo y del copresidente interino	Miembro del Consejo Esther Min Miembros del Consejo
De 4:20 p. m. a 4:30 p. m.	V. Comité Ejecutivo a) Informe sobre el plan de trabajo de 2023: desde mayo hasta noviembre b) Breve información sobre el proyecto eólico Horse Heaven	Copresidenta Maria Batayola Miembros del Consejo
De 4:30 p. m. a 4:40 p. m.	VI. Comentarios públicos	Miembro del Consejo Rosalinda Guillen

De 4:40 p. m. a 5:20 p. m.	VII. Ideas y comentarios sobre el Borrador del Proceso de evaluación de la justicia ambiental de la agencia HEAL	Copresidenta Maria Batayola Forrest Watkins, Departamento de Comercio Courtney Cecale, Departamento de Ecología Comité de Evaluación del Consejo de Justicia Ambiental Miembros del Consejo
Receso de 10 minutos		
De 5:30 p. m. a 6:05 p. m.	VIII. Identificación de las cuestiones sobre poblaciones vulnerables y comunidades sobrecargadas del Consejo de Justicia Ambiental, las agencias HEAL y los legisladores	Miembro del Consejo Aurora Martin Rowena Pineda, miembro del equipo del Consejo Sierra Rotakhina, miembro del equipo del Consejo Miembros del Consejo
De 6:05 p. m. a 6:45 p. m.	IX. Actualizaciones legislativas y presupuestarias, y debate limitado sobre la elaboración de presupuestos de la agencia HEAL y los requisitos de financiación de HEAL	El honorable Jarred-Michael Erickson Jonathan Chen, miembro del equipo del Consejo Sierra Rotakhina, miembro del equipo del Consejo
De 6:45 p. m. a 6:55 p. m.	X. Comentarios públicos	Miembro del Consejo Rosalinda Guillen
De 6:55 p. m. a 7:00 p. m.	XI. Agradecimientos y cierre	Copresidenta Maria Batayola Miembros del Consejo

Información importante:

- El Consejo puede cambiar los asuntos del orden del día el mismo día de la reunión.
- El número de contacto de emergencia durante la reunión es 360-584-4398.
- Si desea solicitar este documento en un idioma o formato alternativos, envíe un correo electrónico a Sierra Rotakhina en cualquier idioma a envjustice@ejc.wa.gov o llame al 360-584-4398.

Environmental Justice Council

Wednesday, May 24, 2023

4:00pm – 7:00pm

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81747864781>

Or Telephone: US: +1 253 215 8782

Webinar ID: 817 4786 4781

International numbers available: <https://us02web.zoom.us/u/kd6MggTvTL>

Meeting Goals:

1. Elect Executive Committee Tribal Representative and Interim Co-Chair.
2. Brief and discuss May through September 2023 Council Workplan and possible Council retreat in June.
3. Update on the 2023 legislative session and final budgets and begin discussion of HEAL agency budgeting and funding HEAL requirements.
4. Discuss and provide input and feedback on Draft HEAL Agency Environmental Justice Assessment Process and potential Council consensus on guidance related to next steps.
5. Identify questions on vulnerable populations and overburdened communities from the EJ Council, HEAL agencies, and legislators.

Agenda

Please join us at 3:50pm for a presentation on how to turn on closed captions and join the Spanish interpretation channel.

4:00 PM – 4:05 PM	I. Welcome and Roll Call for Quorum	The Honorable Jarred-Michael Erickson Co-Chair Maria Batayola Council Members
4:05 PM – 4:10 PM	II. Approval of Agenda by Council III. Approval of March 22, 2023 Meeting notes by Council (page 8)	Council Member Esther Min Council Members
4:10 PM – 4:20 PM	IV. Election of Interim Executive Committee Tribal Representative and Co-Chair (page 17)	Council Member Esther Min Council Members
4:20 PM – 4:30 PM	V. Executive Committee Update a) Briefing on 2023 Workplan: May through November (page 19) b) Quick update on Horse Heaven Wind Project (page 24)	Co-Chair Maria Batayola Council Members
4:30 PM– 4:40 PM	VI. Public Comment (page 74)	Council Member Rosalinda Guillen
4:40 PM – 5:20 PM	VII. Briefing then Input and Feedback on Draft HEAL Agency Environmental Justice Assessment Process (page 47)	Co-Chair Maria Batayola Forrest Watkins, Department of Commerce Courtney Cecale, Department of Ecology Council Environmental Justice Assessment Committee Council Members

10 Minute Break		
5:30 PM – 6:05 PM	VIII. Identifying Questions on Vulnerable Populations and Overburdened Communities from the EJ Council, HEAL Agencies, and Legislators (page 67)	Council Member Aurora Martin Rowena Pineda, Council Staff Sierra Rotakhina, Council Staff Council Members
6:05 PM – 6:45 PM	IX. Legislative and Budget Updates and Limited Discussion on HEAL Agency Budgeting and Funding HEAL Requirements (page 70)	The Honorable Jarred-Michael Erickson Jonathan Chen, Council Staff Sierra Rotakhina, Council Staff
6:45 PM – 6:55 PM	X. Public Comment (page 74)	Council Member Rosalinda Guillen
6:55 PM – 7:00 PM	XI. Appreciations and Adjournment	Co-Chair Maria Batayola Council Members

Important Information:

- The Council may move agenda items around on the day of the meeting.
- Emergency contact number during the meeting is 360-584-4398.
- To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398.

Draft Minutes of the Environmental Justice Council

March 22, 2023

Virtual ZOOM Platform

Due to limited staff capacity, Environmental Justice Council (Council) staff are working to streamline the Council meeting notes. The notes now include only very high-level points and the final decisions made along with voting records. The full meeting recordings can be found on the Council's website: [Environmental Justice Council Meetings | WaPortal.org](https://www.wa.gov/EnvironmentalJusticeCouncilMeetings). However, it is important that meeting notes are useful to the Council Members and the public. Please share feedback with Council staff on how we can make these notes most useful to you by emailing envjustice@ejc.wa.gov or by calling 360-584-4398.

Governor-Appointed Council Members present:

- Council Member Maria Batayola
- Council Member Nichole Banegas, left at 6:57pm
- The Honorable Jarred-Michael Erickson
- Council Member Running-Grass
- Council Member Aurora Martin, joined at 4:36pm
- Council Member David Mendoza
- Council Member Todd Mitchell
- Council Member Nirae Petty, joined at 4:08pm and left at 6:12pm
- The Honorable Annette Bryan on behalf of the Honorable Sylvia Miller, left at 7:09pm
- Council Member Faaluaina Pritchard, joined at 4:07pm and left at 5:15pm
- Council Member Raeshawna Ware, joined at 4:35pm
- Council Member Maria Blancas, joined at 4:47pm

Governor-Appointed Council Members absent:

- Council Member Rosalinda Guillen
- Council Member Esther Min
- The Honorable Misty Napeahi

Agency Ex Officio Members present:

- Lea Anne Burke on behalf of Laura Blackmore, Puget Sound Partnership
- Eliseo (EJ) Juarez, Department of Natural Resources
- Ahmer Nizam, Department of Transportation
- Jennifer Grove on behalf of Michael Furze, Department of Commerce

- Nicole Johnson, Department of Agriculture
- Millie Piazza, Department of Ecology
- Lauren Jenks, Department of Health, joined at 4:44pm

Council staff:

- Amina Al-Tarouti
- Jonathan Chen
- Angie Ellis
- Christy Curwick Hoff
- Rowena Pineda
- Sauncha Romey
- Sierra Rotakhina

Guests Present:

- The Honorable Patrick DePoe, joined at 4:35pm

I. Welcome and Roll Call for Quorum

Maria Batayola, Council Co-Chair, called the meeting to order at 4:01pm. Rowena Pineda, Council Staff, took the roll call.

Nichole Banegas	Present
Co-Chair Maria Batayola	Present
Maria Blancas	Joined at 4:47pm
The Honorable Jarred-Michael Erickson	Present
Running-Grass	Present
Rosalinda Guillen	Absent
Aurora Martin	Joined at 4:36pm
David Mendoza	Present
Esther Min	Absent
Todd Mitchell	Present
The Honorable Misty Napeahi	Absent
Nirae Petty	Present
Faaluaina Pritchard	Present
The Honorable Annette Bryan on behalf of the Honorable Sylvia Miller	Present
Raeshawna Ware	Joined at 4:35pm

II. Approval of Agenda by Council

Co-Chair Batayola, called for an adoption of the agenda. Members discussed whether to add an agenda item to elect a new Co-Chair.

Motion: The Council adopts the agenda.

Motion/Second: Member Pritchard/Member Mendoza.

The motion passed, with Council Member Running-Grass noting reservations.

III. Approval of February 28, 2023 Meeting Notes by Council

Co-Chair Batayola called for an adoption of the February 28, 2023 minutes. Todd Mitchell, Council Member, requested that all motions be included in the minutes.

Motion: The Council adopts the February 28, 2023 minutes with any edits needed to ensure all motions are included in the minutes.

Motion/Second: Member Pritchard/Member Mendoza.

The motion passed.

IV. Executive Committee and Legislative and Budget Updates

Co-Chair Batayola said the Executive Committee has been discussing support for Council Members at committee meetings (e.g., having alternatives or bringing additional individuals to meetings).

Some members have limited capacity to fully participate. Members discussed the need for the Governance Committee to develop recommendations and to add language to the bylaws. Council Member Running-Grass said they are working on email responses to public comments. Jonathan Chen, Council Staff, provided an update on the legislative session.

VI. Public Comments

Co-Chair Batayola opened the public comment period, announcing that this was an opportunity to hear from community members who wanted to provide comments on agenda items before Council Members took action.

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John Worthington provided comments on the identification of overburdened communities. He spoke to disputes over the term and said he would like to share his solution at a future public comment period.

VI. Celebration and Appreciation of Co-Chair Patrick DePoe's Contributions to the Council, Request for Recommendation from Tribal Representatives for Executive Committee Tribal Representative, and Election of Interim Co-Chair

Co-Chair Batayola said staff have been in contact with the Governor's Office about appointing a Tribal Representative to the Council to fill the seat vacated by former Council Co-Chair Patrick DePoe. She said the Council's bylaws require that the Executive Committee includes at least one Tribal Representative. Council Member Running-Grass said the bylaws require the Co-Chairs be elected from among the Executive Committee members. He suggested amending the bylaws to elect an interim Co-Chair from among the full Council membership. Council members shared their thoughts opposed to and in favor to amending the bylaws. Several members encouraged the Honorable Jarred-Michael Erickson to join the Executive Committee and consider serving as Co-Chair. Council Member Erickson said he would serve on the Executive Committee and as Co-Chair on an interim basis, adding that when they the forth Tribal Representative appointed, they could revisit.

Co-Chair Batayola asked staff to check with Council Member Misty Napeahi to get her thoughts on this issue. She then paused the discussion to welcome former Co-Chair Patrick DePoe. Members shared their appreciation for his service and leadership and congratulated him on his new position.

VII. Council Community Engagement Committee Recommendations for Discussion and Council Action

Nirae Petty, Council Member, said the Community Engagement Committee is working to establish values and goals. She read the values as submitted in the meeting materials and Council Members provided feedback:

- The Honorable Annette Bryan, Council Member, - Gratitude for the acknowledgment of historical harms.
- Member Mitchell – Hoped data would not be a barrier if it is not available before engagement.
- Raeshawna Ware, Council Member – Requested inclusion of data disaggregation (preparing before going into a community) and the idea that community is not a monolith. Also, the need to focus on those closest to the pain, not just those who are available and have capacity.
- Co-Chair Batayola - Outreach and community engagement need to be defined. Also, she appreciates the affirmation that the fundamental guidance is available in HEAL and the CCA.

Member Petty asked that the changes be added before voting to establish the values. Member Running-Grass said he made some edits to the document and he added that some examples about how to operationalize the values. He suggested that they consider a motion to affirm the direction but that they spend some more time with it before adopting and submitting to the agencies. David Mendoza, Council Member, said the EJ Task Force report included additional guidance.

Motion: The Council affirms and appreciates the general direction of the “Community Engagement Values and Guidance” discussed at the March 22, 2023 Council meeting and directs the Community Engagement Committee to continue to work on these with input from Council Members and bring them back to the full Council for adoption.

A: Yes, I approve.

B: Yes, with reservations.

C: Not voting until we have further discussions.

D: I don't approve, but I won't block.

E: I block, have serious concerns.

F: I stand aside, recuse myself.

Nichole Banegas	A
Co-Chair Maria Batayola	A
Maria Blancas	A
The Honorable Jarred-Michael Erickson	A
Running-Grass	A, First Motion
Rosalinda Guillen	Absent
Aurora Martin	A
David Mendoza	A
Esther Min	Absent
Todd Mitchell	A
The Honorable Misty Napeahi	Absent
Nirae Petty	A
Faaluaina Pritchard	Absent
Honorable Annette Bryan on behalf of the Honorable Sylvia Miller	A
Raeshawna Ware	A

VIII. 2023 Workload Prioritization and Meeting Planning

Sauncha Romey, Council Staff, shared the results of the Council Member survey on workload prioritization. Member Mendoza expressed concerns that CCA linkage was a low priority. Lea Anne Burke, attending on behalf of Ex Officio Member Laura Blackmore and Puget Sound Partnership, said there is a lot of work for staff and the Interagency Workgroup to complete and they are hesitant to move forward without guidance from the Council, adding that they are faced with legislative deadlines. Co-Chair Batayola said the HEAL Act and CCA provide a lot of guidance that they can look to. Co-Chair Batayola proposed that the Executive Committee continue to work on prioritization and consult with the Interagency Workgroup.

Sierra Rotakhina, Council Staff, shared the proposed meeting dates. No concerns were expressed.

MOTION: The Council adopts the proposed Meeting Schedule for 2023.

A: Yes, I approve.

B: Yes, with reservations.

C: Not voting until we have further discussions.

D: I don't approve, but I won't block.

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E: I block, have serious concerns.

F: I stand aside, recuse myself.

Nichole Banegas	A, First
Co-Chair Maria Batayola	A
Maria Blancas	A
The Honorable Jarred-Michael Erickson	B
Running-Grass	A
Rosalinda Guillen	Absent
Aurora Martin	A
David Mendoza	B
Esther Min	Absent
Todd Mitchell	A
The Honorable Misty Napeahi	Absent
Nirae Petty	Absent
Faaluaia Pritchard	Absent
Honorable Annette Bryan on behalf of the Honorable Sylvia Miller	A, Second
Raeshawna Ware	A

IX. Affirming HEAL Act Environmental Justice Assessment Guidance and State Agencies' Proposed Process

Rowena Pineda said this was an informational agenda item. She reviewed statutory requirements for Environmental Justice Assessments on Significant Agency Actions (outlined in meeting materials, starting on page 49). Co-Chair Batayola asked about required consultation with Tribes and how the process would align with SEPA review. Members discussed when to start an EJ Assessment with many members commenting on the need to do the assessments early in the process. Rowena Pineda said the committee was meeting next Wednesday and they would be doing a test run.

X. Affirming HEAL Act Defining Overburdened Communities and Vulnerable Populations Guidance and State Agencies' Proposed Process

Rowena Pineda provided some background information as outlined on pages 54-56 in the meeting materials. Member Mendoza said there are different opinions on whether there should be a process for identifying Overburdened Communities or a single list. He said if there was a grant program or a policy it would need a more narrowed definition. Co-Chair Batayola suggested running tests using process, single definition, and a hybrid approach to see if there were unexpected consequences. Eliseo (EJ) Juarez, Ex Officio Member, asked if there was a better way to get information to members so they could be prepared to participate more fully. Co-Chair Batayola suggested it might be helpful for Council Members to join their meetings.

XI. Public Comment

John Worthington said the shipping of emissions is more of a threat than local industry and transportation. He said the solution is wind power, solar power, and micro power (vertical water job). He said we need to power the industrial scrubbers and invest in robotics agriculture and manufacturing and clean up after it all. He said we need to do that all rather than get all our stuff from China and India. He discussed how his solution could be paid for. Co-Chair Batayola asked Mr. Worthington to submit his comments in writing.

Council staff read a written comment submitted regarding the importance of Tribal perspectives and keeping tribal representatives for EJ Council co-chairs.

XII. Discussion of Environmental Justice in Budgeting and Funding Decisions and Discussion of Environmental Justice Principles

Rowena Pineda provided background information on statutory requirements, see meeting materials starting on page 61. She said the HEAL Act does not define “environmental justice principles” and asked if there was any guidance from members. Member Mendoza said the EJ Task Force developed a set of environmental justice principles. Ex Officio Member Juarez said the Task Force’s work has been invaluable and helped inform DNR’s strategic plan. Millie Piazza, Ex Officio Member, said the federal work on Justice 40 could be useful as many agencies have federal oversight. She suggested opening up Council committees beyond Council Members as there are

individuals doing important work that we can learn from. Co-Chair Batayola said it might be nice to bring in experts and have a day of learning.

XIII. Appreciation and Adjournment

Co-Chair Batayola thanked everyone and adjourned the meeting at 7:27pm.

Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Election of Interim Executive Committee Tribal Representative and Co-Chair

Background and Summary:

During the March 2023 Environmental Justice Council (Council) meeting, the Council began discussing how to fill the Tribal Representative seat on the Council's Executive Committee and the Council Co-Chair seat left vacant when former Co-Chair Patrick Depoe had to leave his position on the Council.

The Governor's Office is working to appoint a Tribal Representative to the Council to fill Patrick DePoe's former Council seat. At the March meeting the Council discussed waiting to fill the Council's vacant leadership seats until the Governor had appointed the fourth Tribal Representative, and instead opted to fill the leadership seats as interim positions for now. The Members present at the March meeting supported electing the Honorable Jarred-Michael Erickson as the interim Executive Committee Tribal Representative and as the interim Council Co-Chair. Chairman Erickson expressed willingness to accept these nominations with the understanding that the Council would elect the permanent leadership positions once the Governor has appointed the fourth Tribal Representative. The Council did not pass a motion to formalize these interim seats at the March meeting so that Council Members who were not present at that meeting would have an opportunity to weigh-in first.

Staff Recommended Action:

The bylaws, as currently written, do not outline how an election for interim leadership positions would be held or the process to be followed when only one Co-Chair seat is vacant. Staff recommend that the Council discuss, amend if necessary, and adopt the following motion:

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The Environmental Justice Council appoints the Honorable Jarred-Michael Erickson as the interim Executive Committee Tribal Representative and the interim Co-Chair to serve in these roles until the Governor has appointed the fourth Tribal Representative to the Council, at which time full elections will be held. The Council also directs the Governance Committee to explore if the bylaws need any additions in anticipation of vacancies in leadership positions or other similar scenarios in the future.

Staff Contact

Sierra Rotakhina, Environmental Justice Council Manager, Sierra.Rotakhina@EJC.wa.gov, 360-584-4398

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Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Executive Committee Update on Council Workplan and Future Agendas

Background and Summary:

During the March 2023 Environmental Justice Council (Council) meeting, the Council began discussing their priorities and workplan for 2023. Council Members (both Governor-appointed and Ex Officio Members) present at that meeting completed a survey putting the Council's work in priority order. The Council reviewed the preliminary survey results at the meeting. Following that meeting Council staff invited Members who were not at the March meeting to complete the survey. Sauncha Romey, Council Staff, then analyzed the responses and presented the data in three ways:

1. Priorities for Governor-appointed Council Members;
2. Priorities for Ex Officio Council Members; and
3. Priorities for all Council Members combined.

Using these survey results the Council's Executive Committee developed a draft workplan/agenda planning document for 2023. Staff circulated this document to the full Council and collected and integrated feedback into a version 2 of the workplan ([page 21](#) of the meeting packet).

Discussion:

At today's meeting the Council will have an opportunity to review version 2 of the Council's draft workplan/agenda planning document and provide additional input, discussion, and edits. The Council can also discuss the more specific goals of each agenda item on the draft workplan.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

Materials for your Review:

1. The prioritization survey results mentioned above
2. Version 2 of the 2023 Council Workplan/Agenda Planning Document (with track changes showing edits based on Council Member feedback)

Staff Contact

Sierra Rotakhina, Environmental Justice Council Manager, Sierra.Rotakhina@EJC.wa.gov, 360-584-4398

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Draft Environmental Justice Council 2023 Workplan/Meeting Agendas
 Draft for Council Member Discussion and Edits: Track Changes Show Council Member Feedback Since Version 1

	May	<u>June (hold to meet only if needed)</u>	<u>June-Retreat (month to be determined by EJC)</u>	July	August: Summer Vacation	Sept (<u>in-person/hybrid on East side of the mountains</u>)	<u>October (hold to meet only if needed)</u>	<u>November</u>
First half hour (0-30 min) <ul style="list-style-type: none"> • <u>Roll Call</u> • <u>Adoption of Agenda and Minutes</u> • <u>Executive Committee Update</u> • <u>Public Comments</u> 	Exec/Co-Chair Election	<u>Note: HEAL Agencies planning to offer EJ Assessment Workshops throughout June</u>	Proposed Overnight Retreat at Tribal Lands: 1) EJC values/Direction 2) Tribal Status/ Consultation training & decision making in EJC and 3) community and Tribal engagement plans- (<u>Community Engagement Committee</u>)	Adopt Definition Guidance (Policy) v Tech Asst (Implementation)				
First hour (30 to 60 min)	40 min Leg Session/Budget Updates and Limited guidance on Dept Budgeting/Funding	<u>40 min CCA funding & tracking & accountability related to the CCA budget including EJC role around community engagement (CCA Committee)</u>	<u>Do we need to add a debrief of 2023 legislative process for lessons-learned for 2024?</u>	<u>30 min</u> (Get comments in June) Pass non-controversial By-Laws sections (<u>Governance Committee</u>)		<u>40 min</u> By-laws controversial parts (<u>Governance Committee</u>)	<u>30 min: Discussion of required Council report to the Community, Legislature, and Governor due November 30, 2023 (draft circulated in August and September)</u>	<u>30 min: Council process for 2024 Legislative Session</u>
1.5 hour (60 to 90 min)								

Draft Environmental Justice Council 2023 Workplan/Meeting Agendas
 Draft for Council Member Discussion and Edits: Track Changes Show Council Member Feedback Since Version 1

2nd hour (90 to 120 min)	Two 40 min Learning sessions: 1) Pilot EJ Assessment (<u>EJ Assessment Committee</u>) 2) Identifying Overburdened communities	<u>Two 40 min topics: 1) EJ in budgeting and funding under HEAL</u> <u>2) Standing agenda item for new grant and community engagement projects created for EJC in 2023 legislative session</u>							
2.5 hour (120 to 150 min)									
3rd hour (150 to 180 min)									
				Two 40 min Topics (<u>pick two</u>)		Two 40 min topics (<u>pick two</u>):	<u>Two 40 min topics (pick two):</u>	<u>Two 40 min topics (pick two):</u>	
				1) Cap & Invest Linkage program (<u>CCA Committee</u>) and		1) Addressing public comments and priorities 2) Envi Health Disparities map	1) <u>Cap and Invest Linkage (CCA Committee)</u>	1) <u>Adoption of required Council report to the Community, Legislature, and Governor due November 30, 2023</u>	
				2) CCA Section 3 air monitoring overburdened communities (<u>CCA Committee</u>)		2) <u>Agency HEAL updates due in September with a focus on EJA Assessment update</u>	2) <u>HEAL Agency EJ implementation plans</u>	2) <u>Council Legislative priorities for 2024 Legislative session</u>	
				3) <u>Discussion of CCA funding recommendations for the Governor and Legislature for 2024 session (Ad Hoc Budget Committee?)</u> -		3) <u>Cap and Invest Linkage (CCA Committee)</u>	3) <u>HEAL Agency community engagement plans (Community Engagement Committee)</u>	3) <u>Standing agenda item for new grant and community engagement projects created for EJC in 2023 legislative session</u>	
				4. <u>Standing agenda item for new grant and community engagement projects created for EJC in 2023 legislative session</u>		4) <u>Adopt CCA funding recommendations (Ad Hoc Budget Committee?)</u>	4) <u>Environmental Health Disparities map</u>		
						5). <u>Standing agenda item for new grant and community engagement projects created for EJC in 2023 legislative session</u>	5) <u>Standing agenda item for new grant and community engagement projects created in 2023 session</u>		

Combined Results (All Council Members)

		CM	EO	2/3EO	Total
1	EJ Council Community and Tribal engagement plans	1765	1700	1133.333333	2898.333
2	Guidance: Identifying Overburdened Communities and Vulnerable Populations	1625	1791	1194	2819
3	Guidance: EJ in Budgeting and Funding Decisions	1629	1709	1139.333333	2768.333
4	Guidance: Environmental Justice Assessments	1593	1761	1174	2767
5	Election of Executive Committee Tribal Rep and Second Co-Chair (Pending Governor's Office appointment of Tribal fourth Representative)	1610	1439	959.3333333	2569.333
6	Finalizing full Council Bylaws	1377	1659	1106	2483
7	Engagement next steps on Section 3 of the CCA (air monitoring in communities overburdened by poor air quality)	1651	1138	758.6666667	2409.667
8	Defining the Council guidance versus technical assistance	1383	1422	948	2331
9	Guidance: Environmental Health Disparities Map	1260	1542	1028	2288
10	Addressing public comments and priorities brought to the Council by communities and Tribes (e.g., Horse Heaven Wind Farm)	1467	1186	790.6666667	2257.667
11	Cap and Invest Program Linkages	1259	1179	786	2045

6 EO and 9 CM took the survey so they were weighted 2/3
 Total or Raw algorithm ratio 99.44% 16619 16526

CM=Governor Appointed Council Member
 EO=Ex Officio Council Member

	Governor-Appointed Council Members Results	
1	EJ Council Community and Tribal engagement plans	1765
2	Engagement next steps on Section 3 of the CCA (air monitoring in communities overburdened by poor air quality)	1651
3	Guidance: EJ in Budgeting and Funding Decisions	1629
4	Guidance: Identifying Overburdened Communities and Vulnerable Populations	1625
5	Election of Executive Committee Tribal Rep and Second Co-Chair (Pending Governor's Office appointment of Tribal fourth Representative)	1610
6	Guidance: Environmental Justice Assessments	1593
7	Addressing public comments and priorities brought to the Council by communities and Tribes (e.g., Horse Heaven Wind Farm)	1467
8	Defining the Council guidance versus technical assistance	1383
9	Finalizing full Council Bylaws	1377
10	Guidance: Environmental Health Disparities Map	1260
11	Cap and Invest Program Linkages	1259

Placement on Agenda (Version 1 of workplan)
June Retreat
July topic 2
May: Pair with 2023 Leg/Budget update and give limited guidance
May topic #2
May first half hour
May topic # 1
Discuss at Exec Team interim actions & discuss Sept
July short discussion
July noncontrov/Sept Controver
Sept
July topic 1

	Ex Officio Council Member Results	
1	Guidance: Identifying Overburdened Communities and Vulnerable Populations	1,791
2	Guidance: Environmental Justice Assessments	1,761
3	Guidance: EJ in Budgeting and Funding Decisions	1,709
4	EJ Council Community and Tribal engagement plans	1,700
5	Finalizing full Council Bylaws	1,659
6	Guidance: Environmental Health Disparities Map	1,542
7	Election of Executive Committee Tribal Rep and Second Co-Chair (Pending Governor's Office appointment of Tribal fourth Representative)	1,439
8	Defining the Council guidance versus technical assistance	1,422
9	Addressing public comments and priorities brought to the Council by communities and Tribes (e.g., Horse Heaven Wind Farm)	1,186
10	Cap and Invest Program Linkages	1,179
11	Engagement next steps on Section 3 of the CCA (air monitoring in communities overburdened by poor air quality)	1,138

Placement on Agend (Version 1 of Workplan)
May
May
May (limited guidance)
June Retreat
July non-controv/Sept Controv
Sept
May
July
Discuss at Exec Team interim actions & discuss Sept
July
July

Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Jonathan Chen, Climate Justice Advisor

Subject: Energy Facility Site Evaluation Council (EFSEC) certification process for the Horse Heaven Wind Farm

Background and Summary:

1. Role and Responsibility of EFSEC

The Energy Facility Site Evaluation Council (EFSEC or Council) certification process was designed to give applicants an opportunity to present their proposals for siting energy facilities, allow interested parties to express their concerns to the Council, and have the Council address issues related to the application. There are seven major steps in the certification process:

1. [Application Submittal](#)
2. [Application Review](#)
3. [Initial Public Meeting](#)
4. [Land Use Consistency Hearing](#)
5. [Environmental Impact Statement \(EIS\)](#)
6. [Adjudicative Proceedings and Permits Review](#)
7. [Recommendation to the Governor](#)

Each step has specific requirements the applicant and the Council must follow to ensure a comprehensive and balanced review of the project. Many of the steps take place at the same time. EFSEC only provides a recommendation, and the Governor makes the final decision.

2. The Intersection of EFSEC and Environmental Justice (EJ)

EFSEC is not specifically listed as a “covered agency” under the HEAL Act (chapter 70A.02 RCW). However, EFSEC follows the Washington State Environmental Policy Act (SEPA) requirements for Environmental Justice in WAC 463-60-535:

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

The application shall include a detailed socioeconomic impact analysis which identifies primary, secondary, positive as well as negative impacts on the socioeconomic environment in the area potentially affected by the project, with particular attention to the impact of the proposed facility on population, work force, property values, housing, health facilities and services, education facilities, governmental services, and local economy. The study area shall include the area that may be affected by employment within a one-hour commute distance of the project site. The analysis shall use the most recent data as published by the U.S. Census or state of Washington sources.

(1) The analysis shall include:

(e) A description of whether or not any minority or low-income populations would be displaced by this project or disproportionately impacted

And WAC 197-11-448:

(1) SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions.

EFSEC staff have consulted with Karl Rains and Millie Piazza from Ecology who provided some guidance on analyzing the socioeconomic and environmental justice impacts of the Horse Heaven Wind Farm project. These recommendations include:

1. Incorporate figures/graphics that overlay the Project Lease Boundary with the impacted Census Block Groups.
2. Use low-income level (2x poverty level) as the screen for EJ rather than poverty level.
3. Evaluate and discuss both the total population for the seven census block groups and discuss potential disproportionate impacts to census block groups that ranked high for low income and/or people of color.

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4. Determine if visual impacts of wind turbines tie into any evaluation of impacts to Tribal Resources because they have the potential for disproportionate impacts on local Tribes and/or historically overburdened populations.
5. Consider the potential impacts to community cohesion within the evaluation of potential disproportionate impacts to historically overburdened communities.

3. Horse Heaven Wind Farm and the EFSEC's Certification Process

Horse Heaven Wind Farm, LLC (hereby referred to as "Applicant") is proposing to construct and operate the Horse Heaven Wind Farm (hereby referred to as "Project") in unincorporated Benton County, Washington, within the Horse Heaven Hills area. The project proposal consists of a renewable energy generation facility that would have a nameplate energy generating capacity of up to 1,150 megawatts (MW) for a combination of wind and solar facilities, as well as battery energy storage systems (BESSs).

The Applicant submitted an [Application for a Site Certification](#) (ASC) to EFSEC on February 8, 2021 to construct and operate a renewable energy generation facility. The Applicant submitted an Update Application for Site Certification (ASC) on June 15, 2022. This updated ASC was received too late to include the updated information in the Draft [Environmental Impact Statement \(EIS\)](#) but is being used in preparation of the Final EIS. The applicant has requested two extensions. Its latest [extension request](#), dated September 27, 2022, requested processing time to be extended to July 8, 2023.

Information regarding the project can be found here: [Horse Heaven Wind Project | EFSEC - The State of Washington Energy Facility Site Evaluation Council](#). The website includes a link to the original application, extension requests, and comments from the public and from Tribal Governments.

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) submitted a comment letter to EFSEC (see [page 30](#) of the meeting packet) dated June 10, 2021 about the Scope of EIS. To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

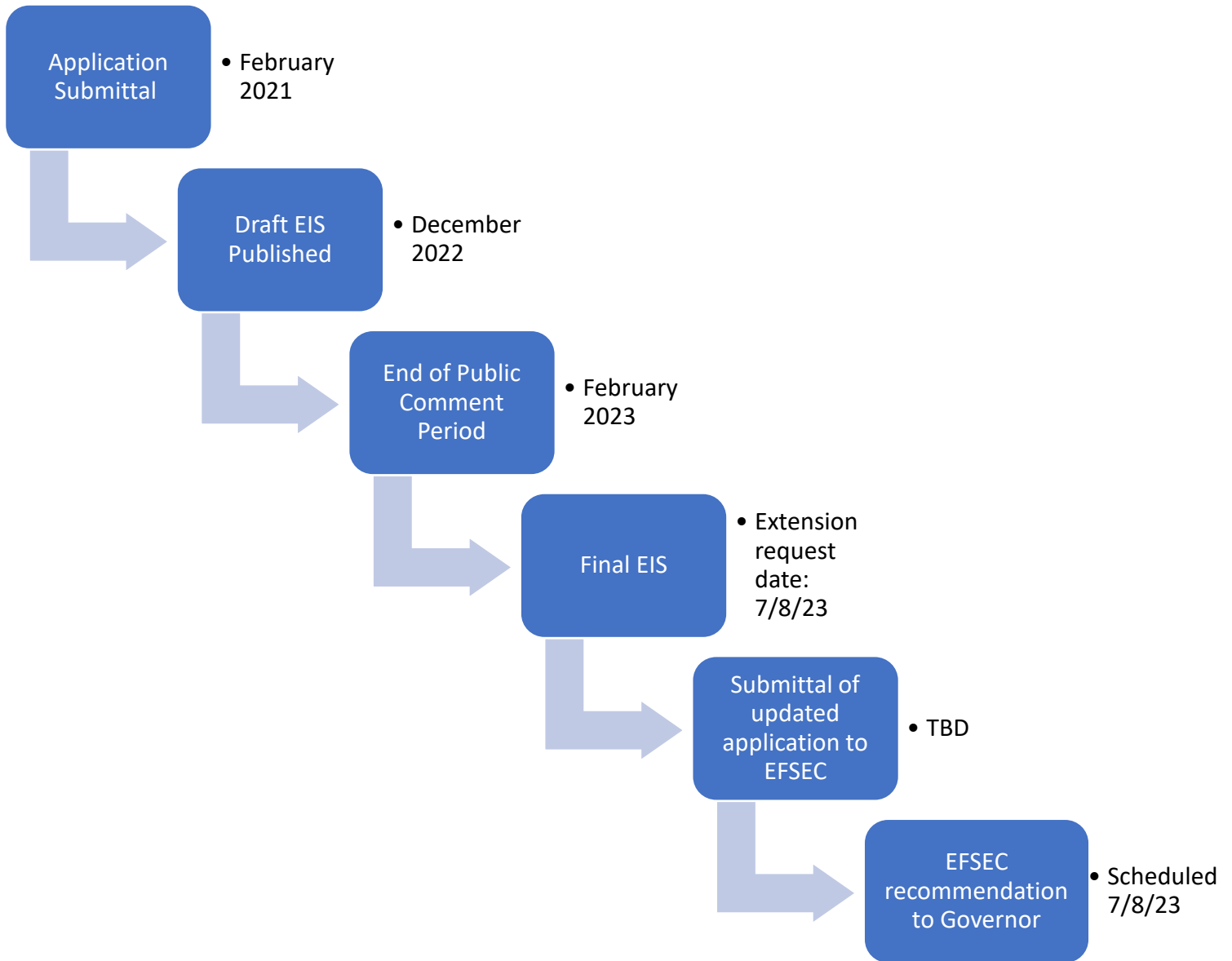
The letter requests analysis on the impacts to State and federally listed plants and wildlife; cultural food, medicinal and textile plants; big game habitat; impacts, including visual and aural to historic properties of religious and cultural significance as identified in the National Historic Preservation Act; and impacts to other cultural and historical resources. CTUIR also submitted an Executive Summary of the Traditional Use Study (TUS) (see [page 32](#) of the meeting packet) that proposed several mitigation measures to be examined in the EIS.

The Confederated Tribes and Bands of the Yakima Nation submitted a comment letter to EFSEC (see [page 34](#) of the meeting packet) dated February 1, 2023. The letter states that the Draft EIS: 1) fails to adequately evaluate the Project's impacts to Yakima Nation's treaty-reserved cultural resources, 2) fails to adequately identify impacts to wildlife or full mitigation for those impacts, and 3) is legally insufficient due to its failure to identify and evaluate reasonable alternatives for the Project's current design or adequately justify its omission.

Representative Stephanie Barnard, Washington State Representative from the 8th Legislative District, and ten other members of the Southeastern Washington legislative delegation submitted a letter (see [page 45](#) of the meeting packet) dated February 6th, 2023 to the Environmental Justice Council (EJC) regarding Horse Heaven Wind Farm. The letter states that given that the Tri-Cities metropolitan statistical area consists of 41% Black, Indigenous, and People of Color (BIPOC) population, it should be considered an overburdened community, and the proximity of this Project is industrial land pollution that perpetuates the pattern of underrepresented communities bearing the burden of energy siting while receiving none of the benefit. The letter asks the EJC to consider making a recommendation to EFSEC and the Governor to pause regulatory decision-making on approval of the project long enough to ensure that the environmental justice concerns have been adequately addressed.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

4. Horse Heaven Wind Farm EFSEC Siting Certification Process Timeline



5. How the EJC can Provide Input and How EFSEC can Utilize that Input

Amy Moon, Energy Facility Site Certified/Compliance Lead for EFSEC, is working internally to determine how EFSEC would use feedback, guidance, or recommendations provided by the EJC for the Project after the public comment period has ended. Amy Moon will also check with their

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Assistant Attorney General (AAG) whether EFSEC “opts to assume all of the obligations pursuant to RCW 70A.02.030”.

Staff Recommended Actions:

Environmental Justice Council Members provide directions to staff on additional analysis and research they want to see on this topic.

Staff Contact:

Jonathan Chen, Climate Justice Advisor, jonathan.chen@ejc.wa.gov, 564.669.3837

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.



June 10, 2021

Energy Facility Site Evaluation Council
621 Woodland Square Loop SE
Lacey, WA 98504-3172

RE: Horse Heaven Wind Farm Project, EFSEC Docket No. EF-210011

Submitted electronically to amy.moon@utc.wa.gov and
<https://comments.efsec.wa.gov/PublicComments/CommentForm/0637559988119946762>

To whom it may concern:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources provides these comments in response to the Request for Comments on Scope of Environmental Impact Statement for the Horse Heaven Wind Farm Project (Project). The CTUIR DNR anticipates working with the Department of Ecology (Ecology) through the duration of this project and this letter is intended to provide at least our initial thoughts regarding the initiation of this process.

The potential impacts of the project are enormous, spanning more than 113 square miles and visible over a much larger area. The CTUIR DNR expressed concerns in our April 9 letter which are now in the administrative record so I will not repeat them here, but will note that the Executive Summary of the Traditional Use Study (TUS) of the Horse Heaven Wind Farm Project, Benton County, Washington has been submitted and is also in the record. As noted in that document, the tribes that are now the CTUIR came to the area this project is proposed to “live, camp, gather traditional foods and medicinal plants, fish, hunt, trade, and graze horses, as well as impart traditional knowledge in the form of legend stories derived from the surrounding environment.” Rights reserved for the CTUIR in the Treaty of 1855, 12 Stat. 945, remain attached to lands that will be impacted by this project. We anticipate that the proposed project will have impacts on all these resources and request special emphasis be placed on the analysis on the impacts to:

- State and federally listed, plants and wildlife;
- Cultural food, medicinal and textile plants;
- Big game habitat
- Impacts, including visual and aural to historic properties of religious and cultural significance as identified in the National Historic Preservation Act;
- Impacts to other cultural and historical resources.

The summary of the TUS also contained proposed mitigation measures that the EIS should examine in the Environmental Impact Statement. Those measures included:

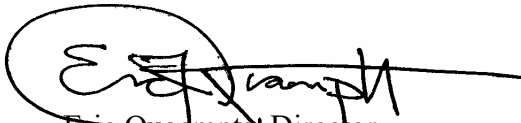
CTUIR DNR Letter to Washington EFSEC
Subject: Horse Heaven Wind Farm Project
June 10, 2021
Page 2 of 2

- Creating access for tribal members to continue traditional practice of procuring First Foods in the project area and create protections for the natural resources located there.
- Due to loss of opportunities to pass on the teaching of legends in-situ in the project area and the resulting effect on the next generations, off-site mitigation could include education and outreach work to assist in the perpetuation of these stories by other means.
- Regarding the impacts to the viewshed, the CRPP supports the eventual removal of the wind farm infrastructure when it is no longer functional. An agreement with the Tribes could be reached in anticipation of a time when the wind farm would be considered for disassembly in future years, in order to remove defunct turbines and restore the landscape and viewshed after the life of the turbines or project as a whole has come to a close.
- Or other forms of mitigation based on the effects of the projects to cultural resources.

Finally, it is notable that at full build out nameplate capacity for this project would exceed the average annual output of the four lower snake dams. While the dams on the Snake River have a nameplate capacity of over 3,000 MW, their average annual output of the dams over the last 50 years is 1004 MW according to a 2016 fact sheet of the Bonneville Power Administration.¹

DNR will remain involved in the review of this project as it progresses and request all notices regarding developments be sent to Teara Farrow Ferman, DNR Cultural Resources Protection Program Manager at TearaFarrowFerman@ctuir.org and Audie Huber, DNR Intergovernmental Affairs Coordinator at AudieHuber@ctuir.org. Regarding the scheduling of meetings to discuss this project, Mr. Huber can be contacted at 541-429-7228.

Respectfully,


Eric Quadmpts, Director
Department of Natural Resources

¹ <https://www.bpa.gov/news/pubs/FactSheets/fs-201603-A-Northwest-energy-solution-Regional-power-benefits-of-the-lower-Snake-River-dams.pdf>

Traditional Use Study of the Horse Heaven Wind Farm Project, Benton County, Washington Executive Summary

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) conducted research on the traditional uses surrounding the proposed Horse Heaven Wind Farm project for Scout Clean Energy resulting in a report entitled *Traditional Use Study of the Horse Heaven Wind Farm Project, Benton County, Washington* prepared by Dr. Jennifer Karson Engum, Cultural Anthropologist. The purpose of this study was to document traditional use and identify historic properties of religious and cultural significance to the CTUIR within and in the vicinity of the project area. The CRPP conducted a comprehensive investigative study of the project area in the traditional homelands of the CTUIR. Available ethnographic literature was supplemented by oral history interviews, providing cultural context derived from members of the affected community based on personal and family history.

The project area is located in Benton County in southeast Washington and lies within the ceded aboriginal boundaries of the CTUIR in the Horse Heaven Hills region. The proposed project is located approximately 4 miles southwest of the Tri-Cities urban area. The proposed project will include a maximum of 244 wind turbines spanning east-west approximately twenty-four miles along a high ridge line between Benton City and Finley, Washington.

The area holds a unique tribal history and contains resources that have drawn the CTUIR to the area since time immemorial. The *Walúlapam*, *Weyúletpu*, and *Imatalamláma* came to this area to live, camp, gather traditional foods and medicinal plants, fish, hunt, trade, and graze horses, as well as impart traditional knowledge in the form of legend stories derived from the surrounding environment.

The oral history investigation conducted for this study documented twenty-one First Foods that were observed or expected to be seen within the project area and adjacent areas during field excursions with tribal informants conducted there. If restoration work is planned in the future within the project area, it should include food plants used by the CTUIR. The project area is located where native plants, including the CTUIR's First Foods, continue to grow unabated in small pockets. Scout Clean Energy should consider native plant restoration goals for lost First Foods on the Horse Heaven Wind property and conduct an ethnobotanical study of the project area with the suggested goal of creating an agreement to provide access to tribal members to gather these foods in the future.

Twenty-one native place names identified for this study hold significance to the project area and lie within the viewshed of the project area. These place names are associated with ancient use and knowledge of the land and beliefs about the *Walúlapam*, *Weyúletpu*, and *Imatalamláma*'s culture and the nature of the world.

In particular, this project will have an adverse effect on two historic properties of religious and cultural significance to the CTUIR located on, adjacent to, and within the larger viewshed of the Horse Heaven Wind Farm project: *Kúsipamá* and *Piyuušmaamí Púštáy*.

Historic properties identified within and near the project area should be considered potentially eligible for inclusion in the National Register of Historic Places as historic properties of religious and cultural significance to the CTUIR. The Horse Heaven Wind Farm Project area has been and continues to be critically tied to the CTUIR's history, religion, and ongoing culture.

Due to the long term use of the area, it is possible that burials could be encountered within the project area when ground disturbing activities occur. Burials of *Weyúletpu*, *Imatalamláma*, and *Walúlapam* ancestors are considered sacred. A cultural resource monitor should be on site to monitor during any ground disturbing activities of this project. It is also recommended that an inadvertent discovery plan be developed before ground disturbing activities begin for this project.

Multiple elder informants did not agree with the construction of the wind farm in this location for several reasons: the loss of access to First Foods procurement areas, specific legend sites that would be effected by the project area, adverse effects to wildlife, and the loss of an unencumbered view for storytelling sites and for identifying landmarks in the larger viewshed. To address these concerns and mitigate for their adverse effects, options such as the following should be considered:

- Create access for tribal members to continue traditional practice of procuring First Foods in the project area and create protections for the natural resources located there.
- Due to loss of opportunities to pass on the teaching of legends in-situ in the project area and the resulting effect on the next generations, off-site mitigation could include education and outreach work to assist in the perpetuation of these stories by other means.
- Regarding the impacts to the viewshed, the CRPP supports the eventual removal of the wind farm infrastructure when it is no longer functional. An agreement with the Tribes could be reached in anticipation of a time when the wind farm would be considered for disassembly in future years, in order to remove defunct turbines and restore the landscape and viewshed after the life of the turbines or project as a whole has come to a close.

Mitigation actions such as these would help to resolve concerns held by the tribal elder and community member informants who participated in this study. In sharing their knowledge and concerns, they are speaking for the ancestors who once inhabited the project area and speaking for future generations, so they may continue to know its significance.



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

February 1, 2023

Sent via Electronic Mail

Sonia Bumpus, EFSEC Director
ENERGY FACILITY SITE EVALUATION COUNCIL
PO Box 43172
Olympia, WA 98504-3172
sonia.bumpus@efsec.wa.gov; efsec@efsec.wa.gov

RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT – HORSE HEAVEN WIND PROJECT

Dear Ms. Bumpus:

I write on behalf of the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) regarding the Energy Facility Site Evaluation Council’s (“EFSEC”) Draft Environmental Impact Statement (“DEIS”) for the proposed Horse Heaven Wind Project (“Project”), published December 19, 2022.¹ Yakama Nation has a significant interest in ensuring that EFSEC complies with the State Environmental Policy Act (“SEPA”) and other applicable laws in evaluating the Project and its environmental impacts.²

Yakama Nation appreciates the degree to which EFSEC considered Yakama Nation’s comments and concerns in preparation of the DEIS. Yakama Nation concurs with EFSEC’s findings that the proposed action will meaningfully contribute to the cumulative impacts on historic and cultural resources, visual aspects, and wildlife in the Project proximity.

Nonetheless, Yakama Nation is broadly concerned that the DEIS lacks sufficient information and a comprehensive analysis, as required by SEPA. At times the DEIS contains inaccurate or conflicting information concerning environmental impacts to wildlife and cultural resources. Once those resources are destroyed, they are lost forever. We are also concerned that the only alternative addressed by the DEIS is a “no action” alternative, rather than a meaningful consideration of adjusting or limiting this 72,428 acre project.

Given the inadequacy of the DEIS’s disclosure and analysis of likely environmental impacts, EFSEC should conduct another round of drafting and public comment before moving forward in finalizing the environmental impact statement or further evaluating the Projects suitability and compliance with applicable law through the adjudication process.

¹ In submitting this comment, Yakama Nation does not waive its sovereign immunity from suit, nor does it waive, alter, or otherwise diminish its sovereign rights, privileges, or remedies guaranteed by the Treaty with the Yakama of 1855 (12 Stat. 951). Furthermore, submission of this comment does not substitute for formal consultation with the Yakama Nation Tribal Council.

² These comments are based upon information presently available to Yakama Nation. Should additional information become available, our assessment and comments may be revised.

I. Information Required by SEPA.

SEPA-mandated environmental reviews are meant to avoid environmental degradation in permitting decisions, as well as preserve and even enhance environmental quality by requiring that actions of state and local government agencies be informed by sufficient environmental information.³ The purpose of an environmental impact statement is to “ensure that SEPA’s policies are an integral part of the ongoing programs and actions of state and local government.”⁴ The DEIS was developed because ESFEC determined that the Project meets the SEPA threshold for a determination of significance. Therefore, the DEIS is required to disclose the likely environmental impacts of the Project and any proposed mitigation or alternatives. While SEPA does not compel environmentally-wise choices, the DEIS must provide EFSEC with “sufficient information to make a reasoned decision.”⁵

The DEIS must contain a “reasonably thorough discussion of the significant aspects of the probable environmental consequences of the agency’s decision.”⁶ The analyses shall be an “. . . impartial discussion of significant environmental impacts . . .” and “. . . inform decision makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.”⁷ The individual characteristics of proposed development will determine the scope of the environmental analysis and significant impacts may be direct, indirect, or cumulative.⁸ The nature and extent of the environmental analysis to be included in an environmental impact statement may be tailored to fit the specific proposal, but must be more than mere disclosure, rationalization or justification; it is to be used by agency officials in making decisions on proposed actions in conjunction with other relevant materials.⁹

II. Impacts to Cultural Resources Generally.

Yakama Nation appreciates the degree to which EFEC has considered Yakama Nation Cultural Resource Program’s (“CRP”) comments and concern in preparation of the DEIS. If approved, this Project will deeply impact the environment, causing harm to Yakama Nation’s Traditional Cultural Properties (“TCP”) and other cultural resources. Yakama Nation concurs with EFSEC’s findings that the Project will meaningfully contribute to the cumulative impacts on historic and cultural resources, and visual aspects. All of these impacted resources are aspects of the cultural landscape, not only integral to the lands which comprise the Project footprint, but directly interwoven with the cultural history and landscapes of the surrounding region.

³ RCW §§ 43.21C.010, 43.21C.020, 43.21C.030(2).

⁴ WAC § 197-11-400(1).

⁵ *Citizens Alliance to Protect Our Wetlands v. City of Auburn*, 126 Wn. 2d 356, 362 (1995).

⁶ *Gebbers v. Okanogan County Pub. Util. Dis. No. 1*, 144 Wn. App. 371, 375 (2008), *review denied*, 165 Wn.2d 1004 (2008) (internal citations omitted).

⁷ WAC § 197-11-400(2).

⁸ WAC §§ 197-11-060(2)(a), 197-11-792.

⁹ WAC § 197-11-400(4).

Yakama Nation CRP has communicated to both EFSEC and the Project's developer Scout Clean Energy, LLC ("Proponent") that this proposed Project will directly harm a complex and irreplaceable TCP landscape, inclusive of legendary, monumental, and traditional use resources. Areas of concern include, but are not limited to, the ridgeline of Chandler Butte, locations near Webber Canyon, the ridge slope east of Webber Canyon, and Jump Off Joe at the eastern extent of the Project's proposal.¹⁰ While it would not alleviate all impacts, CRP shared sensitive cultural information in good faith with the Proponent and requested that the Proponent remove or relocate a small number of towers in particularly problematic areas. The Proponent refused, citing confidential economic factors. The Proponent's response was particularly disappointing as early discussions over many years led Yakama Nation to believe that our concerns would be meaningfully considered.

Several TCPs that are imperiled by this Project have been documented by CRP in a formal study commissioned by United States Bureau of Land Management, and are considered eligible to the National Register of Historic Places (NRHP).¹¹ One of these TCPs spans both federal lands and private lands, and carries with it integral aspects of the viewshed and precontact archaeological material. For many years, Yakama Nation has advocated for the protection of these integral components of this TCP, voicing our concern to land management agencies and to the Proponent through CRP. The construction of this facility at this location will affect the TCP across jurisdictional boundaries, causing detrimental impacts to portions of the TCP located on both private *and* federal lands. Federal lands carry additional protections for tribal rights guaranteed by the United States, and it is of the utmost importance that public lands remain accessible in order for Yakama Nation Members to exercise Treaty-reserved rights.¹²

Yakama Nation continues to advocate for the avoidance of archaeological resources, particularly precontact archaeological resources. These carry a high cultural value to Yakama Nation, and are critically important to the understanding of archaeology in our region. Some precontact archaeological resources on this landscape are aspects of TCPs, including but not limited to 45BN261, which is associated with other nearby sites and located within the project corridor. We continue to request the protection of integral aspects of these TCPs, including but not limited to viewshed concerns. Without on-site accommodation to preserve these resources, these places will be lost. Access agreements, off-site mitigation, training, monitoring, or financial contribution do not "mitigate" these damages. Yakama Nation simply seeks protection, preservation, and perpetuation of these resources. We ask that our history and culture be respected in the place it was meant to be since time immemorial. The mitigation proposed in the DEIS falls far short.

¹⁰ Specific areas of concern are based on information available at this time. Due to the size and scale of this project, collection of cultural data is ongoing. Avoidance of these areas will not relieve all concerns or address all impacts. Yakama Nation intends to engage in direct consultation with EFSEC, as requested in Kathleen Drew's January 5, 2023 letter, to better communicate the sensitive and complex nature of Yakama Nation's cultural resources in the Project area.

¹¹ Further location information and other sensitive data can be provided in confidential consultation between Yakama Nation, EFSEC, Washington State Department of Archaeology and Historic Preservation ("DAHP"), and the Bureau of Land Management.

¹² Yakama Nation has reserved its inherent rights to exercise cultural, religious, and subsistence practices in this area. *See* Treaty with the Yakama, U.S. - Yakama Nation, June 9, 1855, 12 Stat. 951.

III. Specific Impacts to Cultural Resources.

a. *Cultural Resources: Affected Environment*

- The DEIS contains multiple discrepancies regarding the number and types of sites identified.¹³ While these discrepancies may be the result of the manner in which the sites are discussed (as described with temporal association, etc.), more clarity is required to ensure that Yakama Nation understands the information and can respond appropriately. This confusion is heightened where the DEIS notes 27 sites that were left unevaluated, yet does not note the temporal or phase association of these sites.¹⁴
- Yakama Nation is concerned the archaeological surveys did not include systematic subsurface testing and therefore there is a greater “unknown” element within the affected environment than if this had been completed during phase I surveys. The lack of systematic subsurface testing during archaeological surveys likely resulted in a failure to identify the true extent and nature of these resources. This landscape contains previously-documented Pleistocene and paleontological components – some of our most ancient sites and resources.
- Correspondence tracking was limited to the subject of cultural resources, and not documented for any other science within the affect environment section of this DEIS.¹⁵ It is apparent that the correspondence documentation is meant to mirror, or demonstrate compliance with, consultation requirements of cultural resources laws and regulations. This is not appropriate as the Proponent cannot assume or perform consultation duties required by local, state, or federal agencies under the law. The contents and subject of any discussion the Proponent had with Yakama Nation should be considered confidential and should not be reported without our prior consent. Reports submitted by Historical Research Associates, on behalf of the Proponent, were not considered formally submitted¹⁶ and were reviewed as a courtesy.

¹³ DEIS at 3-149, § 3.9.2.1 (“Five precontact period resources, including two archeological sites and three isolates have been identified in the Area of Analysis for the Project.”); *id.* at 3-141, § 3.9; *id.* at 3-150 (“Thirty-seven historical archaeological resources have been identified in the Area of Analysis during the pedestrian survey phase, comprising 27 historic sites and 10 isolates.”); *id.* at 3-156, § 3.9.5 (“In summary, 48 historic and cultural resources have been identified within the Area of Analysis, including four pre-contact period resources, 37 historic-period resources, and seven architectural resources.”)

¹⁴ *Id.* at 3-141, § 3.9. (“In total, HRA recorded 41 archaeological resources, including 29 sites and 12 isolates. Ten isolates and two sites date to the historic period and have been recommended as not eligible for the NRHP. Two isolates date to the precontact period. The remaining 27 archeological sites are unevaluated for the NRHP.”) (Internal citations omitted).

¹⁵ *Id.* at 3-146-7, Table 3.9-1.

¹⁶ Reports are formally submitted by a lead local, state, or federal agency under specific regulatory nexus identifying report status and consulting parties.

b. Cultural Resources: Analysis of Potential Impacts and Mitigation

- Yakama Nation requested avoidance of all archaeological resources,¹⁷ avoidance of precontact archaeological sites,¹⁸ protection of precontact material from excavation disturbances under permit with the Department of Archaeology and Historic Preservation,¹⁹ and avoidance of precontact sites.²⁰ While Yakama Nation appreciates precontact isolates being considered a “high magnitude” rating due to our request for avoidance, this rating should be applied to all precontact sites.²¹ Yakama Nation disagrees that impacts on NRHP’s unevaluated archaeological resources should be considered “medium magnitude.”²² As precontact archaeological sites do not require NRHP evaluation under RCW Chapter 27.53, this DEIS impact rating places the magnitude of disturbance of precontact sites below some historic resources and precontact isolates, which were both given a “high magnitude” rating.²³ This is counter intuitive and does a disservice to these resources.
- A high magnitude rating for TCPs should also be based upon the extreme cultural importance that these sites carry.²⁴ They are integral to the continuity of a living culture.
- Yakama Nation previously requested full avoidance of archaeological material, *particularly* precontact resources.²⁵ The DEIS mischaracterizes Yakama Nation’s avoidance request by limiting it to precontact resources.²⁶
- The likelihood of impact to unknown archaeological resources should be considered “probable” as initial archaeological surveys did not include systematic subsurface testing.²⁷ Due to the lack of subsurface testing, there is a heightened potential for the Project footprint to contain archeological material that was not identified by survey.

¹⁷ CRP letter to Sonia Bumpus, EFSEC Director, EFSEC, March 2, 2021.

¹⁸ CRP letter to Dave Kobus, Project Manager, Scout Green Energy LLC, February 22, 2019.

¹⁹ CRP email to Lance Wollwage, Assistant State Archaeologist, Department of Archaeology and Historic Preservation, October 29, 2021.

²⁰ CRP email to Amy Moon, Site Specialist Lead, EFSEC, December 7, 2021.

²¹ *Id.*

²² DEIS at 4-279, § 4.9, Table 4.9-2 (“Impacts on archeological resources that are unevaluated for inclusion in the NRHP fit the criteria for medium magnitude.”)

²³ *Id.* at 4-280.

²⁴ *Id.* at 4-280, § 4.9, Table 4.9-2 (“[P]recontact isolates have an elevated resource sensitivity, because the Confederated Tribes and Bands of the Yakama Nation has requested avoidance, and therefore, resources are provided a high magnitude rating in this analysis.”)

²⁵ *Id.* at 4-281 (“[T]he Yakama Nation has requested avoidance of precontact isolates.”)

²⁶ CRP letter to Sonia Bumpus, EFSEC Director, EFSEC, March 2, 2021.

²⁷ See “Unknown Archeological Resources and Architectural Resources” sections and associated text. DEIS at 4-286, Table 4.9-3; *id.* at 4-293, Table 4-9-4; *id.* at 4-296, Table 4.9-5; *id.* at 4-300, Table 4.9-6; *id.* at 4-304, Table 4.9-7 (Likelihood of impact of construction on unknown archeological resources and architectural resources is currently designated as “Feasible”).

- Construction Impacts to TCPs should be considered “*unavoidable*.”²⁸ This proposal will construct a massive wind and solar facility on a traditionally important landscape. Construction is the act that will destroy that finite and valued place. As long as the Proponent moves forward with the Project’s construction, impacts are unavoidable.
- Operational Impacts to TCPs should be considered “*unavoidable*.”²⁹ After construction, a massive wind and solar facility will exist upon a traditionally important landscape. It will forever alter this landscape, harming integral aspects of the TCPs, impeding both access and use. This constitutes ongoing harm to the resources’ *aspect* and *condition* through the life of the facility.
- A 20-meter buffer is not adequate protection for archaeological resources. A minimum buffer should be 30-meters.³⁰ For certain resources such as 45BN261, this buffer may need to be considerably larger.
- Proposed Mitigation Measures³¹ are impractical and will not alleviate impacts.
 - Yakama Nation’s previous request to the Proponent to remove or relocate the most harmful towers was rejected for economic reasons. Yakama Nation has no faith that continued correspondence will influence design or be met with consideration. CR-1 has already been demonstrated infeasible by the Proponent.
 - While Yakama Nation notified the Proponent of the most harmful tower locations, the proposed site of the entire facility is located on a TCP landscape. Avoidance of impacts will require significant alterations to the Project footprint.
 - Access agreements will not mitigate impacts to legendary and monumental TCPs. Mitigation proposals are minor accommodations and tertiary allowances that will not offset the permanent alteration of the cultural landscape.
- The DEIS does not acknowledge avoidance measures already requested by Yakama Nation.³² As this table is the summary of recommendations, this acknowledgement is critical to justify likelihood of impacts in Table 4.9-11a. “Engagement with Tribes, DAHP and landowners” is not valid mitigation in the event that a resource impact cannot be avoided. Engagement, when

²⁸See “Traditional Cultural Properties” and associated text; *id.* at 4-286, Table 4.9-3; *id.* at 4-304, Table 4.9-7. (Likelihood of impact of construction on TCPs is currently designated as “Feasible”).

²⁹ *Id.* at 4-308, Table 4.9-8.

³⁰ *Id.* at 4-311, § 4.9.3.

³¹ *Id.* at 4-312, § 4.9.3.

³² *Id.* at 4-313, Table 4.9-10.

conducted properly, is what forms the basis of proper environmental analysis and avoidance of harm. Loose commitments of engagement post-permitting fall far short of SEPA's requirements.

- Impacts to TCPs are unavoidable. The DEIS should be duly corrected.³³

c. *Visual Aspects: Affected Environment and Analysis*

- Yakama Nation appreciates that the DEIS considers visual aspects as components of cultural resources,³⁴ and acknowledges that Yakama Nation attaches significance to the landscape.³⁵ Yakama Nation provided preliminary information to both EFSEC and the Proponent indicating tower locations that will impact critical viewshed integral to TCPs.³⁶ The Proponent refused, without explanation, to alter any turbine locations in response to the information we provided, and the DEIS similarly fails to adequately evaluate alternative Project designs.
- Based upon information gathered to date, Yakama Nation CRP is concerned with viewshed impacts to TCPs from Key Observation Points ("KOP") 1 (McNary National Wildlife Refuge, KOP 3 (Chandler Butte), KOP 5 (Badger Mountain), KOP 9 Benton City, and KOP 11 (Highland/Finley Area). Additional areas may be identified as our compilation of information continues.
- Yakama Nation requests that additional visual impacts be assessed from the east side of the Columbia River near Wallula Gap. This is a culturally important view-shed to Yakama Nation TCPs.
- Yakama Nation concurs with the DEIS's determination that wind turbines will cause a high magnitude of visual impacts with no identified mitigation.³⁷ The view of towers, lights or other infrastructure from these key KOPs would cause great harm to the legendary and monumental aspects of this cultural landscape and the TPCs of which it is comprised.

IV. Impacts to Wildlife and Vegetation.

The Project has the greatest impacts to wildlife, soil and vegetation where it is planned in native habitat and/or will detrimentally impact avian species. The comprehensive project would permanently disturb 717 acres of Rabbitbrush Shrubland (Class II Habitat), 236

³³ *Id.* at 4-319, Table 4.9-11a; *id.* at 4-320, Table 4.9-11b; *id.* at 4-321, Table 4.9-11c. (Likelihood of impact to TCPs currently designated as "Probable" in the DEIS).

³⁴ *Id.* at 3-169.

³⁵ *Id.* at 3-169-70. ("Lands within the Lease Boundary are also of interest to the Confederated Tribes and Bands of the Yakama Nation...who may attach cultural significant to natural landscape components.")

³⁶ Locations identified are based on information available at this time. Due to the size of scale of this project, collection of cultural data is ongoing. Relocation of identified towers will not resolve all impacts.

³⁷ *Id.* at 4-392-3, Table 4.10-14b.

acres of Planted Grassland (Class III Habitat), and 73 acres of Eastside Grassland (Class III Habitat). We acknowledge that a Habitat Mitigation Plan would potentially mitigate for disturbed habitat with the acquisition of replacement habitat up to a 2:1 ratio. However, there is no recourse for native habitat degraded to such an extent that Special Status Species are displaced.

The following deficiencies in the DEIS should be corrected.

a. Executive Summary

- The Executive Summary should be corrected to include impacts from soil compaction, including but not limited to water infiltration in the soil, root growth, and soil chemistry.³⁸ This analysis should also include long term impacts, which will depend on types of equipment used and duration of use.
- The Executive Summary regarding vegetation impacts and mitigation should be amended to include additional mitigation for loss of native habitat without trees.³⁹ “Tree avoidance” is not sufficient mitigation.
- The Executive Summary regarding vegetation impacts also fails to consider many cross-section impacts.⁴⁰ The DEIS must evaluate the minutiae in niche habitats that much of the upland native vegetation occupy. Changes in water availability in the soil and runoff will impact vegetation that wildlife rely upon and Yakama Nation members have a Treaty-reserved right to harvest.
- The Executive Summary regarding socioeconomic impacts should be amended to fully evaluate the socioeconomic impact of habitat degradation upon Treaty-reserved gathering areas and Yakama Nation members.⁴¹

b. Affected Environment

- The DEIS acknowledges lack of sufficient data and fails to adequately analyze impacts on local populations of pronghorn antelopes that use the Project site as a migration corridor. The Project will have direct and indirect impacts on the Pronghorn population that inhabit and migrate through the area, especially in the winter months.⁴² The Pronghorn population has grown exponentially but are sensitive to changes in habitat and land use.⁴³ The proposed fencing creates barriers that exclude Pronghorn from habitat use and travel corridors. Habitat fragmentation and continued loss with project construction predicts a foreseeable increase in mortality due to increased traffic shifting travel patterns. Yakama Nation Wildlife Resource

³⁸ *Id.* at ES-11, § ES 4.2.

³⁹ *Id.* at ES-13, § ES 4.5.

⁴⁰ *Id.*

⁴¹ *Id.* at ES-157, Table ES-4c.

⁴² *Id.* at 4-186, § 4.6.2.4.

⁴³ Fidorra, J. C., Peterson, T.C . 2021. Summary Report 2021: Pronghorn antelope abundance survey in south-central Washington. Yakama Nation Wildlife and Washington Department of Fish and Wildlife. Unpublished report online.

Management Program possesses spatial data that identifies the Project's implementation impacts upon Pronghorn habitat use and travel.

- The noxious weeds analysis should be updated to reflect current conditions.⁴⁴ The Kochia, Rush Skeletonweed and the Cereal rye were observed as abundant in the locations surveyed but the surveys were done in 2020 and 2021. The invasive plant surveys do not contain sufficient information because they do not address i) distribution of infestation or ii) the number of infested acres.⁴⁵ There were also observations of Yellow Starthistle and Knapweed but the information within the DEIS is not sufficient to determine whether the Starthistle was observed at 2 locations in 2020 but not in 2021 was eradicated or not.

c. Analysis of Potential Impacts

- The Ferruginous Hawk is perhaps the species the project would impact the most. Ferruginous hawks are state listed as endangered and are a state priority species, partially due to the continued contraction in breeding pairs statewide.⁴⁶ The DEIS correctly predicts a high and constant impact to the species in both the Construction and Operation phases, as noted by the nine Ferruginous Hawk nests located within two miles of the lease boundary in between 2017 and 2019.⁴⁷ Construction of turbines and associated roads and power lines may result in the direct and indirect loss of habitat. Nesting success could be impacted by construction activities proximal to nests or activities that change prey abundance. The impacts during the Operation Phase include mortality due to collisions with both wind turbines and powerlines, changes in prey abundance, and reduction of nesting territories due to disturbance. Given the potential impacts to the Project area and proximal territories, the DEIS's proposed mitigation is insufficient.
- The DEIS does not adequately describe or analyze the environmental impacts of panel washing.⁴⁸ Panel washing will encourage the growth of non-native species and potentially negatively impact native species due to abundant water availability at unnatural times. This will also impact soil chemistry and its composition of microorganisms.
- Although the DEIS recognizes that vehicles and heavy equipment may cause distribution, it does not include adequate mitigation measures such as proactive pre-treatment and post-treatment approaches.⁴⁹ Even temporary disturbances can have long-term effects on the environment when invasive species move into areas of recent soil disturbance.

⁴⁴ DEIS at 3-84, § 3.5.4.

⁴⁵ *Id.* at 3-84, Table 3.5-6.

⁴⁶ Hayes, G.E. and J.W. Watson. 2021. Periodic Status Review for the Ferruginous Hawk. Washington Department of Fish and Wildlife, Olympia, Washington. 30+i iii pp.

⁴⁷ DEIS at 3-106, § 3.6.2.2.

⁴⁸ *Id.* at 4-66-70, § 4.4.2.2.

⁴⁹ *Id.* at 4-103-4, § 4.5.2.1.

- The DEIS’s analysis of habitat loss and wildlife mortality from the construction of turbines should be amended to acknowledge the critical importance of shrub-steppe habitat.⁵⁰ The shrub-steppe is one of the most threatened ecosystems in the United States.⁵¹ Any habitat loss, no matter the size, is a critical loss to intact native shrub-steppe. Many species of birds, mammals, and herptiles that inhabit the shrub-steppe are threatened. These include the Golden Eagle, Great Sage Grouse, Pygmy Rabbit, Northern Leopard Frog, Ferruginous Haw, and Columbia Sharp-tailed Grouse.⁵² Their habitat should be considered critical and continue to be undisturbed by development.
- The Horse Heaven Hills site is a significant travel corridor for Greater Sage Grouse between the remaining populations in Central Washington.⁵³ Their population size is at a critical low level and safe passage between these populations should be protected and enhanced.

Finally, habitat loss and mortality associated with the project are expected to be additive to past and present actions in the region, resulting in cumulative impacts on the species. Cumulative habitat loss occurs gradually from the conversion of lands from native shrub-steppe due to energy projects and other developments. Similarly, the Ferruginous Hawk’s greatest risk of mortality is expected to occur at projects that create obstacles within the raptor’s flight path, such as powerlines and wind power projects. Therefore, the impacts of mortality from the Project are expected to be additive to similar projects (i.e. transmission lines and wind power projects).

V. Absence of Reasonable Alternatives.

SEPA requires lead agencies to include “alternatives to the proposed action” in the EIS process.⁵⁴ An EIS “must present sufficient information for a reasoned choice among alternatives.”⁵⁵ While an EIS is not required to examine all potential alternatives, “. . .there must be a reasonably detailed analysis of a reasonable number and range of alternatives.”⁵⁶ The “reasonable alternatives that must be considered are those that could ‘feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.’”⁵⁷

⁵⁰ *Id.* at 4-148-56, § 4.6.2.1.

⁵¹ Azerrad, J. M., K. A. Divens, M. F. Livingston, M. S. Teske, H. L. Ferguson, and J. L. Davis. 2011. Management recommendations for Washington’s priority habitats: managing shrubsteppe in developing landscapes. Washington Department of Fish and Wildlife, Olympia, Washington.

⁵² *Id.*

⁵³ Washington Connected Landscapes Project: Analysis of the Columbia Plateau Ecoregion. Appendix A.2, p. A2-23.

⁵⁴ RCW 43.21C.030(c)(ii).

⁵⁵ *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn. App. 439, 442 (1992); also see WAC 197-11-440(5).

⁵⁶ *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 41 (1994).

⁵⁷ WAC 197-11-440(5)(b); *Weyerhaeuser*, 124 Wn.2d at 41; See also *Citizens for Safe & Legal Trails v. King County*, 2003 Wash. App. LEXIS 2092, *20-21.

The DEIS is insufficient because it only explores a “no action” alternative, and does not include other “reasonable alternatives for achieving the proposal’s objective on the same site” as required when analyzing a proposal for a private project on a specific site.⁵⁸ Yakama Nation has proposed an alternative structure for the Project through removal or relocation of certain turbines within the Project site and informed EFSEC directly of the request. That alternative is not mentioned anywhere within the DEIS. Furthermore, the DEIS does not provide any explanation for how there can be no reasonable alternative iterations of a Project of such magnitude that it is currently designed to cover 72,428 acres. The DEIS’s failure to consider any meaningful alternative Project designs renders it legally insufficient. Instead of allowing the Proponent’s financial goals to dictate the scope of environmental review, SEPA requires EFSEC to conduct a full environmental analysis, which includes “sufficient information for a *reasoned* choice among alternatives.”⁵⁹

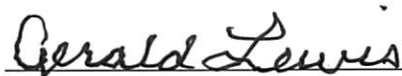
VI. Conclusion.

Due to the mischaracterization of impacts to important cultural and archeological resources, and the suggestion of mitigation efforts that do not address the loss of those critical resources, the DEIS fails to adequately evaluate the Project’s impacts to Yakama Nation’s Treaty-reserved cultural resources. The DEIS also fails to adequately identify impacts to wildlife or full mitigation for those impacts. Lastly, the DEIS is legally insufficient due to its failure to identify and evaluate reasonable alternatives for the Project’s current design or adequately justify this omission.

Without fully identifying all likely adverse impacts and evaluating reasonable alternatives to the Project’s current design, EFSEC cannot move forward in good faith or under state law in its obligation to analyze the Project’s full impacts against the non-Project option or the proposed mitigation. The DEIS should be significantly revised and supplemented to address the concerns raised in this letter and analyze all environmental impacts fully.

To discuss the cultural resource concerns identified in this letter, please contact Ms. Jessica Lally, Yakama Nation Cultural Resource Program Archaeologist, at (509) 865-5121 x4766 or jessica_lally@yakama.com. To discuss the other concerns listed above, please contact Mr. Phil Rigdon, Yakama Nation Department of Natural Resources Superintendent, at (509) 865-5121 x4655 or phil_rigdon@yakama.com.

Sincerely,



Gerald Lewis, Chairman
YAKAMA NATION TRIBAL COUNCIL

⁵⁸ WAC 197-11-440(5)(d).

⁵⁹ See *Solid Waste Alternative Proponents*, 66 Wn. App. at 442; WAC 197-11-440(5); *Weyerhaeuser v. Pierce County*, 124 Wn.2d at 41.



Washington State Legislature

February 6, 2023

Washington State Environmental Justice Council
111 Israel Rd SE
Tumwater, WA 98501

Dear Washington State Environmental Justice Council (EJC),

Thank you for the good work being done by EJC to incorporate, provide, promote, and support environmental justice in Washington state.

We would like to draw your attention to the current plan by Washington state to utilize over 600,000 acres of land in eastern Washington to site renewable energy projects – both public and private. Such energy projects with the scope, proportion, and sprawl of the [Horse Heaven Wind Project](#) in the Tri-Cities must be seen through an equity lens with questions such as:

- Who will benefit from this project? Middle/upper class white communities outside the Tri-Cities and corporations located outside the U.S.
- Who will bear the visual and land-loss burden? Tri-Citians, with an MSA population that is 41% BIPOC. Tri-Citians feel harmed by this proposed development and should qualify as an overburdened community and vulnerable population — the sort of population that the HEAL Act was supposed to assist to avoid the negative impacts of siting unwanted industrial pollution. The citizens of this area view this massive wind development as industrial land pollution, yet it feels like the environmental justice community is not listening to their pleas to stop the project.
- Does this perpetuate the pattern of underrepresented communities bearing the burden of energy siting while receiving none of the benefit? The Tri-Cities MSA is already served by an electricity fuel mix that is 92-95% non-emitting energy, so these massive wind farm developments do nothing to clean the air or grid for the residents who endure the siting impact
- Would you agree that “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies” is at stake here when it comes to the approval of the Horse Heaven Wind Farm? Would you please consider the issue and make a recommendation to EFSEC and the governor to pause regulatory decision-making on approval of the project long enough to ensure that the environmental justice has been adequately addressed?

We urge the EJC to consider these questions and to provide recommendations and guidance to the state regarding the Horse Heaven Wind Project (and other large footprint energy projects) that disproportionately impact overburdened communities and vulnerable populations.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Barnard".

Rep. Stephanie Barnard
Washington State Representative
8th Legislative District



Sen. Matt Boehnke
Washington State Senator
8th Legislative District



Rep. April Connors
Washington State Representative
8th Legislative District



Rep. Mary Dye
Washington State Representative
9th Legislative District



Rep. Joe Schmick
Washington State Representative
9th Legislative District



Sen. Curtis King
Washington State Senator
14th Legislative District



Rep. Chris Corry
Washington State Representative
14th Legislative District



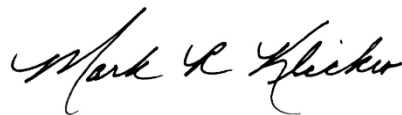
Sen. Nikki Torres
Washington State Senator
15th Legislative District



Rep. Bryan Sandlin
Washington State Representative
15th Legislative District



Sen. Perry Dozier
Washington State Senator
16th Legislative District



Rep. Mark Klicker
Washington State Representative
16th Legislative District

Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Maria Batayola, EJ Council Co-Chair; David Mendoza, EJ Council Member; Forrest Watkins, Department of Commerce

Subject: Environmental Justice Assessment

Background and Summary:

During the March 2023 Environmental Justice Council (Council) meeting, the Council was briefed that HEAL agencies are required to conduct Environmental Justice (EJ) Assessments on Significant Agency Actions beginning July 1, 2023. As was mentioned in the memo accompanying the briefing, the Council's Environmental Justice Assessment Committee has been meeting with the Interagency Workgroup's subgroup working on creating the EJ Assessment template. We want to share with the Council our work to date and our proposed timeline.

To review, the HEAL agencies are taking their primary guidance from the HEAL Act which requires EJ Assessments on the following Significant Agency Actions:

- a) The development and adoption of significant legislative rules as defined in RCW [34.05.328](#);
- b) The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out;
- c) A capital project, grant, or loan award by a covered agency of at least \$12,000,000 or a transportation project, grant, or loan by a covered agency of at least \$15,000,000;
- d) The submission of agency request legislation to the Office of the Governor or the Office of Financial Management for approval; and
- e) Any other agency actions deemed significant by a covered agency consistent with RCW [70A.02.060](#).

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

In addition, the Climate Commitment Act requires the Department of Ecology to conduct Environmental Justice Assessments including when considering linking to another jurisdiction, RCW 70A.65.060(3) states:

The department shall consider opportunities to implement the program in a manner that allows linking the state’s program with those of other jurisdictions. The department must evaluate whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in Washington while recognizing the social characteristics of the state’s economy, communities, and industries. **The department is authorized to enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing, and when consistent with the requirements of RCW 70A.65.210.**

Environmental Justice Assessments process requirements under HEAL include:

- Where applicable, use cumulative environmental health impact analysis, such as the environmental health disparities map or other data that considers the effects of a proposed action on overburdened communities and vulnerable populations.
 - “Cumulative environmental health impact” means the combined, multiple environmental impacts and health impacts on a vulnerable population or overburdened community.
- Identify overburdened communities and vulnerable populations who are expected to be affected by the proposed action and the potential environmental and health impacts;
- Pursuant to the consultation process in [70A.02.100](#), identify if the proposed action is expected to have any local or regional impacts to federally reserved tribal rights and resources including, but not limited to, those protected by treaty, executive order, or federal law.
- Summarize community input and describe how the covered agency can further involve overburdened communities, vulnerable populations, affected tribes, and indigenous populations in development of the proposed action.

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- Describe options for the agency to reduce, mitigate, or eliminate identified probable impacts on overburdened communities and vulnerable populations, or provide a justification for not reducing, mitigating, or eliminating identified probable impacts.

Timeline:

May 2023 – Brief the Council on draft Environmental Justice Assessment template and receive preliminary input to inform version 2 of the EJ Assessment template, which agencies will pilot after the July 1, 2023 statutory deadline.

June – July 2023: Host workshops for EJ Council Members on the EJ Assessment Template to answer questions and get more input.

July – September 2023: Initial implementation of the EJ Assessment to be in compliance with statutory obligation.

September 2023: Report to the Council on lessons learned from initial implementation of the EJ Assessment. The report will include how the lessons will be incorporated into the next version of the EJ Assessment template.

First Quarter 2024: Incorporate revisions to the EJ Assessment template; present revised version to the full Council.

Materials for your Review:

1. Draft of the EJ Assessment Template
2. Sample Significant Agency Actions that will require EJ Assessments

Staff Contact

Rowena Pineda, Environmental Justice Advisor, rowena.pineda@ejc.wa.gov, 360.584.4197

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

Environmental Justice Assessment Template

DRAFT UPDATED 5/12/2023

Context Setting:

This document was created by members of the Interagency Environmental Justice Assessment Process Design Work Group, which includes representation from each covered agency. It is the first draft of a common approach for agencies to conduct environmental justice assessments (EJA). The Interagency Work Group will also develop a companion guidance document that contains additional background information on the EJ Assessment process, instructions for filling out the template, details on how and when to use key data tools, and best practices for carrying out EJ assessments.

Our goal is to be as unified as possible, while also recognizing the need for some variation in EJ Assessments to inform different processes (for example: evaluating statewide rulemaking vs. evaluating highly local capital projects over \$12 million). The template below contains a general approach to environmental justice assessments for agency staff. Agencies may customize the template to address unique circumstances that vary between agency programs, processes and policies. At minimum, all covered agencies are expected to include the core statutory requirements highlighted in **GREEN**.

We are sharing this document to promote transparency and accountability, and to provide opportunities for Environmental Justice Council (EJC) members to guide Interagency efforts. Some EJC members have already provided informal input on the EJA process via the council's EJ Assessment Committee. Some of this input has been incorporated (for example, including an agency point of contact), while other input may require further research, discussion, and/or evaluation before it is clear how agencies can best respond.

EJC Document Review Guiding Questions:

The EJC can be most helpful to agencies at this stage of process development by helping us identify any fatal flaws. Specifically, we are seeking feedback on:

- What are key things that you want agencies to learn from the assessment process, that may or may not be captured here?
- What, if anything, does this draft miss in terms of fulfilling the intent of the law ("to reduce environmental and health disparities in Washington state and improve the health of all Washington state residents" ([RCW 70A.02.005: Purpose](#)))?

Phase 1: Preliminary Analysis & Notification

The work conducted in this phase should be rapid and able to be conducted at a desk.

Step 1: Compile preliminary information on the proposed significant agency action and areas of impact.

1.1. Identify the type of significant agency action

1.2. Provide a brief summary of the significant agency action

1.3. Identify other agencies or organizations that are involved with the significant agency action, and their role in the significant agency action

1.4. Identify a primary point of contact for the environmental justice assessment process

1.5. Identify geographic impact areas for each environmental harm and benefit

1.6. Identify potential environmental harms and benefits

1.7. Identify potential health impacts and benefits

1.8. Identify tribes, communities, or populations that may be impacted

1.9. Identify opportunities for public comment on the significant agency action

Step 2: Provide public announcements for the significant agency action to allow potentially impacted communities opportunity to review – include links to this information:

2.1. File notification with the OFM to post a brief description of the significant agency action and methods used for providing public comment to the dashboard/website.

Phase 2: EJ Assessment

This phase contains both desk work and external engagement to inform the significant agency action's future. Required strategies include, but are not limited to community engagement, tribal consultation, and cumulative environmental health analysis. These categories are interrelated and should inform one another.

Community engagement should be planned for and conducted by the agency in alignment with its Environmental Justice Community Engagement Plan [\[link\]](#). Typical community engagement may involve co-development of environmental justice assessment analysis, gathering and incorporating input on a draft environmental justice assessment, and/or sharing a revised version back with community to gather additional input before finalizing the assessment.

Tribal consultation is required for any significant agency action that would impact tribal rights or resources, and should align with the agency's Tribal Consultation Policy.

Information below may be initially copied from the initial Notification, but should be updated throughout the environmental justice assessment process to reflect tribal consultation, input from overburdened communities and vulnerable populations, and/or further analysis

A. Identify Overburdened Communities and Vulnerable Populations

This section identifies where existing disproportionate harms impact communities and how specific populations within those areas are at higher risk for poor health outcomes in response to environmental harms.

Please note that the terms ‘overburdened communities’ and ‘vulnerable populations’ are statutorily defined terms (see Appendix B for definitions) intended to center the experience of communities and populations disproportionately impacted by environmental harms and systemic barriers to receiving environmental benefits. These definitions do not fully encompass the context of why disparities exist, so it is encouraged that practitioners think critically about the implications of using these terms. For more information and suggested practices, see p. [#] of [your agency’s community engagement guide].

1. Identify the significant agency action’s assessment area (Where)
 - 1.1. Identify area where direct impacts are anticipated
 - 1.2. Identify area where indirect impacts are anticipated
 - 1.3. Identify if impacts are anticipated to migrate, shift or change
 - 1.4. Identify if impacts will occur at noticeably higher rates in some areas more than others
 - 1.5. Identify if impact sites are anticipated to be multiple, including statewide
 - 1.6. If the significant agency action would have anticipated impacts in defined geographic areas in Washington that are not statewide in scope, create a map that captures the above information. This is the assessment area.
2. Identify vulnerable population and overburdened community scope (Who)
 - 2.1. Identify vulnerable populations within the assessment area
 - 2.1.1. Identify vulnerable populations that live in the assessment area, including but not limited to racial or ethnic populations, low-income populations, and populations disproportionately impacted by environmental harms (cumulative health impacts)
 - 2.1.2. Identify vulnerable populations that work in the assessment area, including but not limited to populations of workers experiencing environmental harms, i.e., outdoor workers, migrant workers
 - 2.1.3. Identify additional vulnerable populations who live, work, or play in the assessment area. See [guidance document] for more information.
 - 2.2. Identify cumulative environmental harms within the assessment area
 - 2.2.1. Identify known environmental harms within the assessment area. Do not include any that would be created by the significant agency action
 - 2.2.2. Identify projected harms from climate change within the assessment area
 - 2.2.3. Identify areas within the assessment area where vulnerable populations appear to be experiencing disproportionate cumulative impact or impacts from multiple environmental harms (overburdened communities)

- 2.2.3.1. Identify such areas based on your combined analysis of geographic impact areas (A.1), vulnerable populations (A.2.1), and cumulative impacts (A.2.1-2)
- 2.2.3.2. Identify additional overlaps between the assessment area and tribal lands, including but not limited to reservations, off-reservation trust lands, sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law. Include any overlaps identified via tribal consultation. Do not share sensitive data or location information that could be attributed to individual sites
- 2.2.3.3. Identify overlaps between the assessment area and census tracts with environmental health disparities overall ranks 9 and 10.

B. Analyze Impacts to Tribal Rights and Resources and Cumulative Environmental Health Impacts (What)

This section describes the potential intended and unintended impacts from the proposed project or significant agency action. Answers to this section should be informed by analyses run by your agency, including cumulative environmental health impacts analysis, as well as impacts identified by overburdened communities, vulnerable populations, and tribes.

1. Identify and describe any potential environmental benefits associated with this action.

1.1. Identify and describe any potential environmental benefits associated with this action

1.2. Identify any potential health benefits of this action associated with the identified environmental benefits (ex. reduced risk of cardiovascular disease, improved lung function, improved etc.)

1.2.1. Identify which populations may receive the most health benefits from this action (ex. pregnant people, children, elders, etc.)

1.2.2. Identify if and how this action may protect against health impacts of other environmental health issues in this community.

1.3. Identify any known or potential social or economic benefits associated with this action.

2. Identify and describe any potential environmental harms associated with this action.

2.1. Identify and describe any potential environmental harms associated with this action.

2.2. Identify potential health impacts of this action associated with the identified environmental harms (ex. increased risk of cancer, increased risk of asthma, etc.).

2.2.1. Identify which populations are more sensitive to these health impacts (ex. pregnant people, children, elders, etc.).

2.3. Using your answer from Section A.2 Identifying Overburdened Communities and Vulnerable Populations, identify and describe how existing environmental health issues might overlap with, exacerbate, or be exacerbated by the potential environmental and health impacts of the proposed project (ex. existing high rates of childhood asthma associated with poor air quality may be exacerbated by increased exposure to diesel particulate matter from this project).

2.4. Identify any known or potential social or economic harms associated with this action.

3. Identify impacts to local or regional tribal rights and resources.

3.1. Identify impacts to local or regional tribal rights and resources. List impacts by tribe. For each impact, briefly describe the impact and any associated health or environmental harms or benefits, and identify the geographic scope of the impact. In your response, please consider:

3.1.1. Overlap between the significant agency action's assessment area(s) and Tribal Lands as defined in RCW 70A.02.010(13), including as identified in Section A.2.2.3.2

3.1.2. Additional impacts from significant agency action to tribal rights and resources, including treaty-guaranteed rights to hunt, fish, and gather in usual and accustomed territories, impacts to traditional food sources, impacts to cultural resources protected by EO 21-02, etc.

C. Tribal Engagement and Consultation

This section describes tribal engagement and consultation that the agency completed in preparing the environmental justice assessment. Agencies must offer consultation to any federally recognized tribe with affected rights and interests in their tribal lands, in alignment with the agency's tribal consultation policy. For more guidance on this, see [your agency's tribal consultation policy].

1. Summarize Tribal Engagement and Consultation to Date

1.1. Describe how federally recognized tribes have been engaged and consulted throughout the environmental justice assessment process. List invitations to consult by the agency and tribes.

2. Summarize Results of Engagement and Consultations

2.1. Summarize the topics discussed during completed engagement and consultations, including any key takeaways

2.2. Describe how any completed consultations have informed the environmental justice assessment process

3. Describe Future Engagement Plans

3.1. How will you further involve tribes in the implementation of the significant agency action? Please identify which aspects of your agency's Tribal Consultation Policy will be followed.

D. Community Engagement Summary

This section describes the ways in which the agency engaged members of overburdened communities and vulnerable populations in completing the environmental justice assessment. For guidance on how to best plan for and work with members of overburdened communities and vulnerable populations, please see [your agency's draft community engagement guide].

1. Summarize Community Engagement to Date

1.1. Describe how members of overburdened communities and vulnerable populations have been engaged throughout the environmental justice assessment process. It may be helpful to use the evaluation questions on p. [#] of [your agency's draft community engagement guide] as a starting place.

2. Summarize Input Received

Agencies must solicit feedback from members of overburdened communities and vulnerable populations about:

- the potential impact of the action
- developing the means to reduce or eliminate the impact on overburdened communities and vulnerable populations.

For each of the following questions, describe: a) How they were identified, b) who identified these as harms and benefits, and c) what, if any, disagreements came up in identifying environmental harms and benefits and how they were resolved.

- 2.1. Describe any environmental harms and benefits identified through community engagement
- 2.2. Describe any strategies identified through community engagement to reduce/mitigate/eliminate environmental harms
- 2.3. Describe any strategies identified through community engagement to equitably distribute environmental benefits

3. Summarize How Input Was Used

- 3.1. Describe how findings and suggestions from community engagement were integrated into the proposed action. If findings and suggestions were not integrated into the proposed action, please provide justification.
- 3.2. Describe how project decisions and results were shared back with community members. Describe any concerns or questions that arose while sharing back.

4. Describe Future Engagement Plans

- 4.1. How will you further involve overburdened communities, vulnerable populations, and indigenous populations in the implementation of the significant agency action? Please identify which aspects of your agency's Community Engagement Plan will be followed, and how, if applicable, you will go beyond them.
- 4.2. What consultation/engagement/partnerships do you still need in order to make decisions?

E. Addressing environmental harms and equitably distributing environmental benefits (How)

This section describes and selects options to eliminate, reduce, or mitigate environmental harms and/or equitably distribute environmental benefits.

1. Options to eliminate, reduce, or mitigate environmental harms and equitably distribute environmental benefits

- 1.1. If the significant agency action would create environmental harms or benefits, how could the following options be used to eliminate, reduce, or mitigate environmental harms, or more equitably distribute environmental benefits? Where possible, quantify expected environmental benefits or reductions in environmental harms and associated health impacts, and include discussion of associated costs and/or risks of each option.

- 1.1.1. Eliminating the greater impact of environmental harms on overburdened communities and vulnerable populations, and reducing related health impacts
- 1.1.2. Preventing the action from adding to existing environmental health impacts on overburdened communities or vulnerable populations
- 1.1.3. Modifying substantive regulatory or policy requirements
- 1.1.4. Maximizing resources and benefits to overburdened communities
- 1.1.5. Promoting training and job opportunities for overburdened communities
- 1.1.6. Providing for equitable and meaningful engagement by vulnerable populations and overburdened communities in developing the significant agency action
- 1.1.7. Meeting community needs identified by affected overburdened communities; and
- 1.1.8. Any options suggested by the Environmental Justice Council, the Office of Equity, or representatives of overburdened communities, vulnerable populations, tribes, and indigenous people

1.2. If the significant agency action would create environmental harms to overburdened communities and vulnerable populations, list and describe options other than those listed above to eliminate, reduce, or mitigate those environmental harms and any associated health impacts. Where possible, quantify expected reductions in environmental harms and associated health impacts, and include discussion of associated costs and/or risks of each option.

1.3. If the project would create environmental benefits, list and describe options other than those listed above to equitably distribute benefits to overburdened communities and vulnerable populations. Where possible, quantify expected benefits, and include discussion of associated costs and/or risks of each option.

2. Which of the above options has the agency selected to eliminate, reduce, and/or mitigate harms and equitably distribute benefits?

3. If the agency determines that it does not have the ability or authority to fully eliminate, reduce, or mitigate environmental harms caused by the significant agency action, or address the equitable distribution of environmental benefits, provide a justification for not doing so.

Phase 3: Reporting & Communication of Results

Step 1. Publish Results of EJ Assessment

1.1 Publish completed environmental justice assessment [to Agency/OFM website – agency-dependent, pending advice on a shared approach across agencies]

Step 2. Report back

2.1 If the agency determined it does not have the ability or authority to avoid, reduce, or mitigate any estimated environmental harm of the significant agency action on overburdened communities and vulnerable populations, or address the distribution of

environmental and health benefits, the agency must provide a clear explanation of why it has made that determination and provide notice of that explanation to members of the public who participated in the process for the significant agency action or the process for the environmental justice assessment and who provided contact information to the agency.

Phase 4: Ongoing Engagement & Accountability

After the agency has completed an environmental justice assessment and reported the results, implementation of the action can proceed. Typically, the agency will have committed to further engagement with overburdened communities, vulnerable populations, and tribes, and/or committed to actions to make the significant agency action more environmentally just. Phase 4 represents the period of ongoing engagement and accountability over the course of implementing the significant agency action, including tracking and evaluation of goals and metrics.

Environmental Justice Assessment Update Log

For some types of significant agency action, there may be changes to the scope of the action over the course of implementation. If changes are made, or new information uncovered, that may significantly change the results of the environmental justice assessment, the agency should update its environmental justice assessment to reflect these changes. If there are significant changes to agency commitments or expected environmental benefits or harms, the agency should also consider re-engaging with affected communities and/or tribes.

When updating its environmental justice assessment for a given significant agency action, the agency should update the following log to document the changes.

Step 1. Complete environmental justice assessment update log

- 1.1. What, if any, changes were made to the scope of the significant agency action?
- 1.2. What, if any, resulting updates were made to the environmental justice assessment?
 - 1.2.1. Do these changes result in any changes to the environmental harms or environmental benefits for overburdened communities and/or vulnerable populations? If so, describe the changes to environmental harms or environmental benefits.
- 1.3. What, if anything, has the agency done to re-engage affected overburdened communities and vulnerable populations about the changes?
 - 1.3.1. What input did the agency receive, and what action did the agency take as a result?
- 1.4. If the changes would affect tribal rights or resources, what has the agency done to reinitiate engagement or consultation with tribes?
 - 1.4.1. What action was taken as a result of tribal consultation about the changes?
- 1.5. What is the effective date of the changes?

Step 2. Publish updated environmental justice assessment + update log

- 2.1. Publish the updated environmental justice assessment and the completed update log in the same locations that environmental justice assessments are published

Step 3. Report back

- 3.1. If, during the update process, the agency determined it does not have the ability or authority to avoid, reduce, or mitigate any estimated environmental harm of the significant agency action on overburdened communities and vulnerable populations, or address the distribution of environmental and health benefits, the agency must provide a clear explanation of why it has made that determination and provide notice of that explanation to members of the public who participated in the process for the significant agency action or the process for the environmental justice assessment and who provided contact information to the agency.

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Appendices

A. Key Terms and Definitions

Cumulative Environmental Health Impact: The combined, multiple environmental impacts and health impacts on a vulnerable population or overburdened community.

Environmental Benefit: Activities that:

- (a) Prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts;
- (b) Prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm; or
- (c) Meet a community need formally identified to a covered agency by an overburdened community or vulnerable population that is consistent with the intent of this chapter.

Environmental Harm: Individual or cumulative health impacts and risks to communities caused by historic, current, or projected:

- (a) Exposure to pollution, conventional or toxic pollutants, environmental hazards, or other contamination in the air, water, and land;
- (b) Adverse environmental effects, including exposure to contamination, hazardous substances, or pollution that increase the risk of adverse environmental health outcomes or create vulnerabilities to the impacts of climate change;
- (c) Loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods; or
- (d) Health and economic impacts from climate change.

Environmental Impacts: Environmental benefits or environmental harms, or the combination of environmental benefits and harms, resulting or expected to result from a proposed action.

Environmental Justice: The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental justice includes addressing disproportionate environmental health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.

Equitable Distribution: A fair and just, but not necessarily equal, allocation intended to mitigate disparities in benefits and burdens that are based on current conditions, including existing legacy and cumulative impacts, that are informed by cumulative environmental health impact analysis.

Overburdened Community: A geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW [19.405.020](#). The term “overburdened communities” also encompasses

communities located in census tracts that are fully or partially on "Indian country" as defined in [18 U.S.C. Sec. 1151](#).

We expand on this definition with language developed by the Department of Health's Community Advisory Committee for the Environmental Justice Community Participation Fund Grant's Request for Applications. Within the definition of overburdened communities, we acknowledge that this disproportionate environmental impact has been created and continued by the effects of environmental racism, colonization, and discriminatory policy and practice, including redlining, failure to honor treaty rights, and the placement of polluting industry and hazardous waste sites in low-income communities of color and Indigenous communities. State government has too often excluded these communities from environmental decision-making, despite their rich perspectives, deep knowledge of environmental issues, and active resistance to unjust treatment. In recognition of these strengths, for the purposes of this grant, we affirm the need to center their leadership, lived experience, and perspectives in addressing environmental injustice and health disparities.

Significant Agency Action: The following actions as identified at the beginning of a covered agency's consideration of the significant agency action or at the time when an environmental justice assessment would normally be initiated in conjunction with an agency action:

- (a) The development and adoption of significant legislative rules as defined in RCW [34.05.328](#);
- (b) The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out;
- (c) A capital project, grant, or loan award by a covered agency of at least \$12,000,000 or a transportation project, grant, or loan by a covered agency of at least \$15,000,000;
- (d) The submission of agency request legislation to the office of the governor or the office of financial management for approval; and
- (e) Any other agency actions deemed significant by a covered agency consistent with RCW [70A.02.060](#).

Tribal Lands: Has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

Vulnerable Populations: Population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

- (b) "Vulnerable populations" includes, but is not limited to:
 - (i) Racial or ethnic minorities;
 - (ii) Low-income populations;

- (iii) Populations disproportionately impacted by environmental harms; and
- (iv) Populations of workers experiencing environmental harms.

Similar to the definition of “overburdened communities,” we build on this definition with language from the Department of Health’s Community Advisory Committee for the Environmental Justice Community Participation Fund Grant’s Request for Applications. Within this definition of “vulnerable populations” we recognize the concentration of these “adverse socioeconomic factors” in low-income communities of color and Indigenous communities are rooted in ongoing systemic marginalization, erasure, exclusion, and structural racism. Without explicit recognition of the conditions causing these disparities, we risk putting the blame on impacted populations and communities, rather than larger systems of social inequity.

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Sample Significant Agency Actions that will require EJ Assessments

May 24, 2022

Significant Agency Actions	Agriculture	Commerce	Ecology	Health	Natural Resources	Puget Sound Partnership	Transportation
<p>The development and adoption of significant legislative rules as defined in RCW 34.05.328</p>	<ol style="list-style-type: none"> 1. <i>Rulemaking Project</i> <i>Title-</i> Cannabis Testing Laboratory Quality Standards. Establishes cannabis testing laboratory quality standards in rule as required by HB 1859 (Chapter 135, Laws of 2022). 2. <i>Rulemaking Project</i> <i>Title-</i> Organic Food Standards and Certification (Chapter 16-157 WAC). Updates the organic certification fee schedule. 3. <i>Rulemaking Project</i> <i>Title-</i> Registration of materials for organic food production (Chapter 16-160 WAC). Increases registration fees and restructures the fee schedule. Updates the registered material logo. 4. <i>Rulemaking Project</i> <i>Title-</i> Organic Cannabis Certification (Chapter 16-161 WAC). Establishes standards for the certification of organic cannabis and cannabis products in compliance with the National Organic Program. 5. <i>Rulemaking Project</i> <i>Title-</i> General Pesticide Rules (Chapter 16-228 WAC). <ul style="list-style-type: none"> • Changes the age requirements to 		<p>The Hazardous Waste and Toxics Reduction Program is expected to undertake rulemaking on a number of topics (Learn more about SPWA here):</p> <ol style="list-style-type: none"> 1. Pollution Prevention Planning Fee rule update (WAC 173-307) starting in 2023. 2. Safer Products for Washington effort rule adoption on PFAS in consumer products (WAC 173-337) starting in 2024. 3. New rules to identify formaldehyde releasing agents in cosmetics products starting in 2024. 	<p>E2SHB 1181: Climate change/planning – The Office of Drinking Water will need to conduct an EJ assessment as part of rulemaking to adopt the climate resiliency element into water system planning.</p>	<ul style="list-style-type: none"> • Commercial Finfish Net Pen Aquaculture • Trespassing/law enforcement • Administrative cost recovery fees (started with Rights of Way program) 		

	<p>obtain a pesticide license from 16 to 18 years old.</p> <ul style="list-style-type: none"> • Adds the ability for the director to suspend or revoke any license or certification that was terminated in another state. • Adopts updated EPA standards for pesticide applications. <p>6. <i>Rulemaking Project Title- General Rules for Seed Certification (Chapter 16-302).</i></p> <ul style="list-style-type: none"> • Aligns standards for applicable crops with the Association of Official Seed Certifying Agencies newly adopted seed and field standards, creates a Pacific Northwest sod quality standard and tagging process, makes clerical changes to address inconsistencies between crop standards, removes references to repealed WACs, adds an application deadline for dryland seed production and other clarifying changes. 						
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<p>The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out</p>	<p>We are not aware of any new grants or loan programs. We are awaiting WSDA's Policy Team to provide a legislative session debriefing that will detail whether any additional grants/loans are anticipated.</p>	<p>Hard-to-Decarbonize Sectors Program - \$20 million grant program for greenhouse gas emissions reduction strategies for hard to decarbonize sectors, including industry, aviation, and maritime. New in the 2023-2025 biennium, funded with CCA funding.</p>		<p>CCA funded provisos, including:</p> <p>a) (23)(a) \$10,000,000 of the climate commitment account—state appropriation is provided solely to support and administer a workplace health and safety program for workers who are affected by climate impacts, including but not limited to, extreme heat and cold, wildfire smoke, drought and flooding.</p> <p>b) (55) \$5,496,000 of the climate commitment account—state appropriation is provided solely for the department to provide grants to school districts making updates to existing heating, venting, and air conditioning systems using small district modernization grants.</p> <p>c) (57) \$38,600,000 of the climate commitment account—state appropriation is provided solely for the department to develop a grant program to fund projects that benefit overburdened communities as defined in RCW 70A.02.010.</p>	<ul style="list-style-type: none"> • Cascading impacts of wildfire grants • Derelict structures • Watershed resilience grants 		
<p>A capital project, grant, or loan award by a covered agency of at least \$12,000,000 or a transportation project, grant, or loan by a covered</p>	<p>We are not aware of any projects/grants/loans that will meet these criteria.</p>	<p>Many capital grants result from competitive or other processes and depend on grant partners, so they can be hard to predict far in advance. The example</p>	<p>Weyerhaeuser Mill A Former will be a Remedial Action Grant that will likely be \$12million or more over the course of the project for a large local government</p>		<p>State Nursery</p>	<ul style="list-style-type: none"> • Puget Sound Acquisition and Restoration biennial grant round 	<p>WSDOT does not have any guaranteed examples of SAAs to share at this time. It is awaiting the Governor's signature on the Transportation Budget,</p>

<p>agency of at least \$15,000,000</p>		<p>provided below is purely hypothetical and provided as an example of what a SAA of this type could plausibly look like.</p> <ul style="list-style-type: none"> A hypothetical \$13 million grant award to a local government for a solar + battery storage microgrid. The project would provide clean energy and cost savings to the local government's parks department, and act as a component of a resilience hub that would provide shelter and emergency power for community members, including people who use medical devices or refrigerated medication. 	<p>cleanup. Learn more about this work in the Toxics Cleanup Program here.</p>				<p>which will determine the projects that will be funded including those that will exceed the \$15M threshold.</p>
<p>The submission of agency request legislation to the office of the governor or the office of financial management for approval</p>	<p>We are awaiting WSDA's Policy Team to provide a list of all anticipated FY24 agency budget and/or legislative requests to project the number of EJAs needed.</p>				<p>Trustland Transfers</p>		
<p>Any other agency actions deemed significant by a covered agency consistent with RCW 70A.02.060</p>					<p>"Other" voluntary now</p> <ul style="list-style-type: none"> Legislatively directed research (asked by leg, required by statute, or research conducted to inform agency-wide plan) Commissioner's Discretionary Fund <p>"Other" voluntary later</p> <ul style="list-style-type: none"> All grant programs Law enforcement 	<ul style="list-style-type: none"> Development of the 2025-2028 Science Work Plan Development of the 2026-2030 Action Agenda 	

					<ul style="list-style-type: none">• Pass-through funding with undefined recipient• Pass-through funding with defined recipient• Federal funding pass through• External-facing agency/division level strategic plans that impact our investments		
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Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager; Rowena Pineda, Environmental Justice Advisor

Subject: Identification of Overburdened Communities and Vulnerable Populations

Background and Summary:

Chapter 70A.02 RCW, the HEAL Act, seeks to reduce environmental and health disparities in Washington State and improve the health of Washington State residents. The identification of Overburdened Communities and Vulnerable Populations underlies the interconnected parts of the HEAL Act. There is no deadline in the HEAL Act or specific deliverable “due” for identification of overburdened communities. However, agencies will need to know how to identify overburdened communities and vulnerable populations to conduct Environmental Justice Assessments and analysis of environmental justice in budgeting and funding decisions by July 1, 2023.

HEAL defines Overburdened Communities and Vulnerable Populations as follows:

1. “Overburdened community” means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but not limited to, highly impacted communities as defined by in RCW [19.405.020](#).
 - “Highly impacted community” means a community designated by the department of health based on cumulative impact analysis in RCW [19.405.140](#) or a community located in census tracts that are fully or partially on “Indian country” as defined in 18 U.S.C. Sec. 1151.
2. “Vulnerable populations” means population groups that are more likely to be at higher risk for poor outcomes in response to environmental harms, due to: 1) adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other

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factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and 2) sensitivity factors, such as low birth weight and higher rates of hospitalization.

- “Vulnerable populations” includes, but is not limited to:
 - Racial or ethnic minorities
 - Low-income populations
 - Populations disproportionately impacted by environmental harms; and
 - Populations of workers experiencing environmental harms.

Discussion:

At today’s meeting the Council will have time to ask and discuss some of the hard questions about how to identify overburdened communities and vulnerable populations. Council Members, Legislators, and state agency staff implementing the HEAL Act have asked many of these challenging questions in their discussions over the past year. Some of these questions are listed below as examples the Council could start to discuss today. Council Members and HEAL agency staff may have additional or higher priority questions they want to pose during the meeting as well.

Discussion questions:

1. What are contexts where a process to identify overburdened communities may be best suited and when may a list of overburdened communities may be best suited?
2. When should consistency in process or a list across agencies be most beneficial versus when should agencies have flexibility and adaptability to address their differing contexts?
3. As it relates to the process for identifying overburdened communities, what do we want to track? How do we want to track it? How should we measure success?
4. How do we use the available tools and datasets as part of a toolbox of resources to identify overburdened communities and vulnerable populations while also addressing the limitations of these tools and datasets?

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5. Considering the Environmental Health Disparities Map as one possible tool to be used in this process, which rankings should be included (e.g., Census tracts ranked as 10? As 9? As 8? Etc.)
6. How do we define or put boundaries around a “community”?
7. Can there be a path for communities not identified by an agency to self-identify as overburdened? How do agencies have criteria or a process for self-identification that is low barrier/burden for communities and equitable?
8. Specific to the Climate Commitment Act (CCA), when ensuring that 35-40% of CCA funds are allocated to overburdened communities do agencies, Legislators, and the Governor apply that minimum percentage to all the CCA funds combined? Or does each individual CCA account need to meet this minimum? Or does each individual program funded with CCA funds meet this minimum?

Staff Contact

Rowena Pineda, Environmental Justice Advisor, rowena.pineda@ejc.wa.gov, 360.584.4197

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Environmental Justice Council

Date: May 24, 2023

To: Environmental Justice Council Members

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Legislative and Budget Updates and Limited Discussion on HEAL Agency Budget and Funding

Background and Summary:

This agenda item includes two topics:

- 1) 2023 Legislative and Budget Update from Staff
- 2) Council Discussion of the Agency Budget and Funding HEAL Requirements

1) 2023 Legislative and Budget Update from Staff

The Environmental Justice Council (Council) has authority under [RCW 70A.65.040](#) of the Climate Commitment Act (CCA) to provide recommendations to the Legislature, agencies, and the Governor on the programs funded by the CCA accounts. The Council adopted [funding recommendations](#) at its January 26, 2023 meeting. At its February 28, 2023 meeting, the Council adopted [additional budget recommendations](#).

Your meeting packet includes a summary of budget provisos and policy bills that passed this session that include references to the Environmental Justice Council (see [page 73](#)). Council staff are also working on a crosswalk showing where the final 2023-2025 state budgets align with the Council's budget recommendations. That document will be more comprehensive, but we have highlighted a few aspects of the budgets here that were included in the budgets in response to the Council's recommendations:

- \$38,600,000 for the Department of Health (DOH) and the EJ Council to engage in a participatory budgeting process and grant program to benefit overburdened

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communities. It is important to note that some of the specific language in this budget proviso, including a requirement that the Legislature approve the projects before they can be funded, goes against participatory budgeting principles. These are also one-time funds. The Council may wish to discuss recommending amendments to this language and continuing funding for your 2024 budget recommendations.

- \$10,000,000 for DOH to administer a workplace health and safety grant program for farmworkers, construction workers, and other workers affected by climate impacts. This proviso also tasks the DOH, in consultation with the EJ Council, community groups, and the Department of Labor and Industries, with evaluating mechanisms to provide workers with financial assistance to cover lost wages or other financial hardships caused by extreme weather events and climate threats. This is ongoing funding.
- \$26,355,000 for DOH to administer capacity grants to tribes, tribal organizations, overburdened communities, and vulnerable populations to guide agencies on HEAL implementation and to provide guidance on the Environmental Health Disparities map. This is one-time funding. The EJ Council may want to discuss recommending in the 2024 session that these funds be ongoing.
- The Office of Financial Management received \$772,000 to develop a data portal on Climate Commitment Act (CCA) expenditures. Ecology also received \$640,000 to develop and implement processes to track agency expenditures from CCA accounts and the EJ Council received \$200,000 to coordinate with Ecology on the development of processes, specifically to engage tribes and communities in the process.

2) Council discussion of the HEAL Agency Budget and Funding HEAL requirements

The HEAL Act requires HEAL agencies to incorporate environmental justice principles into their decision-making processes for budget development, making expenditures, and granting or withholding environmental benefits beginning July 1, 2023. Under [RCW 70A.02.110\(9\)\(b\)](#) the Council is tasked with working in an “iterative fashion” with the Interagency Workgroup to develop guidance for environmental justice implementation into covered agency budgeting and funding criteria.

To request this document in an alternate format or a different language, please contact Sierra Rotakhina in any language, at envjustice@ejc.wa.gov or 360-584-4398. TTY users can dial 711.

Discussion:

At today's meeting the Council will have an opportunity to ask questions and discuss the 2023 legislative session update and to discuss guidance related to the agency budgeting and funding requirements in the HEAL Act.

Staff Contact

Sierra Rotakhina, Environmental Justice Council Manager, Sierra.Rotakhina@EJC.wa.gov, 360-584-4398

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**2023 Legislative Session Summary:
Environmental Justice Council (EJC) Inclusion in Legislation and Budget Provisos
May 24, 2023**

<p align="center">E2SHB 1216 (Clean Energy Siting)</p> <p>EJC staff are added to the Interagency Clean Energy Siting Coordinating Council. The Department of Commerce must analyze impacts of energy system changes, including for rural communities. Commerce must use its community engagement plan with input from EJC.</p> <p>EJC Funding: \$102,000/biennium (State General Fund, Ongoing)</p>	<p align="center">E2SHB 1170 (Improving Climate Resilience)</p> <p>The Department of Ecology must update the integrated climate response strategy. Ecology must develop an engagement plan with guidance from the EJC and others.</p>
<p align="center">ESHB 1853 (Corrective Changes to Transportation Resources)</p> <p>Local transit agencies applying for a local transit grant program must align their zero-fare policies for youth with EJ principles consistent with EJC recommendations.</p>	<p align="center">ESSB 5187 (Operating Budget): HEAL Implementation</p> <p>Funding for the Department of Health to implement the HEAL Act, including staff support for the EJC.</p> <p>DOH Funding (a portion which will go to the EJC): \$5,996,000 (Climate Commitment Account, Custom)</p> <ul style="list-style-type: none"> EJC Funding: TBD
<p align="center">ESSB 5187 (Operating Budget): Data Portal</p> <p>The Office of Financial Management must develop a data portal for tracking Climate Commitment Act expenditures and outcomes. The Department of Ecology must coordinate with the EJC on tracking and reporting processes. Funding for the EJC for tribal and community engagement and to provide stipends for participation.</p> <p>EJC Funding: \$200,000 (Climate Investment Account, One-Time)</p>	<p align="center">ESSB 5187 (Operating Budget): Community Informed Budgeting</p> <p>Funding for the Department of Health and the EJC to engage in community informed budgeting with five communities.</p> <p>DOH Funding: \$6,000,000 in FY24 for community informed budgeting and \$38,600,000 in FY25 for grants (Climate Commitment Account, One-Time)</p> <ul style="list-style-type: none"> EJC Funding: TBD
<p align="center">ESSB 5187 (Operating Budget): Workplace Safety & Health Program</p> <p>Funding for the Department of Health to administer a program for workers affected by climate impacts and to consult with the EJC and others to evaluate mechanisms to provide workers with financial assistance for hardships caused by climate threats.</p> <p>DOH Funding: \$10,000,000 (Climate Commitment Account, Ongoing)</p> <ul style="list-style-type: none"> EJC Funding: TBD 	<p align="center">ESSB 5187 (Operating Budget): Deliberative Democratic Processes</p> <p>Funding for the Department of Health to contract for training workshops for the HEAL Interagency Workgroup and to work with the EJC (staff or Council) to develop best practices for incorporating deliberative democratic processes into community engagement.</p> <p>DOH Funding: \$100,000 (State General Fund, One-Time)</p> <ul style="list-style-type: none"> EJC Funding: TBD

Public Comments

From: Rebbecca Blair
Sent: Friday, March 17, 2023 1:39 PM
To: Pineda, Rowena E (DOH)
Subject: City of Westport

External Email

In an effort to bolster the economy in Westport, developers/investors are buying and selling properties, pillaging wildlife habits such as dunes and forested areas at an incredible rate. Deer, rabbits, birds and bears, to name a few, are being forced out of their habitats to make way for vacation rentals, with few acceptions.

What can be done to stop this injustice to the wildlife?

Rebecca Blair,
Current resident, Westport, WA

From: Johanna Lundahl
Sent: Monday, April 3, 2023 4:24 PM
To: DOH EPH OEPHS Environmental Justice <envjustice@ejc.wa.gov>
Subject: Participatory and Deliberative Engagement this legislative session

External Email

Dear Environmental Justice Council,

I hope this email finds you well.

[People's Voice on Climate](#) (PVOC) was the convener of the [2021 WA Climate Assembly](#) (WACA), an independent deliberative democratic process that gathered 77 randomly selected Washingtonians from across the state to deliberate and answer the question: "How can Washington State equitably design and implement climate mitigation strategies while strengthening communities disproportionately impacted by climate change across the State?" In a series of facilitated meetings, Assembly members learned, reflected, deliberated, and produced 148 specific policy recommendations across the complex topic of equitable climate mitigation, all while representing the state "in miniature" across key demographics including age, gender, race/ethnicity, and geographic distribution.

Building on the work of the 2021 WACA, PVOC has been working this legislative session with Representative Mia Gregerson and other legislative and organizational partners to develop two budget proposals to further the integration of deliberative democratic engagement in climate policy, both of which have been included in the House FY 24-25 operating budget (see attached)

The first proposal would dedicate \$100,000 towards the development of a series of deliberative democracy workshops for state agency public participation professionals to engage with deliberative democratic practices and participate in making recommendations for state agency community engagement plans to include deliberative democratic processes regarding climate equity in WA. Based on Rep. Gregerson's recommendation, PVOC proposed that the Office of Equity take on the role of interagency coordinator, as that office oversees similar training around equity within governmental processes. Our intention is for the Office of Equity in partnership with the DOH to hold this program, and since the EJC has been doing a lot of work around Participatory Engagement, we see you as an important player in this, which is why you were also listed in the proviso.

As participatory and deliberative tools are very close relatives, PVOC believes that they should be applied collaboratively. These are emerging fields, and we acknowledge that they are not well understood even by many working within state government, therefore the ongoing work of state agency public engagement will be better implemented once more public servants understand how participatory and deliberative processes work, and have a broad base of knowledge about how to apply them in different contexts, making them more efficient to use, and increasing the capacity of the state to understand the informed will of the people in decision-making.

PVOC also helped develop a proposal for \$124,000 in state funding to go towards expanding the impact of a Student Climate Assembly program, piloted in Bellingham, WA during the 2021-2022 school year

and modeled after the 2021 WA State Climate Assembly, which would support development of a state-wide curriculum and provide support for teachers starting student climate assemblies in their classrooms.

We were pleased to see that the Participatory Budgeting funding proposed by Governor Inslee on the Council's recommendation ended up in the Senate Budget, and was pleasantly surprised to see that the Community Assemblies Pilot Program proposal from Front and Centered was included in the House Operating Budget proposal. Knowing that there are challenging budget constraints and big ongoing conversations around these two programs — I want to share that we see both of these proposals dovetailing rather well with the smaller provisos PVOC proposed, related to capacity building and education around civic engagement.

Recognizing that these proposals together represent an incredible opportunity to ensure that procedural justice and equitable public participation is a major part of successful HEAL Act implantation, we would love to discuss how best to coordinate support for these proposals and the work of the EJC during the remainder of this session and beyond.

PVOC is passionate about the use of participatory and deliberative democracy, and acknowledges that WA State needs to expand internal knowledge and capacity to coordinate and implement these projects. PVOC's proposals will provide programmatic funding for training and capability building, and will be useful in the implementation of Participatory Budgeting, as well as expanding on the state's use of assemblies. Our ultimate goal is that there is more funding and support for these types of programs, and we would love to discuss how best to support you in this work going forward.

Best wishes,
Johanna
Working Group Lead

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Johanna Lundahl, PVOC Member (She/Her/Hers)



People's Voice on Climate

Contact: 541.760.9634

Visit: www.peoplesvoiceonclimate.org

M-Th 9-4 pm

Here are 3 things you can do TODAY to help the WA Climate Assembly:

1. Learn about the [WA Climate Assembly](#)
and share your support on [social media](#).
2. Check out the [Assembly Recommendations](#), Learning Session, Reports, and Recordings, or these [artistic renderings](#) of the ideas presented in the Learning Sessions.
3. Ask your [State Legislators](#) to learn about, support, and endorse the Climate Assembly.

Problem Statement: State and local public engagement processes typically involve methods which “consult” or “invite” communities to participate. This lays the burden on those impacted by public policies to be informed of opportunities for engagement and to participate at the rapid pace of the state’s budget and policy cycle. This often **results in a failure to meaningfully empower overburdened communities.**

Furthermore, high school students often leave their three years of required high school science courses understanding the causes and impacts of climate change, although unprepared to participate in the political processes for implementing proposed solutions. This increases climate anxiety and despair, **the antidote to which is participation in real-world actions to address climate change.**

Proposed Solution: Addressing climate change requires the creation of inclusive spaces for non-partisan policy discourse to educate and empower the voices of youth and the public to reduce the barriers to collective action. Deliberative Democracy processes do this by combining broadly-inclusive participation, education, exchange of diverse interests and concerns, and deliberation, to arrive at informed consensus, resulting in the clear, direct expression of the participants’ political will.

This form of political participation is qualitatively different from our current democratic tools. Policy recommendations that emerge have been vetted by a broad spectrum of the population, benefitting policy makers by providing guidance on managing conflicting interests, identifying priorities and policies on which a representative sample of the population is in agreement.

You can expand the use of these tools in local and state-wide public engagement work by supporting the following budget requests:

- *\$100,000 for a program to inform state agency public engagement staff about utilizing Deliberative Democracy processes in their ongoing engagement work and to develop recommendations for incorporating them into public participation plans which state agencies are updating according to the HEAL Act, and*
- *\$124,000 to expand the impact of a Student Climate Assembly program, piloted in Bellingham, WA during the 2021-2022 school year, and modeled after the 2021 WA State Climate Assembly. Funding will support the development of a curriculum and support for teachers starting student climate assemblies in their classrooms.*

Other Legislative Priorities: *Support a community participatory budgeting process and grants through the Department of Health (DOH) that invest in projects that reduce health burdens in overburdened communities, and to support community members’ participation in the process. (Governor Inslee’s Proposed Budget; \$38.6 million, Air Quality and Health Disparities Account)*

[People’s Voice on Climate](#) was the initiator and sponsor of the 2021 [WA State Climate Assembly](#), and works to center ordinary people in the fight against climate change. PVOC is a volunteer-led organization under the fiscal sponsorship of Evergreen Social Impact, a registered 501c3.