

Environmental Justice Council Special Meeting

July 2, 2024 Meeting Materials

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Reunión especial del Concejo de Justicia Ambiental (EJC)

Martes, 2 de julio de 2024

De 8:00 a. m. a 9:30 a. m.

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

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

Id. del seminario web: 817 4786 4781

O únase por teléfono: +1 253 215 8782

Id. del seminario web: 817 4786 4781

Números internacionales disponibles: <https://us02web.zoom.us/u/kd6MggTvTL>

Objetivos de la reunión:

1. Debatir, modificar si es necesario y adoptar los principios del Concejo relacionados con la soberanía tribal, la autodeterminación y el consentimiento libre, previo e informado.
2. Recibir una presentación de la Nación Yakama sobre sus preocupaciones y su posición en relación con el proyecto propuesto de almacenamiento por bombeo de Goldendale, y debatir y posiblemente adoptar una moción que defina las medidas del Concejo.

Orden del día

A las 7:50 a. m., los invitamos a participar de una presentación sobre cómo activar los subtítulos descriptivos y cómo unirse al canal de interpretación en español.

De 8:00 a. m. a 8:05 a. m.	I.	Bienvenida y repaso de la lista de asistencia para el cuórum	El honorable Jarred-Michael Erickson Copresidenta Maria Batayola Miembros del Concejo
De 8:05 p. m. a 8:10 a. m.	II.	Aprobación del orden del día por parte del Concejo - Posibles medidas del Concejo	Aurora Martin, miembro del Concejo Miembros del Concejo

De 8:10 a. m. a 8:20 a. m.	III. Comentarios públicos	Rosalinda Guillen, miembro del Concejo
De 8:20 p. m. a 8:40 p. m.	IV. Debate y posible adopción de los principios del Concejo de Justicia Ambiental Objetivos: Debatir, modificar si es necesario y adoptar los principios del Concejo relacionados con la soberanía tribal, la autodeterminación y el consentimiento libre, previo e informado. - Posibles medidas del Concejo	Sierra Rotakhina, personal del Concejo Miembros del Concejo
De 8:40 p. m. a 9:00 p. m.	V. Informe, debate y posible adopción: Colaboración con las Tribus y Bandas Confederadas de la Nación Yakama en el desarrollo del almacenamiento por bombeo en <i>Pushpum</i> Objetivos: Recibir una presentación de la Nación Yakama sobre sus preocupaciones y su posición en relación con el proyecto propuesto de almacenamiento por bombeo de Goldendale, y debatir y posiblemente adoptar una moción que defina las medidas del Concejo. - Posibles medidas del Concejo	Copresidenta Maria Batayola Anthony S. Aronica, Abogado Principal, Oficina de Asesoría Legal de la Nación Yakama Miembros del Concejo

<p>De 9:00 p. m. a 9:20 p. m.</p>	<p>VI. Informe, debate y posible adopción: Colaboración con las Tribus Confederadas de la Reserva Colville en el proyecto solar propuesto de Badger Mountain</p> <p>Objetivos: Recibir una presentación de las Tribus Coville sobre sus preocupaciones y posición en relación con el proyecto solar propuesto de Badger Mountain, y debatir y posiblemente adoptar una moción que defina las medidas del Concejo.</p> <p>- Posibles medidas del Concejo</p>	<p>Copresidenta Maria Batayola</p> <p>Cody Desautel, Executive Director de las Tribus Confederadas de la Reserva Colville</p> <p>Miembros del Concejo</p>
<p>De 9:20 a. m. a 9:30 a. m.</p>	<p>VII. Agradecimientos y levantamiento de la sesión</p>	<p>El honorable Jarred- Michael Erickson</p> <p>Copresidenta Maria Batayola</p>

Información importante:

- El Concejo 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 (EJC) Special Meeting

Tuesday, July 2, 2024

8:00am – 9:30am

Please click the link below to join the webinar:

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

Webinar ID: 817 4786 4781

Or Join by Phone: +1 253 215 8782

Webinar ID: 817 4786 4781

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

Meeting Goals:

1. Discuss, amend if needed, and adopt Council principles related to Tribal Sovereignty; self determination; and free, prior, and informed consent.
2. Receive a presentation from The Confederated Tribes and Bands of the Yakama Nation on their concerns with and position on the proposed Goldendale Pump Storage Project and discuss and possibly adopt a motion outlining Council actions.
3. Receive a presentation from The Confederated Tribes of the Coville Reservation on their concerns with and position on the proposed Badger Mountain Solar Project and discuss and possibly adopt a motion outlining Council actions.

Agenda

Please join us at 7:50am for a presentation on how to turn on closed captions and join the Spanish interpretation channel.

8:00 AM – 8:05 AM	I.	Welcome and Roll Call for Quorum	The Honorable Jarred-Michael Erickson Co-Chair Maria Batayola Council Members
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8:05 PM – 8:10 AM	<p>II. Approval of Agenda by Council</p> <p>-Possible Council Action</p>	<p>Council Member Aurora Martin</p> <p>Council Members</p>
8:10 AM – 8:20 AM	<p>III. Public Comment</p>	<p>Council Member Rosalinda Guillen</p>
<p>8:20 PM – 8:40 PM</p> <p>Materials on page 7</p>	<p>IV. Discussion and Possible Adoption of Environmental Justice Council Principles</p> <p>Goals: Discuss, amend if needed, and adopt Council principles related to Tribal Sovereignty; self determination; and free, prior, and informed consent.</p> <p>-Possible Council Action</p>	<p>Sierra Rotakhina, Council Staff</p> <p>Sierra Red Bow, Council Staff</p> <p>Council Members</p>
<p>8:40 PM – 9:00 PM</p> <p>Materials on page 9</p>	<p>V. Briefing, Discussion, and Possible Adoption: Standing with The Confederated Tribes and Bands of Yakama Nation on the Pump Storage Development at <i>Pushpum</i></p> <p>Goals: Receive a presentation from Yakama Nation on their concerns with and position on the proposed Goldendale Pump Storage Project and discuss and possibly adopt a motion outlining Council actions.</p> <p>-Possible Council Action</p>	<p>Co-Chair Maria Batayola</p> <p>Anthony S. Aronica, Senior Attorney, Yakama Nation Office of Legal Counsel</p> <p>Council Members</p>

<p>9:00 – 9:20 PM</p> <p>Materials on page 18</p>	<p>VI. Briefing, Discussion, and Possible Adoption: Standing with The Confederated Tribes of the Colville Reservation on the Proposed Badger Mountain Solar Project</p> <p>Goals: Receive a presentation from Coville Tribes on their concerns with and position on the proposed Badger Mountain Solar Project and discuss and possibly adopt a motion outlining Council actions.</p> <p>-Possible Council Action</p>	<p>Co-Chair Maria Batayola</p> <p>Cody Desautel, Executive Director, Confederated Tribes of the Colville Reservation</p> <p>Council Members</p>
<p>9:20 AM – 9:30 AM</p>	<p>VII. Appreciations and Adjournment</p>	<p>The Honorable Jarred-Michael Erickson</p> <p>Co-Chair Maria Batayola</p>

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.

Environmental Justice Council

Date: July 2, 2024

To: Environmental Justice Council

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Environmental Justice Principles Related to Tribal Sovereignty; Self Determination; and Free, Prior, and Informed Consent

Background and Summary:

The Environmental Justice Council (Council) recently received two separate requests from Tribal Nations to support them in their opposition to proposed energy siting projects on their traditional territories that would cause irreparable harm to Traditional Cultural Properties. These specific projects will be addressed during agenda items V and VI at today's meeting.

Before discussing these specific projects today, it is important to note these requests have highlighted that—while the Council has strived to center Tribal Sovereignty in its governance and leadership structures, operations, and decision-making processes—the Council has not yet adopted its own principles or position upholding Tribal Sovereignty; self-determination; and free, prior, and informed consent.

The [United Nations Declaration of the Rights of Indigenous Peoples](#) (UNDRIP) emphasizes the importance of practicing free, prior, and informed consent. UNDRIP was adopted in 2007 to comprehensively address the human rights of Indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity, and well-being of Indigenous Peoples worldwide. Additionally, principle #11 of the [Principles of Environmental Justice](#) adopted at the First National People of Color Environmental Leadership Summit in 1991, upholds Tribal sovereignty and self-determination as a core principle of environmental justice.

Provided this context, Council staff are recommending the Council take the below action today.

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.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following position:

The Environmental Justice Council (Council) affirms the rights acknowledged under the [United Nations Declaration of the Rights of Indigenous Peoples](#) and emphasizes the importance of practicing free, prior, and informed consent. The Council also upholds the [Principles of Environmental Justice](#) adopted at the First National People of Color Environmental Leadership Summit in 1991, including the principle that “Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.” The Council knows the urgency of the climate crisis (particularly for Tribes and other frontline communities) and supports the need to transition to safer, cleaner, and more sustainable energy production. The Council further upholds that when this transition involves a project of non-Tribal proponents, it must happen only with free, prior, and informed consent from Tribes who have been, and continue to be, the stewards of the land since time immemorial.

Staff Contacts:

Sierra Red Bow, Council Community and Tribal Engagement Supervisor,
Sierra.RedBow@ejc.wa.gov, 564-669-4791

Sierra Rotakhina, Council Manager, sierra.rotakhina@ejc.wa.gov, 360-584-4398

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Environmental Justice Council

Date: July 2, 2024

To: Environmental Justice Council

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Standing with Confederated Tribes and Bands of the Yakama Nation on the Pump Storage Development at *Pushpum*

Background and Summary:

In May of 2024 the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) requested that the Environmental Justice Council (Council) support them in their opposition of the proposed pump storage development at *Pushpum* (Goldendale Energy Storage FERC Project No. 14861-002). The timeline for this project means that Council action before July 12, 2024 would be most meaningful—so the Council’s Executive Committee called a special meeting today as outlined in Article II of the [Council’s Bylaws](#) and [RCW 42.30.080](#).

The Goldendale Energy Storage Project (Project) is a closed-loop hydropower facility that operates like a battery. During times of surplus energy (peak sun or wind), the power plant pumps water from the lower reservoir to the upper reservoir. During peak energy demand, water is returned by gravity to the lower reservoir passing through turbines that generate electricity. The Project will use water from the Columbia River that will be bought from Klickitat County Public Utility District.¹ The proposed site is located within Yakama Treaty-territory and would cause destruction to Traditional Cultural Properties. You can read more about the project in the brief on [page 12](#) of the today’s meeting materials.

¹Goldendale Energy Storage LLC (n.d.). *Goldendale Energy Storage Project: A community driven approach to 100% renewable energy*. Retrieved June 24, 2024, from <https://goldendaleenergystorage.com/index.html>

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 Project requires a license from the Federal Energy Regulatory Commission (FERC) to begin construction. The FERC license application process requires Environmental Impact Statements (EIS) from agencies with jurisdiction. The [FERC EIS](#) and the [Washington State Department of Ecology EIS](#) have both determined that the Project construction as proposed will create negative and irreparable damage to these Traditional Cultural Properties. Both documents identified impacts to the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Bands of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe.

The Yakama Tribal Council adopted a Resolution on May 24, 2021 opposing “the pump storage development at *Pushpum* to protect sacred religious and ceremonial places of inherent importance to Yakama culture.” *Pushpum*, also known as Juniper Point, is within the Confederated Tribes and Bands of the Yakama Treaty territory under Article I of the Treaty of 1855 and has been a site of religious, ceremonial, and cultural importance to the Yakama People since time immemorial.

The National Congress of American Indians ([NCAI Resolution #ECWS-23-002](#)) and the Affiliated Tribes of Northwest Indians ([ATNI Resolution #2023-15](#)) have each adopted resolutions supporting and standing with the Yakama Nation’s opposition to this proposed pump storage development.

Centering the principles of Tribal Sovereignty; self determination; and free, prior, and informed consent outlined in the memo for agenda item IV on [page 7](#) of today’s meeting packet, and upholding a central purpose of the HEAL Act to “...reduce exposure to environmental hazards within Indian country, as defined in 18 U.S.C. Sec. 1151, due to off-reservation activities within the state” ([RCW 70A.02.005\[2\]](#)), Council staff are recommending the Council take the below action today.

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.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following motion:

The Council stands with the Confederated Tribes and Bands of the Yakama Nation and directs Council staff to 1) work with the Yakama Nation and other impacted Tribes to draft letters on the pump storage project at *Pushpum* (FERC Project No. 14861-002) to amplify the Yakama Nation's positions on this project at its current stage and moving forward as needed and 2) to submit these letters to the relevant decision-making bodies on behalf of the full Environmental Justice Council.

Staff Contacts:

Sierra Red Bow, Council Community and Tribal Engagement Supervisor,
Sierra.RedBow@ejc.wa.gov, 564-669-4791

Sierra Rotakhina, Council Manager, sierra.rotakhina@ejc.wa.gov, 360-584-4398

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Goldendale Energy Storage Project

Site Certification Process

Summary

The Goldendale Energy Storage Project (Project) is a proposed closed-loop hydropower facility that will store energy generated by nearby renewable energy sources. The proposed site is located within Yakama Treaty-territory and would cause destruction to Traditional Cultural Properties of The Confederated Tribes and Bands of the Yakama Nation (Yakama Nation). The Yakama Nation opposes the construction of the Project as proposed and is requesting the Environmental Justice Council to take actions in support of their position before July 12th, 2024.

Project Status Summary

The Project requires a license from the Federal Energy Regulatory Commission (FERC) to begin construction. FERC staff, after analyzing the Final Environmental Impact Statement (FEIS), recommended to license the Project as proposed, with certain staff modifications and additional measures recommended by agencies. Once these modifications are met, and they obtain a biological opinion from the National Marine Fisheries Service (NMFS) and a Programmatic Agreement (PA) from the Washington State Department of Archaeology and Historic Preservation (DAHP), FERC will decide whether to authorize approval of the Project.¹

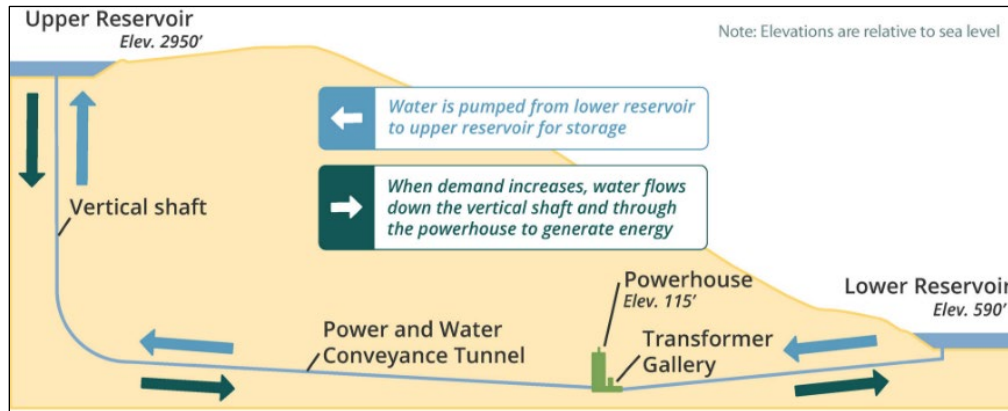
Project Description

The Project is a closed-loop hydropower facility that operates like a battery. During times of surplus energy (peak sun or wind), the power plant pumps water from the lower reservoir to the upper reservoir. During peak energy demand, water is returned by gravity to the lower reservoir passing

¹ Federal Energy Regulatory Commission, Office of Energy Projects. 2024. Environmental Impact Statement for Hydropower License, Goldendale Energy Storage Project – FERC Project No. 14861-002. Retrieved from [*P-14861-002 Goldendale FEIS Envtl Analysis \(goldendaleenergystorage.com\)](https://www.ferc.gov/energy-storage/goldendale-feis-envtl-analysis)

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through turbines that generate electricity (see the schematic below). The Project will use water from the Columbia River bought from Klickitat County Public Utility District².



Washington Department of Ecology. 2022. Proposed Goldendale Energy Storage Project: State Environmental Policy Act Final Environmental Impact Statement. Retrieved from <https://apps.ecology.wa.gov/publications/SummaryPages/2206015.html>

Project Location

The Project sits on private lands owned by NSC Smelter, LLC. All Project construction will occur either on these privately owned lands or within an existing utility right-of-way that is owned by the Bonneville Power Administration.³ As described in more detail below, the proposed location is also within the Yakama Nations Treaty-territory and would impact Traditional Cultural Properties (TCP).

Project Developer

Copenhagen Infrastructure Partners in Denmark owns the Project. [Rye Development](#), headquartered in West Palm Beach, FL, is leading the development.⁴

Impact on Tribes

The Project's proposed site is located within Yakama Treaty-territory and would cause destruction to Traditional Cultural Properties the Yakama Nation identified as *Pushpum*. *Pushpum* is the location of ongoing harvests of traditional resources, as well as the associated ceremonies, rites, and traditions,

² Goldendale Energy Storage LLC (n.d.). *Goldendale Energy Storage Project: A community driven approach to 100% renewable energy*. Retrieved June 24, 2024, from <https://goldendaleenergystorage.com/index.html>

³ Federal Energy Regulatory Commission, Office of Energy Projects. 2024. Environmental Impact Statement for Hydropower License, Goldendale Energy Storage Project – FERC Project No. 14861-002. Retrieved from [*P-14861-002 Goldendale FEIS Env'tl Analysis \(goldendaleenergystorage.com\)](#)

⁴ Rye Development, LLC (n.d.). *F.A.Q. FREQUENTLY ASKED QUESTIONS*. Goldendale Energy Storage Project. Retrieved June 24, 2024, from <https://goldendaleenergystorage.com/faq.html>

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which are closely tied to specific locations.⁵ The Yakama Nation objects to the construction of the Project as proposed because it violates their inherent Sovereignty and Rights reserved by the [1855 Treaty of Walla Walla](#). The Project is within the Yakama Nation's Treaty territory under Article I of the Treaty of 1855 and would result in irreparable damage and destruction to their cultural resources and Treaty-reserved root-gathering rights. Yakama Nation asserts that no amount of mitigation could address the impacts of this Project on their culture, or for future generations because of the sacredness of this resource.⁶ The National Congress of American Indians ([NCAI Resolution #ECWS-23-002](#)) and the Affiliated Tribes of Northwest Indians ([ATNI Resolution #2023-15](#)) have each adopted resolutions supporting and standing with the Yakama Nation's opposition to this proposed pump storage development.

Several agencies have conducted and reviewed Environmental Impact Statements (EIS) required through the FERC license application process. The EIS's have also determined that the Project construction as proposed will create negative and irreparable damage to these Traditional Cultural Properties (TCP) as described below:

- FERC's Final Environmental Impact Statement (FEIS)⁷ and Washington State Department of Ecology's EIS⁸ identified impacts to the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Bands of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe.
- FERC's FEIS determined that construction would interfere with or degrade spiritual and ceremonial aspects of the Tribe's use of the lands where they may still have access.

⁵ Washington Department of Ecology. 2022. Proposed Goldendale Energy Storage Project: Tribal Resources Analysis Report. Retrieved from [Tribal Resources Analysis Report \(wa.gov\)](#)

⁶ Federal Energy Regulatory Commission, Office of Energy Projects. 2024. Environmental Impact Statement for Hydropower License, Goldendale Energy Storage Project – FERC Project No. 14861-002. Pg 92-93. Retrieved from [*P-14861-002_Goldendale FEIS Env'tl Analysis \(goldendaleenergystorage.com\)](#)

⁷ Federal Energy Regulatory Commission, Office of Energy Projects. 2024. Environmental Impact Statement for Hydropower License, Goldendale Energy Storage Project – FERC Project No. 14861-002. Pg 92-93. Retrieved from [*P-14861-002_Goldendale FEIS Env'tl Analysis \(goldendaleenergystorage.com\)](#)

⁸ Washington Department of Ecology. 2022. Proposed Goldendale Energy Storage Project: State Environmental Policy Act Final Environmental Impact Statement. Retrieved from [Proposed Goldendale Energy Storage Project: State Environmental Policy Act Final Environmental Impact Statement \(wa.gov\)](#).

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- U.S. Environmental Protection Agency (EPA) reviewed FERC’s FEIS and identified concerns that the Project would result in disproportionate impacts to communities with environmental justice concerns including Tribes and Indigenous populations.⁹
- Washington State Department of Ecology completed an EIS to meet the requirements of the Washington State Environmental Policy Act (SEPA). The EIS identified significant and unavoidable adverse environmental impacts to Traditional Cultural Properties (TCP), archaeological sites, culturally important plants, and other Tribal resources.¹⁰

Permitting and Approval Process

Licensing Agency

FERC is an independent agency that has the authority to license and regulate non-federal hydropower projects. A FERC Hydroelectric License authorizes the construction and operation of a project for a term of 30 to 50 years.

FERC organizational structure for licensing this Project

- ❖ Federal Energy Regulatory Commission
 - Office of Energy Projects
 - Division of Hydropower Licensing
 -

Project Status in FERC Site Certification Process

FERC staff, after analyzing the Final Environmental Impact Statement (FEIS), recommended to license the Project as proposed with certain staff modifications and additional measures recommended by agencies. Currently, FERC is waiting to receive the following two documents:

1. A biological opinion from the National Marine Fisheries Service (NMFS) on the potential for the Project to have adverse impacts to endangered salmon species in the Columbia River (earliest estimated completion date is August 31, 2024)

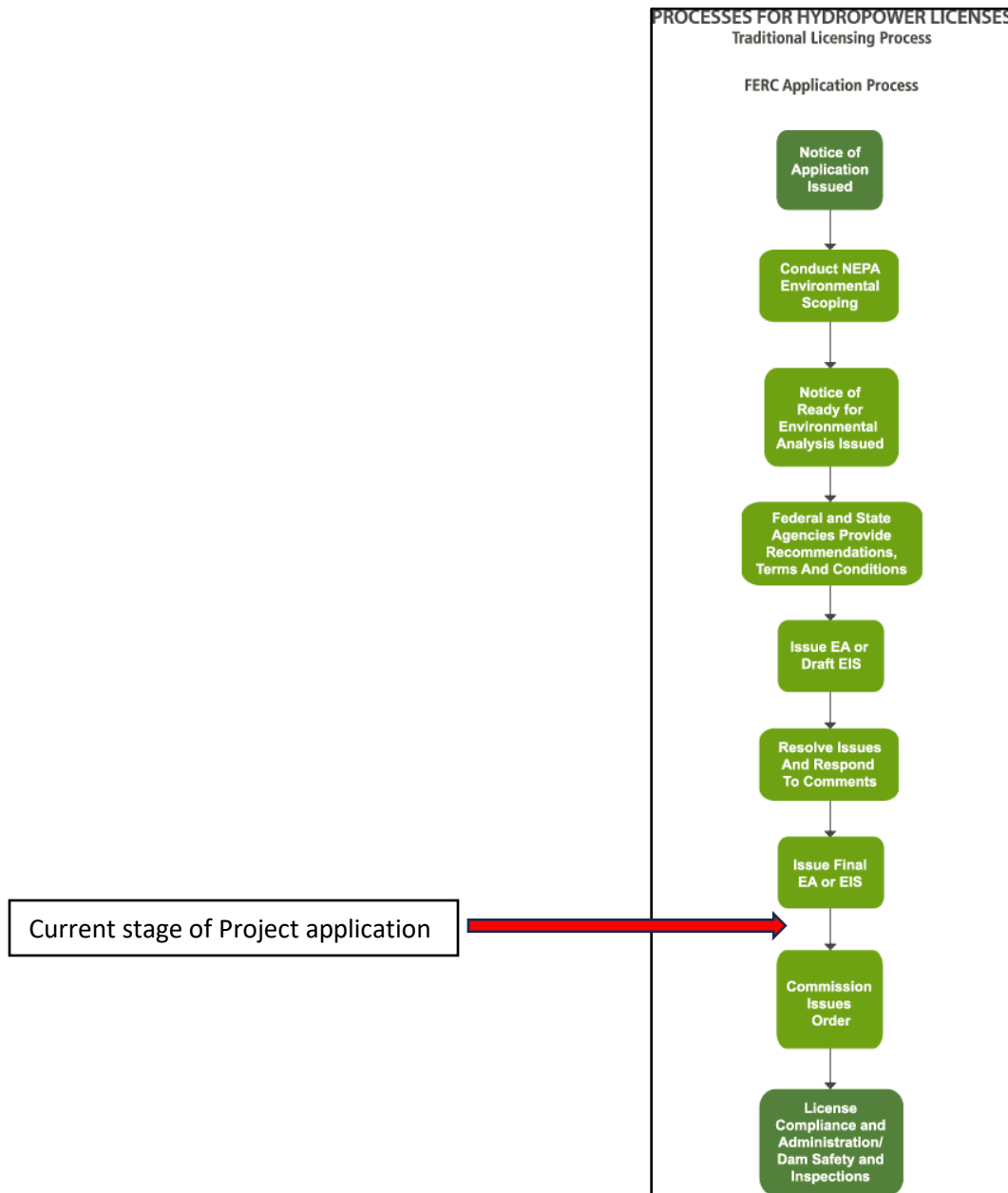
⁹ Chu, Rebecca. Environmental Protection Agency. Region 10. Policy and Environmental Review Branch. *U.S. EPA Detailed Comments on the Goldendale Energy Storage Project FEIS Klickitat County, Washington*. March 15, 2024.

¹⁰ Washington Department of Ecology. 2022. Proposed Goldendale Energy Storage Project: State Environmental Policy Act Final Environmental Impact Statement. Pg. 165-166. Retrieved from <https://apps.ecology.wa.gov/publications/SummaryPages/2206015.html>

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2. A Programmatic Agreement (PA) from Washington State Department of Archaeology and Historic Preservation (DAHP) to provide application of state and federal historic preservation law and regulation to the Project.

Once they receive these documents, they will issue an order to consider, adopt, and/or reject the FEIS recommendations for Project licensing. If FERC issues the Project a license, Ecology will have to approve or deny a Reservoir Permit.¹¹ The status of the Project is shown in the diagram below.



Federal Energy Regulatory Commission. 2020. Traditional Licensing Process. Federal Energy Regulatory Commission. Retrieved on 06/24/24, through [Traditional Licensing Process | Federal Energy Regulatory Commission \(ferc.gov\)](https://www.ferc.gov/traditional-licensing-process)

¹¹ GENERAL INFORMATION REGARDING RESERVOIR PERMITS (n.d.) Washington State Department of Ecology. <https://apps.wa.gov/ecology/docs/WaterRights/wrwebpdf/ecy040182.pdf>

Appealing a Final Commission Order

If an entity disagrees with a FERC decision, it must undergo several steps to appeal that decision. The first step is to file for a rehearing, asking FERC to review certain issues in the case. The second is to appeal the decision to the courts. A request for rehearing, and a response from FERC, is required *before* a FERC decision can be appealed to the courts.

In general, an appeal can be filed in either the U.S. Court of Appeals for the District of Columbia Circuit or the U.S. Court of Appeals for the Ninth Circuit.¹²

Acronyms

EIS — Environmental Impact Statement

EPA — U.S. Environmental Protection Agency

DAHP — Washington State Department of Archaeology and Historic Preservation

FEIS — Final Environmental Impact Statement

FERC — Federal Energy Regulatory Commission

NMFS — National Marine Fisheries Service

PA — Programmatic Agreement

SEPA — Washington State Environmental Policy Act

TCP — Traditional Cultural Properties

¹² *Frequently Asked Questions (FAQ): Court Cases*. 2020, July, 14. <https://www.ferc.gov/about/what-ferc/frequently-asked-questions-faqs/frequently-asked-questions-faq-court-cases>

Environmental Justice Council

Date: July 2, 2024

To: Environmental Justice Council

From: Sierra Rotakhina, Environmental Justice Council Manager

Subject: Standing with the Confederated Tribes of the Colville Reservation on the Proposed Badger Mountain Solar Project

Background and Summary:

In June of 2024 the Confederated Tribes of the Colville Reservation (Colville Tribes) requested that the Environmental Justice Council (Council) support them in their opposition of the proposed Badger Mountain Solar Project. See [page 20](#) of the meeting materials for a letter from Colville Tribes to the Council.

Badger Mountain Solar Energy Project (Project) is a solar energy generation facility. The Project is a 200-megawatt (MW) solar photovoltaic (PV) generation facility with an optional 200-MW battery energy storage system (BESS). The Project will use solar panels in the formation of a solar array to convert energy from the sun into electric power.¹ The proposed site of the Project is in unincorporated Douglas County, Washington. The Project is located approximately 3.5 miles east of the East Wenatchee city limit boundary and south of Badger Mountain Road.² The proposed location is also within the traditional territories of Colville Tribes³ as well as the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation).⁴

¹ Avangrid Renewables. *Badger Mtn. Solar Energy Project*. Nov. 2021, https://www.efsec.wa.gov/sites/default/files/210747/00013/20211117_BadgerMountainPresentation.pdf. PowerPoint Presentation.

² Washington Energy Facility Site Evaluation Council. (n.d.). *Badger Mountain Project information*. <https://www.efsec.wa.gov/energy-facilities/badger-mountain>.

³ Erickson, Jarred-Michael. *Re: Solar Projects on Badger Mountain*. 2024, June 11.

⁴ Saluskin, Delano. *RE: DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF EIS FOR BADGER MOUNTAIN SOLAR PROJECT (Docket No. EF-210747)*. 2022, April 08. <https://www.efsec.wa.gov/sites/default/files/210747/00025/T001.pdf>

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Badger Mountain is a Traditional Cultural Property eligible for listing on the national Register of Historic Places and is central to the traditional cultural practices of the Colville Tribes. As outlined in Coville Tribes' letter to the EJ Council: "Since the Project was proposed, the Colville Tribes have opposed the solar project on Badger Mountain because it will have a significant negative impact on tribal members who are still actively using the area for spiritual practices, including the gathering of first foods and medicines."⁵ See [page 21](#) for a brief on this project.

Provided this context, Council staff are recommending the Council take the below action today.

Council Staff Recommended Actions:

The Council may wish to consider, amend if necessary, and adopt the following motion:

The Council stands with the Confederated Tribes of the Colville Reservation and directs Council staff to 1) work with the Colville Tribes and any other impacted Tribes to draft letters on the Badger Mountain Solar Project to amplify the Colville Tribes' positions on this project at its current stage and moving forward if needed and 2) to submit these letters to the relevant decision-making bodies on behalf of the full Environmental Justice Council.

Staff Contacts:

Sierra Red Bow, Council Community and Tribal Engagement Supervisor,
Sierra.RedBow@ejc.wa.gov, 564-669-4791

Sierra Rotakhina, Council Manager, sierra.rotakhina@ejc.wa.gov, 360-584-4398

⁵ Erickson, Jarred-Michael. *Re: Solar Projects on Badger Mountain*. 2024, June 11.

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 Confederated Tribes of the Colville Reservation
P.O. Box 150, Nespelem, WA 99155
(509) 634-2200
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June 11, 2024

Maria Batayola, Chairwoman
Sent via email: mbjumpstart@msn.com

Re: Solar Projects on Badger Mountain

Dear Chairwoman Batayola:

We are writing to request your support in opposing proposed solar projects on Badger Mountain. There is currently an application for Site Certification from Aurora Solar, LLC to build a solar project on Badger Mountain. This project lies within the traditional territories of the Moses Columbia and Wenatchi Tribes, two of the constituent tribes of the Confederated Tribes of the Colville Reservation (Colville Tribes).

Badger Mountain is a Traditional Cultural Property eligible for listing on the National Register of Historic Places, and is central to the traditional cultural practices of the Colville Tribes. Since this project was proposed, the Colville Tribes have opposed this project because it will have a significant negative impact on tribal members who are still actively using the area for spiritual practices, including the gathering of first foods and medicines.

We have continued to make attempts to work through the processes with the Energy Facility Site Evaluation Council and the project proponent, however, they have disregarded the importance of this place to the Colville Tribes, and at times, have been disrespectful to the tribal members who were on the Mountain, and to Colville Tribal employees when meeting about the concerns.

We respectfully request a letter supporting the Colville Tribes' opposition to this project. We appreciate your time and consideration of this matter. Please feel free to contact me if you would like to further discuss this matter.

Sincerely,

DocuSigned by:

BE32CD65EA774EB...

Jarred-Michael Erickson
Chairman, Colville Business Council
Confederated Tribes of the Colville Reservation

Cc: Sierra Rotakhina, Environmental Justice Council Manager
(Sent via email: sierra.rotakhina@ejc.wa.gov)

Confederated Tribes of the Colville Reservation

Badger Mountain Solar Energy Project

Site Certification Process

Summary

Badger Mountain Solar Energy Project (Project) is a solar energy generation facility. The proposed site is located within the traditional territories of the Confederated Tribes of the Colville Reservation (Colville Tribes) and would cause destruction to their Traditional Cultural Properties. The Colville Tribes oppose the construction of the Project and are requesting the Environmental Justice Council to take action in support of their position.

Project Status Summary

The Project requires the Governor to sign a recommendation and a draft Site Certification Agreement (SCA) from State of Washington Energy Facility Site Evaluation Council (EFSEC) for construction to begin. Currently, the Project developer, Aurora Solar, LLC is developing a Draft Environmental Impact Statement (DEIS) for EFSEC, which is three steps before the Governor's decision in the site certification process.

Project Description

The Project is a 200-megawatt (MW) solar photovoltaic (PV) generation facility with an optional 200-MW battery energy storage system (BESS). The Project will use solar panels in the formation of a solar array to convert energy from the sun into electric power.¹

Project Location

The proposed site of the Project is in unincorporated Douglas County, Washington. The Project is located approximately 3.5 miles east of the East Wenatchee city limit boundary and south of Badger Mountain Road.² As described in more detail below, the proposed location is also within the traditional

¹ Avangrid Renewables. *Badger Mtn. Solar Energy Project*. Nov. 2021, https://www.efsec.wa.gov/sites/default/files/210747/00013/20211117_BadgerMountainPresentation.pdf. PowerPoint Presentation.

² Washington Energy Facility Site Evaluation Council. (n.d.). *Badger Mountain Project information*. <https://www.efsec.wa.gov/energy-facilities/badger-mountain>.

This document has been prepared by Environmental Justice Council staff for discussion only

territories of Colville Tribes³ as well as the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation).⁴

Project Developer

Aurora Solar, LLC, (Applicant) is leading the development as a wholly owned subsidiary of Avangrid Renewables, LLC in Portland, OR.

Impact on Tribes

Badger Mountain is a Traditional Cultural Property eligible for listing on the national Register of Historic Places and is central to the traditional cultural practices of the Colville Tribes. Since the Project was proposed, the Colville Tribes have opposed the solar project on Badger Mountain because it will have a significant negative impact on tribal members who are still actively using the area for spiritual practices, including the gathering of first foods and medicines.⁵ The Yakama Nation has also submitted a comment letter to EFSEC which stated the proposed location is within Yakama Nation's Treaty Territory and that "Yakama Nation and its members attach cultural significance to this area and continue to rely on the resources therein."⁶ Additional Tribes may be impacted--this brief just captures the Tribes that we know of at this time who have submitted comments to the Council or to EFSEC about this project.

Siting Review and Certification Approval Process

Licensing Agency

The State of Washington Energy Facility Site Evaluation Council (EFSEC) provides a "one-stop" siting process for major energy facilities in the state. EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities in Washington. EFSEC specifies the conditions of construction and operation. If approved, a Site Certification Agreement is issued in lieu of any other individual state or local agency permits.⁷

³ Erickson, Jarred-Michael. *Re: Solar Projects on Badger Mountain*. 2024, June 11.

⁴ Saluskin, Delano. *RE: DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF EIS FOR BADGER MOUNTAIN SOLAR PROJECT (Docket No. EF-210747)*. 2022, April 08.

⁵ Erickson, Jarred-Michael. *Re: Solar Projects on Badger Mountain*. 2024, June 11.

⁶ Saluskin, Delano. *RE: DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF EIS FOR BADGER MOUNTAIN SOLAR PROJECT (Docket No. EF-210747)*. 2022, April 08.

<https://www.efsec.wa.gov/sites/default/files/210747/00025/T001.pdf>

⁷ State of Washington Energy Facility Site Evaluation Council. 2019. *State of Washington Energy Facility Site Evaluation Council*. <https://www.efsec.wa.gov/>

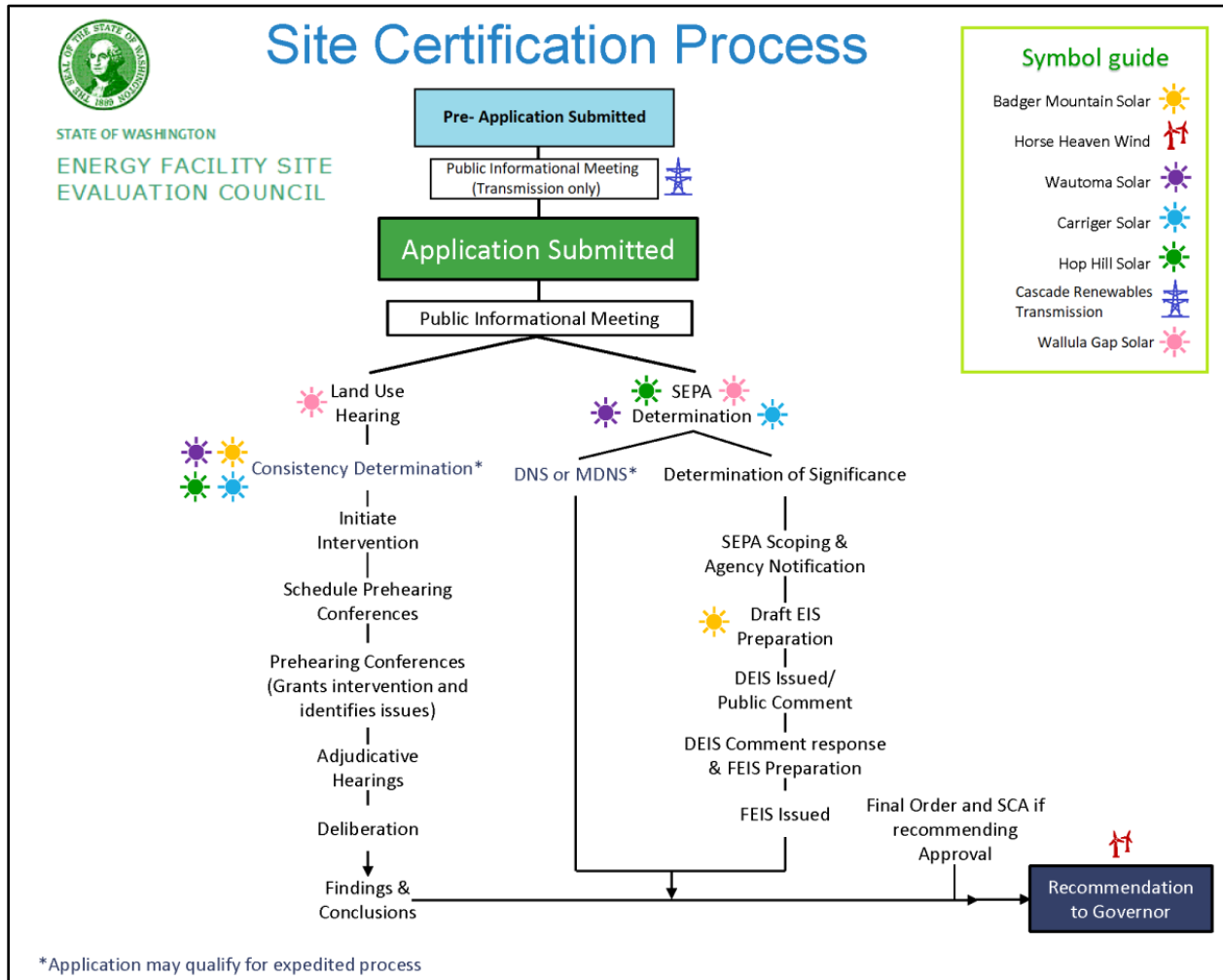
Site Certification Process

The Applicant is currently preparing a Draft Environmental Impact Statement (DEIS). Once the DEIS is issued, it is subject to public review through a public comment period. The DEIS may be modified based on the public comments received to create a Final Environmental Impact Statement (FEIS). If EFSEC, after reviewing the FEIS, determines the project should be recommended to the Governor, it will issue a final order and a draft Site Certification Agreement (SCA), which has all the environmental, social, economic, and engineering conditions the Applicant must meet for construction and operation throughout the life of the project. Once approved, the Governor has 60 days to consider EFSEC's recommendation and can take one of the following actions:

1. Approve EFSEC's recommendation and execute the draft SCA
2. Reject the application
3. Direct EFSEC to reconsider certain aspects of the project and draft SCA⁸

Below is a diagram illustrating the current status of the Project application.

⁸ Washington State Energy Facility Site Evaluation Council. 2019. *Certification Process*. <https://www.efsec.wa.gov/about-efsec/certification-process#Siting%20Process>



"Badger Mountain Project information" (n.d.). State of Washington Energy Facility Site Evaluation Council. <https://www.efsec.wa.gov/energy-facilities/badger-mountain>

Appeals Process

After the Governor’s decision, a petition for review can be filed in Thurston County Superior Court. In this process, all petitions for review are consolidated into a single proceeding and expedited upon review to the Washington Supreme Court.⁹

Acronyms

BESS — Battery energy storage system

DEIS — Draft Environmental Impact Statement

EFSEC — State of Washington Energy Facility Site Evaluation Council

⁹ Department of Ecology State of Washington (n.d). *Clean Energy Coordinated Permit Process*. <https://ecology.wa.gov/regulations-permits/sepa/clean-energy/clean-energy-coordinated-permit-process>

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FEIS — Final Environmental Impact Statement

MW — Megawatt

PV — Photovoltaic

SCA — Site Certification Agreement