



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

July 26, 2024

Sent via online comment portal

Department of Ecology
P.O. Box 47600
Olympia, WA 98504

Department of Commerce
P.O. Box 42525
Olympia, WA 98504

Re: Clean Energy Siting Council's July 15 Draft Recommendations

Dear Clean Energy Siting Council:

I write to you on behalf of the Confederated Tribes and Bands of the Yakama Nation ("Yakama Nation") to provide a preliminary response to the Clean Energy Siting Council's (Council) July 15, 2024 draft recommendations for the Council's annual legislative report ("Recommendations"). Because of the short timeline for review and response, Yakama Nation reserves the ability to comment further upon additional review of the Recommendations.

As a threshold matter, I would like to emphasize our concern with the lack of protection of Yakama Nation's confidential and sensitive information - especially confidential data regarding locations of cultural resources - at all stages of regulatory review for new energy development. The need for protection of confidential and privileged information is not addressed in any of the Recommendations. We appreciate the Council's acknowledgment of the need for better engagement with Tribes, but that engagement will require confidentiality protections that do not currently exist within the applicable state processes. To have meaningful dialogue there must be assurances of protection associated with confidential and privileged information being shared. This Council should recommend, after meaningful discussion of how this would occur with Yakama Nation, the necessary changes to state law to protect sensitive Tribal knowledge shared in all processes addressed in the Council's Recommendations.

Another hurdle for Yakama Nation in engaging with new energy development, continues to be the significant strain on Tribal staff resources in tracking and responding to new development in the various permitting phases. We appreciate and support the Council's recommendation for development of a statewide dashboard for new projects. In order to be a meaningful tool for Yakama Nation, we ask that such a dashboard include ongoing changes to the application, and at a minimum, downloadable shapefile data regarding each new project's location, total boundary, and project components within the project boundary. Such data would allow us to analyze potential impacts to Treaty-reserved natural and cultural

resources for each individual project. In order to be consistent with the Council's recommendation to promote pre-application discussions, the dashboard should not be limited to those projects going through formal permitting processes.

The Council's Recommendations include multiple concepts where Yakama Nation has concerns and questions about how the concepts would move forward in a way that improves Tribal engagement and ensures that new projects avoid impacts to Treaty-reserved resources. The first is the recommendation for designated "clean energy preferred zones" that would rely upon studies, such as Washington State University's ("WSU") least conflict solar siting study and Ecology's programmatic environmental impact statement, that do not account for site-specific impacts to Tribes – most critically Tribal cultural resources. These exercises may provide a beneficial starting point for certain high-level discussions, but as articulated in our attached November 2, 2023 letter, the WSU study entirely failed to account for archaeological and cultural resource impacts. Reliance on such a study for further designation of certain "preferred zones" for future development has the potential to compound negative impacts of new development on Tribes as well as create false impressions for developers on the suitability for potential project site locations.

We have similar concerns about the concept of "build ready sites," although Yakama Nation wishes to discuss further the process for designating "build ready sites." The success of designating "build ready sites" will depend heavily on adequate engagement of impacted Tribes within a process that is sufficiently protective of sensitive Tribal information and also supports Tribal engagement through increased capacity building.

In its recommendation regarding agrivoltaics, the Council included a statement regarding Tribal First Foods. Yakama Nation is not aware of the basis for such a statement, nor the Council's ability to speak for Tribal Nations on likely impacts of new energy development on Treaty-reserved resources. Absent additional information for the basis of this statement, we cannot agree that it is true or appropriate. This language should be removed

In conclusion, we appreciate the Council's recommendation for improved engagement with Tribes. Yakama Nation continues to call upon Washington State and its agencies to engage in true Government-to-Government Consultation regarding systematic problems with the current energy development permitting processes as well as the individual projects' potential impacts to our Treaty-reserved resources.

Sincerely,



Gerald Lewis, Chairman
Yakama Nation Tribal Council