

Fervo Energy (Jack Conness)

Please see the attached document. Thank you for taking the time to review our comments and we look forward to working with you all more in the future.

FERVO ENERGY: Stakeholder Comment Letter

Washington State Geothermal Energy Collaborative Process

May 15, 2026

Washington State Department of Ecology
Geothermal Energy Collaborative Process
cleanenergy@ecy.wa.gov

Re: Stakeholder Comments on Washington State Geothermal Energy Collaborative Process Draft Legislative Update (Publication 26-06-005)

Dear Ecology Collaborative Process Team,

Fervo Energy appreciates the opportunity to submit comments on the Washington State Department of Ecology's Draft Legislative Update for the Geothermal Energy Collaborative Process. Fervo is a leading developer of next-generation Enhanced Geothermal Systems (EGS) and one of the few companies in the world actively delivering utility-scale EGS power to the grid today. We have direct, hard-won operational experience navigating geothermal regulatory and permitting frameworks across multiple western states – including states at varying stages of regulatory maturity – and we have seen firsthand how policy decisions made early in a collaborative process like this one shape whether projects ultimately get built. We submit these comments because Washington's success matters to us. The lessons we have learned across multiple regulatory environments are directly applicable here and we want to help the state build a framework that attracts investment and delivers clean, firm power to the grid.

Washington has a genuine opportunity to become a leader in next-generation geothermal energy development. The state's unique and diverse geology creates real resource potential. Its clean energy commitments under the Climate Commitment Act and Clean Energy Transformation Act create real policy demand. And its looming grid reliability crisis – a projected 9 gigawatt clean firm power shortfall by 2030 that no amount of wind or solar alone can close – creates urgent, undeniable need. Geothermal energy, and EGS in particular, is uniquely positioned to meet that need: it is firm, dispatchable, emissions-free, and available around the clock regardless of weather. All the ingredients for a major geothermal buildout in Washington are present. What is missing is a regulatory environment that gives developers the confidence to invest.

That is what these comments are about. The core message is straightforward: developers go where they can get to "yes." When a state's regulatory framework requires navigating multiple agencies with no single lead authority, no defined timelines, and no consolidated permitting pathway, developers make a rational choice and move to states where the process is clearer, faster, and more certain. Time is money in capital-intensive industries like geothermal, and regulatory uncertainty is one of the most significant project-killers we face. Washington must understand that it is actively competing with other western states for a limited pool of geothermal development capital – capital that will flow to the jurisdictions that are most predictable to build in. The comments that follow identify the specific changes that would make Washington one of those jurisdictions.

I. Consolidate Permitting Under a Single Agency with the Capacity to Lead

The Draft Legislative Update's Figure 9 depicts the current regulatory landscape clearly – and what it shows is a fragmented patchwork of overlapping authorities: DNR, EFSEC, Ecology, WDFW, L&I, local jurisdictions, local clean air agencies, and multiple federal agencies, all touching a single geothermal project at various lifecycle stages. This is not a feature. It is a structural barrier.

Fervo's experience across multiple western states confirms that fragmented, multi-agency permitting is the single greatest deterrent to geothermal investment. When no single agency owns the process – when a developer cannot sit across the table from one regulator and map a project from exploration to operations – project timelines extend, costs compound, and developers rationally choose other jurisdictions. The Draft Update's own preliminary recommendation to develop a “guidebook” on regulatory requirements acknowledges this complexity. But a guidebook describing a broken process does not fix the process.

The DOE's GeoVision¹ analysis quantified what streamlining can achieve: reducing geothermal development timelines from the current business-as-usual eight years to four years through improved permitting coordination would result in an additional 6.7 gigawatts of geothermal electricity nationally by 2050 – a 113% improvement over the baseline. The regulatory framework Washington builds today will determine whether it captures geothermal investment or watches it flow to states with more consolidated, predictable processes.

A. Designate a Lead Agency With the Mandate and Resources to Execute

Utah's Division of Water Rights (DWRi) administers all geothermal permitting under a single statutory framework. A developer in Utah knows who issues the permit, what the standards are, what the timeline is, and who to call when questions arise. The Utah State Engineer's 2026 decision in Application 71-5995 – approving EGS development on a non-consumptive basis with clear monitoring conditions – is a model of how a sophisticated single-agency regulator handles novel geothermal questions efficiently and predictably.

Washington should designate a single lead agency with primary permitting authority over utility-scale geothermal projects. We are not prescribing which agency that should be, as Washington is better positioned than we are to assess which body has the mandate, technical capacity, and staffing to do this effectively. What matters is that one agency is empowered with clear statutory authority, that other agencies play defined consultative roles rather than independent permitting roles, and that the lead agency is adequately resourced. If Washington determines that more than one agency must be formally involved, those agencies must still present a single face to developers: one application, one timeline, one point of contact. The goal is certainty, not bureaucratic elegance.

B. Make Exploratory Drilling Fast and Low-Barrier

The exploration phase is where geothermal projects are made or abandoned. A developer cannot commit project capital without subsurface data, and subsurface data requires drilling. Washington's exploratory drilling permit process must be made fast, low-cost, and administrative

¹ United States Department of Energy. GeoVision: Harnessing the Heat Beneath Our Feet. 2019. <https://www.energy.gov/hgeo/geothermal/geovision>

rather than discretionary. Lengthy or uncertain exploration permitting does not just delay projects, but it prevents the data gathering that would justify committing to a project in the first place.

The Bureau of Land Management recently approved a categorical exclusion for small-scale geothermal exploration activities disturbing up to 10 acres, allowing these projects to proceed without a full environmental review.² Washington's state-level exploration permitting must be at least as streamlined as the federal process, or the state becomes the bottleneck for projects on federal land in the focus areas.

We also encourage Washington to consider state-funded exploratory drilling as a complement to the SB 6039 grant program. DNR has precedent for this – it drilled boreholes as part of the geothermal play-fairway study. Expanding that program to include strategic exploration wells in the three focus areas would generate publicly available subsurface data that reduces risk for all developers, not just those with the capital to drill themselves. This is a high-leverage public investment.

II. Invest in a Comprehensive Statewide Subsurface Research Program

One of the most effective and cost-efficient steps Washington can take to accelerate geothermal investment is to dramatically expand its understanding of subsurface temperatures across the state. Geothermal development is fundamentally a data problem before it is a regulatory or financial one: developers will not commit exploration capital to a state where subsurface heat data is sparse, unreliable, or outdated. Reducing that uncertainty through public investment is one of the highest-leverage actions Washington can take.

A. Launch a Static Temperature Logging Program Modeled on North Dakota

Since 2014, the North Dakota Geological Survey (NDGS) has run a strategic static temperature logging program in the Williston Basin, collecting subsurface temperature measurements in wells after production has ceased and temperatures have fully equilibrated to their true static state. This approach is critical because temperature logs collected during or immediately after drilling – when cooler drilling fluids are still circulating through the wellbore – can differ from true static temperatures by significant margins, producing unreliable data that leads developers to underestimate or overestimate resource potential. The NDGS program has logged more than 25 wells across the basin and produced the most accurate regional heat flow dataset available, giving industry a credible and publicly accessible picture of geothermal potential across a large geographic area.

Washington's existing geothermal gradient data, while valuable, was collected primarily through dynamic logs taken during or shortly after drilling operations. Static temperature logging, conducted by DNR in strategically selected wells across the state, would produce a substantially more accurate picture of Washington's subsurface heat resources at relatively low cost. Fervo recommends that the final legislative report direct DNR to establish a permanent static temperature logging program – modeled explicitly on the NDGS approach – targeting the three geothermal focus areas as well as the Columbia Basin and other areas of elevated geothermal potential. Results

² U.S. Department of the Interior – Bureau of Land Management. BLM takes steps to accelerate geothermal energy development. April 2026. <https://www.blm.gov/press-release/blm-takes-steps-accelerate-geothermal-energy-development>

should be made publicly available through the Washington Geological Survey's geothermal data portal.

The cost of such a program is modest relative to the investment signal it sends. A state that has done the work to accurately characterize its own subsurface is a state that is serious about geothermal development. That signal matters to developers deciding where to allocate limited exploration capital.

B. Commission a Comprehensive Updated Statewide Resource Assessment

Beyond temperature logging, Washington should commission a comprehensive, publicly funded statewide geothermal resource assessment that synthesizes all available subsurface data – existing borehole logs, spring chemistry, gravity and magnetic surveys, seismic data, and new static temperature measurements – into an updated, high-resolution geothermal favorability model. The 2014 favorability model referenced in the Draft Update was a significant achievement but is now over a decade old and predates substantial new data collection.

A modern, comprehensive resource assessment would identify the most promising development targets with greater precision, reduce the exploration risk that currently deters developers from committing capital, and provide the scientific foundation for environmentally sound siting decisions. States that have made this data freely available to industry have consistently seen greater developer interest than those that have left resource characterization entirely to the private sector.

III. Establish Statutory Clarity on Geothermal Fluid Classification

One of the most consequential and most easily overlooked questions in geothermal regulation is how the state classifies the fluid used in EGS operations. Whether that fluid is legally treated as “water” subject to water rights law – or as something distinct – determines whether developers face a straightforward administrative permitting process or a prolonged and costly legal proceeding. Washington's Draft Update does not address this question at all. That is a significant gap that should be closed before the first project is proposed.

A. Adopt a Non-Consumptive Determination for Closed-Loop and Reinjection Systems

Utah's Application 71-5995 provides the clearest available model: the Utah State Engineer approved EGS development on a non-consumptive basis, recognizing that makeup water replacing fluid lost during hydraulic equilibration is not traditional consumptive depletion. This determination – which includes robust monitoring conditions and makeup water provisions – allows EGS projects to proceed without triggering senior water rights objections while still protecting existing water users.

Washington should adopt an analogous statutory or regulatory determination: geothermal fluid used in closed-loop and reinjection systems, where the system returns a defined percentage of fluid to the subsurface, should be classified as non-consumptive and exempt from standard water rights appropriation requirements. This is an accurate legal reflection of how these systems actually operate.

B. Establish Clear Depth and Salinity Thresholds

Washington should also establish clear statutory distinctions between shallow potable groundwater and deep geothermal fluid. Without such distinctions, developers are repeatedly required to prove a negative – that deep saline formation water has no connection to shallow drinking water aquifers – at every project, even where geology makes the connection implausible. A salinity and depth threshold framework would provide regulatory clarity while protecting freshwater resources. These thresholds should be established by the single lead agency so that the determination is made once, consistently, rather than independently by each participating agency.

IV. Adopt a Site-Specific Framework for Induced Seismicity Management

The Draft Update flags induced seismicity as a risk and defers entirely to future DNR seismic hazard assessments. We appreciate that those assessments are underway. However, the regulatory framework for managing induced seismicity must be established before those assessments are complete, because the framework will determine whether the assessments produce useful site-specific guidance or simply become the basis for overly restrictive statewide rules.

Fervo’s experience in other western state regulatory proceedings offers a direct cautionary example. Regulators in those proceedings initially proposed blanket statewide seismic thresholds – a one-size-fits-all approach that would have required automatic project shutdowns based solely on seismometer readings, without reference to actual public health risk. The geothermal industry, citing the DOE’s FORGE project protocols, successfully advocated for a site-specific Induced Seismicity Management Plan (ISMP) framework, under which thresholds are established project-by-project based on background seismicity, population proximity, and ground motion modeling.

Washington should adopt the site-specific ISMP framework from the outset. Statewide magnitude cutoffs are not scientifically defensible and create unacceptable investment risk: no developer can commit capital when an arbitrary seismometer reading can trigger an automatic shutdown regardless of actual impact. We recommend Washington explicitly reference the DOE/FORGE traffic light protocol as the baseline standard for ISMPs in Washington, with shutdown thresholds anchored to demonstrated public health and safety risk.

V. Establish a Formal State-Federal Permitting Coordination Framework

All three of Washington’s geothermal focus areas – Mount Baker, Mount St. Helens, and the Wind River Valley – are located predominantly on federal lands managed by the U.S. Forest Service and Bureau of Land Management. This means that for most near-term geothermal development in Washington, a developer must navigate both a federal leasing and permitting track and a state regulatory track simultaneously. If those two tracks are not formally coordinated, the slower one sets the project timeline – and either one can kill a project independently regardless of how well the other goes.

The Energy Act of 2020 established a National Renewable Energy Coordination Office (RECO) and a network of regional RECOs across the western United States, led by the Bureau of Land Management, to improve federal permitting coordination for geothermal, wind, and solar projects on public lands. The RECO framework includes a formal Geothermal Interagency Collaboration Task

Force that has engaged state agencies from California and Nevada as formal partners. Washington has not joined this framework. This is a significant missed opportunity: state participation gives Washington a seat at the table when federal leasing and environmental review decisions affecting Washington lands are made, enables parallel rather than sequential review, and connects Washington to federal technical assistance and geothermal data resources.

Fervo recommends that the final legislative report direct Ecology and DNR to formally engage with the BLM's RECO framework and to negotiate a state-federal Memorandum of Understanding for geothermal permitting coordination. This MOU should establish parallel rather than sequential state and federal review timelines, shared data protocols, and joint pre-application consultation processes for developers navigating both tracks.

Washington should also ensure that its state-level exploration permitting is aligned with the new BLM categorical exclusion for small-scale geothermal exploration activities. If the federal government has determined that exploration activities disturbing up to 10 acres do not require full environmental review, Washington should not impose a more burdensome state review for the same scope of work. A developer should not face a longer state permitting timeline than federal for identical exploration activities.

VI. Address Transmission Through the Cascades as a Priority Infrastructure Challenge

Washington's three geothermal focus areas are located in or near the Cascade Mountains – a formidable geographic barrier separating the state's most abundant renewable energy resources from its largest population centers and electricity demand on the western side of the state. The transmission infrastructure currently crossing the Cascades was not designed to carry the volume or directionality of power flows that a decarbonized, geothermal-augmented grid would require. This is a present-day bottleneck that will determine whether geothermal energy developed in Washington's focus areas can actually reach the customers who need it.

E3's RECAP study makes clear that the Pacific Northwest faces a 9-gigawatt reliability gap by 2030, widening to 14 to 18 gigawatts by 2035.³ The demand driving that gap is concentrated on the western side of the Cascades in the Seattle, Tacoma, and Puget Sound metro areas. Geothermal resources that cannot be economically transmitted to those load centers will not solve Washington's reliability problem regardless of how good the geology is. A developer evaluating a project in the Wind River Valley or near Mount Baker needs to know, before committing exploration capital, whether there is a viable path to deliver power to load. Washington's collaborative process should answer that question directly.

Fervo urges the final legislative report to explicitly address transmission capacity as a prerequisite for geothermal development, not an afterthought. Specifically:

- The state should engage Bonneville Power Administration and regional transmission organizations early regarding interconnection pathways and timelines for utility-scale geothermal projects and make that information publicly available to prospective developers.

³ Energy and Environmental Economics (E3). Resource Adequacy and the Energy Transition in the Pacific Northwest. April 2026. <https://www.ethree.com/ra-pnw/>

- Washington should assess current and projected cross-Cascades transmission capacity in the context of geothermal development scenarios and identify the specific upgrades or new infrastructure required to deliver geothermal power at meaningful scale to western Washington load centers.
- Transmission feasibility should be integrated into geothermal project siting criteria from the outset – evaluated alongside geology, environmental factors, and community considerations, not deferred to a later stage of project development.
- Washington should leverage existing legislative momentum on transmission – including bills currently under consideration – to ensure cross-Cascades transmission capacity is explicitly included in the state’s clean energy infrastructure planning.

VII. Geothermal Must Receive Full Permitting Parity with Wind and Solar Under SEPA

Washington has made substantial investments in recent years to streamline the permitting and environmental review process for utility-scale wind and solar energy. In June 2025, Ecology released final programmatic environmental impact statements for utility-scale onshore wind and solar facilities – broad statewide studies that future project-specific reviews can tier off, substantially reducing individual project SEPA review time and cost. The Legislature has created SEPA categorical exemptions for certain solar projects. And the 2023 HB 1216 coordinated permitting process – under which Ecology serves as the single lead agency coordinating all state and local environmental reviews – is available for wind, solar, green hydrogen, and battery storage.

Geothermal energy has none of these advantages. There is no programmatic EIS for geothermal. There are no geothermal SEPA categorical exemptions. And geothermal is not explicitly included in the HB 1216 coordinated permitting process. This is a significant and unjustified disparity. Geothermal is a clean, renewable, firm energy resource that directly serves Washington’s clean energy goals. There is no policy rationale for treating it as categorically more burdensome to permit than wind or solar.

The practical consequence is straightforward: a developer comparing Washington to other states will find that wind and solar projects here can access streamlined, coordinated, time-limited review processes, while a geothermal project faces open-ended, fragmented SEPA review with no programmatic baseline to draw on. That asymmetry alone is enough to divert investment. Fervo recommends that the final legislative report include the following specific directions:

- Direct Ecology to complete a Programmatic Environmental Impact Statement for utility-scale geothermal energy development in Washington – parallel to the programmatic EIS completed for wind and solar – so that future project-level SEPA reviews can tier off a statewide baseline rather than starting from scratch.
- Explicitly include geothermal energy projects in the HB 1216 coordinated permitting process, with Ecology serving as the single lead agency coordinating all state and local environmental review.
- Direct the Legislature to establish SEPA categorical exemptions for geothermal exploration activities – including temperature gradient wells, geophysical surveys, and small-diameter core drilling – consistent with the BLM’s new federal categorical exclusion for the same scope of work.

- Ensure that all expedited clean energy permitting initiatives – including those under Governor Ferguson’s Executive Order 25-11 and the Joint Clean Energy Acceleration Team – explicitly include geothermal alongside wind, solar, and battery storage.

The principle is simple: geothermal is a clean energy resource and should be treated as one under Washington law. If Washington is serious about meeting its 2045 clean energy mandate and closing its near-term reliability gap, it cannot maintain a two-tiered permitting system that favors some clean technologies over others.

VIII. Washington’s Grid Crisis Demands Urgent Action – Geothermal Is Ready

Washington faces a clean firm power emergency. E3’s RECAP study, commissioned by the Public Generating Pool and fourteen utility and power-sector sponsors, projects a regional resource gap of 9 gigawatts of effective capacity by 2030 – a shortfall larger than Oregon’s entire average electricity demand. That gap widens to 14 to 18 gigawatts by 2035. NERC has flagged the Northwest as a high-risk area for reliability starting around 2029. E3 concludes explicitly that meeting Washington’s 2045 clean energy mandate is infeasible without at least one clean, firm, and dispatchable technology reaching commercial scale.

Geothermal is that technology. It is firm, dispatchable, emissions-free, and not weather-dependent – especially when the Pacific Northwest needs firm, reliable power during their coldest months of the year. Unlike wind and solar, it produces power around the clock, every day of the year – exactly the kind of baseload reliability that anchors a grid increasingly dependent on intermittent renewables. And critically, geothermal is not a future technology awaiting demonstration. Fervo is operating utility-scale EGS projects today and delivering power to the grid. The technology works. The question is whether Washington’s regulatory environment will allow it to be deployed here.

Under a streamlined, consolidated permitting framework, geothermal projects can move from exploration to power delivery in just a few years. Washington does not need to wait for 2027 reports and 2028 legislative sessions before geothermal development can begin. What it needs is the regulatory clarity to attract developers now, so that exploration and permitting can proceed in parallel with the collaborative process. Every year of regulatory delay is a year of clean firm capacity that Washington’s grid will not have when it needs it most.

The current collaborative process timeline - final report June 2027, implementation undefined – is not calibrated to the urgency of Washington’s grid situation. Fervo urges Ecology and the Legislature to treat the 2027 final report as the beginning of an accelerated implementation phase. Specifically:

- Designate a single lead permitting agency with adequate staff and resources, and direct that agency to develop consolidated geothermal permitting rules within 12 months of the 2027 report.
- Direct the Legislature to consider statutory changes on geothermal fluid classification, non-consumptive use determinations, and agency jurisdiction in the 2028 session.
- Fund the Commerce exploration grant program established by SB 6039 immediately so that exploration drilling can begin while regulatory reform proceeds in parallel.
- Commission the statewide subsurface research program and static temperature logging initiative described in Section II so that resource characterization data is available to developers before permitting reform is complete.

- Establish defined permit review timelines so that developers can underwrite project financing against a known schedule.

IX. What Washington Is Already Doing Right

These comments are offered constructively. The Draft Update reflects genuine engagement and several positions that align with industry best practices:

- Geothermal resource ownership attributed to the surface estate is correct policy and consistent with best practices across the western states. This is an important baseline.
- The distinction between utility-scale electricity generation and direct-use applications is the right scope for this process.
- The recognition that EGS and advanced geothermal technologies require different regulatory treatment than conventional hydrothermal systems is accurate and important. Washington should ensure that statutory definitions of “geothermal fluid” and “geothermal energy development” explicitly encompass EGS and closed-loop systems, so that rules written with conventional hydrothermal in mind do not inadvertently create barriers for next-generation technology.
- The interagency coordination structure already in place – DNR, Ecology, Commerce, DAHP, WDFW – provides the institutional foundation for a consolidated permitting framework if those agencies are given clear statutory direction and adequate resources.
- The SB 6039 exploration grant program, if funded, is exactly the kind of early-stage capital support that can catalyze developer interest in Washington’s focus areas.
- Washington’s participation in the multi-state Geothermal Power Accelerator group and the Pacific Coast Collaborative geothermal working group is encouraging. These forums should be used actively to benchmark Washington’s regulatory framework against peer states and adopt proven best practices quickly.

X. Summary of Recommendations

Fervo respectfully urges the following priorities for the final June 2027 legislative report and subsequent implementation:

1. Designate a single lead permitting agency with the capacity, mandate, and resources to consolidate geothermal permitting, with all other agencies in defined consultative roles
2. Establish fast, administrative exploration drilling permits and authorize state-funded exploratory wells to derisk the focus areas for private investment
3. Launch a permanent statewide static temperature logging program modeled on the North Dakota Geological Survey’s Williston Basin program, with results publicly available through the Washington Geological Survey data portal
4. Commission a comprehensive updated statewide geothermal resource assessment to replace the 2014 favorability model with a higher-resolution, publicly available dataset
5. Adopt a statutory or regulatory non-consumptive use determination for closed-loop and high-reinjection-rate EGS systems
6. Establish depth and salinity thresholds to clearly distinguish deep geothermal fluid from shallow potable groundwater, determined once by the single lead agency

7. Require site-specific Induced Seismicity Management Plans based on the DOE/FORGE traffic light protocol, not statewide blanket magnitude thresholds
8. Formally engage with the BLM's Renewable Energy Coordination Office framework and negotiate a state-federal MOU establishing parallel permitting review timelines for geothermal projects on federal lands
9. Align state exploration permitting with the new BLM categorical exclusion for small-scale geothermal exploration so state review does not become the bottleneck
10. Conduct a dedicated cross-Cascades transmission capacity assessment and integrate transmission feasibility into geothermal project siting criteria from the outset
11. Commission a Programmatic EIS for utility-scale geothermal development parallel to those completed for wind and solar
12. Explicitly include geothermal in the HB 1216 coordinated permitting process and establish SEPA categorical exemptions for geothermal exploration activities
13. Include geothermal in all expedited clean energy permitting initiatives, including Governor Ferguson's Executive Order 25-11 and the Joint Clean Energy Acceleration Team
14. Ensure statutory definitions of geothermal fluid and geothermal energy development explicitly encompass EGS and closed-loop systems
15. Establish defined permit review timelines so developers can underwrite project financing with certainty
16. Fund the SB 6039 exploration grant program immediately and set an accelerated implementation schedule commensurate with Washington's 9 GW near-term reliability gap and 2045 clean energy mandate

Washington has a narrow window to establish itself as a competitive destination for geothermal investment. The state's clean energy goals, geology, and grid reliability crisis all argue for urgency. But urgency without a workable regulatory framework will produce studies, not megawatts. Fervo is committed to working with Ecology, the Legislature, and other stakeholders to help Washington get this right. We welcome the opportunity to discuss these comments in more detail.

Respectfully submitted,

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