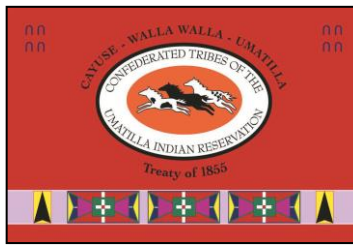


**Confederated Tribes *of the*
Umatilla Indian Reservation**

Department of Natural Resources



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February 12, 2021

Sage Park
Regional Director
Washington Department of Ecology
Central Regional Office
1250 West Alder Street
Union Gap, WA 98903-0009
sage.park@ecy.wa.gov

Submitted Electronically to: <http://admin.ecology.commentinput.com/?id=eVi6D>

RE: CTUIR DNR Comments on Scoping for Goldendale Energy Storage Project
Environmental Impact Statement

Dear Ms. Park:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources (DNR) submits the following comments on scoping for the Goldendale Energy Storage Project Environmental Impact Statement (EIS). The proposed project by the applicant Free Flow Power (FFP) 101, LLC, would be located in Klickitat County, Washington, with some infrastructure in Sherman County, Oregon, connected by transmission lines spanning the Columbia River.

While the CTUIR has been generally supportive of renewable energy, efforts to reduce fossil fuel use, and measures to reduce harmful in-river hydropower impacts on fisheries and water quality, this project possesses certain attributes that make it problematic in multiple respects, and mandate that, at a minimum, it receive very close and careful scrutiny. The CTUIR DNR has significant concerns about the project and encourages you to conduct a thorough examination of the substantial environmental and other impacts that could occur from project construction and operations.

There are many important issues to identify and assess related to the project as you prepare an EIS, including but not limited to project alternatives, site impacts and potential mitigation options. There may be impacts for which no mitigation is possible, and those should be addressed as well. Impacts studied, as you described, should include those “to both the natural environment and nearby communities through study of air quality, plant and animal habitat, transportation, water and cultural resources.” Specific issues that we believe merit consideration and analysis are identified and discussed below.

CTUIR Background

The CTUIR is a federally-recognized Indian tribe, with a reservation in Northeast Oregon and ceded, aboriginal, and traditional use areas in Oregon, Washington, Idaho, and other Northwest states. These areas include the site this project would occupy. In 1855, predecessors to the CTUIR—ancestors with the Cayuse, Umatilla, and Walla Walla Tribes—negotiated and signed the Treaty of 1855 with the United States. The Treaty is a contract between sovereigns and is “the supreme Law of the Land” under the United States Constitution. In the Treaty the CTUIR ceded millions of acres of land to the federal government, and in exchange received assurances that pre-existing tribal rights would be protected, and our interests would be respected, in perpetuity. A paramount objective in the Treaty was protecting and maintaining our tribal culture, traditions, and way of life. To do so requires protection and maintenance of our essential cultural resources—which include both specific sites and locations (and any and all artifacts found there) and the tribal First Foods (water, fish, big game, roots, berries, and other plants) that have been and continue to be woven into the fabric of our lives. This objective—protecting and maintaining the essential features of our history, our culture, and through them our very existence—remains paramount for the CTUIR.

Goldendale Pumped Storage Project Issues

The following is a list suggested by the Washington Department of Ecology for subjects to be discussed in scoping comments:

- Project alternatives
- Impacts to the environment
- What can be studied (analyzed) to understand the extent of analysis of impacts
- What impacts might be difficult or impossible to avoid
- What might be done to address or lessen the impacts on the environment (mitigation)

Project alternatives

One project alternative should be a “no-action” alternative. Another alternative should be siting the project in another location, one where tribal cultural resources are not found or situated, and one where toxic contamination on the site is not present or has been completely remediated.

Impacts to the environment

Potential impacts from the project could include both immediate and long-term, and direct and indirect. The full range of potential impacts should be identified and analyzed. “Environmental” impacts could include those to the land, the air, and the water—water would include the Columbia River, tributaries that flow into it, and groundwater. Water-related impact assessment/analysis should include possible effects on water quality and beneficial uses as designated under the Clean Water Act.

While described as “closed-loop,” the project would still use large amounts of water from the Columbia River, which is critical habitat for multiple salmonid populations listed as threatened or endangered under the federal Endangered Species Act.¹ These species require sufficient quantities of water of suitable temperature, and these requirements are regularly unmet now under the current river management regime. The EIS should identify and analyze the effects of the project’s additional demands on these fish and others, the waters that support them, and the overall habitat conditions necessary for their health and well-being.

The proposed project presents two different circumstances that are each somewhat unique—particular to this specific site. Portions of the site contain toxic contaminants from earlier industrial activities, and immeasurably-significant tribal cultural resources are also present on the site. Regarding toxics, the existence and extent of any discharges of toxic substances or contaminants, both during construction and operations, to the land, air, and water should be addressed. The EIS should also examine whether the project would have any effects on ongoing efforts to clean up the site, both soil and groundwater.²

Regarding tribal cultural resources, the project is highly likely to have substantial, harmful impacts on such resources, including sites and artifacts—those located in-water, or below the ordinary-high-water line, and those above and beyond the shoreline, on land. The EIS must identify and assess the full range of potential impacts (again, direct and indirect, near- and longer-term) and the implications for tribal rights, tribal member’s ability to exercise them, and the resources on which they are based, in the immediate area, and in affected areas beyond the project. Determining the presence and location of cultural resources must be done in close coordination and consultation with affected tribes. The EIS must examine not only the resources themselves, but also the implications of the project on tribal members’ access to them.

The Federal Energy Regulatory Commission has suggested that its environmental impact analysis should include examination of the effects of project construction and operation activities on historic and archaeological resources, traditional cultural properties, and access to exercise traditional practices and treaty rights. The agency has also proposed developing and implementing a Historic Properties Management Plan in consultation with the Washington and Oregon State Historic Preservation Officers and affected Native American tribes to protect and manage cultural resources.

¹ Reportedly the project could require as much as 2.93 billion gallons of Columbia River water initially, and as much as 1.2 million gallons each year to make up for water lost through evaporation and leakage.

² Portions of the project would be located on or within a hazardous waste site containing toxic contaminants in the soil. The EIS must fully assess this situation and how it will be addressed should the project proceed, providing information on such questions as whether the applicant will have the necessary expertise and resources to safely and effectively alleviate all the associated risks and dangers. This seems of particular interest since, according to the Federal Energy Regulatory Commission, the contaminated site is subject to ongoing management and clean-up by the Washington Department of Ecology; in other words, clean-up has not been completed, and the plans for such clean-up have not been completed.

From our understanding and perspective, the cultural resources assessment for this project is incomplete. So far the inventory of historic properties does not include the historic properties of religious and cultural significance to the CTUIR that are in the project area.³ To our knowledge the applicant has not consulted with or contacted the CTUIR about those properties that would be adversely affected by the Project, even though we have repeatedly raised concerns about them.

What can be studied (analyzed) to understand the extent of analysis of impacts

In addition to the typical sources for environmental data, the CTUIR believes it will be necessary, in addressing tribal cultural resources issues in this process, to engage in more confidential communications because of the proprietary and sensitive nature of such information about those issues. Tribal cultural resources-related information needs to be identified and developed in close coordination with affected Indian Tribes, including the CTUIR.

Socioeconomic aspects of the project should be considered and studied for both non-Indian and Indian communities. The EIS also needs to study and analyze all the state and federal laws and regulations that may apply to the project and the site—including those pertaining to environmental and natural resources protection (e.g., CWA, CAA, ESA), hazardous wastes (RCRA, CERCLA), and cultural and historical resources protection (NAGPRA, ARPA, NHPA)—and what the project will need to do to comply with them.

What impacts might be difficult or impossible to avoid

Because of their unique, irreplaceable nature and location, the CTUIR DNR believes that impacts from the project on tribal cultural resources may be impossible to avoid.

What might be done to address or lessen the impacts on the environment (mitigation)

Again, because of their unique, irreplaceable nature and location, the CTUIR DNR believes that impacts from the project on tribal cultural resources may be impossible to mitigate.

Conclusion

The CTUIR DNR appreciates your consideration of our comments on scoping for the proposed Goldendale Energy Storage Project Environmental Impact Statement. We have substantial questions and concerns about the project and hope that comprehensive examination and analysis of potential impacts will better inform further actions regarding it. The CTUIR does request government-to-government consultation with the Department on this matter. If you have any questions, please contact Audie Huber, Inter-Governmental Affairs Manager, at

³ The CTUIR's Cultural Resources Protection Program has stated that "the proposed undertaking is within a historic property of religious and cultural significance to the Confederated Tribes of the Umatilla Indian Reservation that has been recommended as eligible for inclusion in the National Register of Historic Places. This project would adversely affect this historic property." Yakama Nation has documented and described potentially affected resources as including archeological, ceremonial, burial petroglyph, monumental and ancestral use sites.

CTUIR DNR Letter on Goldendale Energy Storage Project EIS Scoping
February 12, 2021
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audiehuber@ctuir.org, or Carl Merkle, Policy Analyst, at carlmerkle@ctuir.org. Thank you for your attention to our input.

Respectfully,

A handwritten signature in black ink, appearing to read "Eric J. Quaempts", enclosed within a hand-drawn oval.

Eric J. Quaempts
Director, Department of Natural Resources
Confederated Tribes of the Umatilla Indian Reservation

Cc: Fish and Wildlife Commission
Tribal Water Commission
Cultural Resources Commission