Horse Heaven Wind Farm - FEIS
Data Request No. 7
March 22, 2023

- The following table provides Scout's responses to EFSEC's data request No. 7 dated 4/20/2023. We have provided full responses where possible; however, some requested analysis will require additional time to prepare. In these instances, we have indicated that additional information will be provided under separate cover at a later date. These include the following Data Requests:
  - FEIS-Air-1
  - FEIS-Water-1
  - FEIS-Transpo-1
  - FEIS-Transpo-2

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FEIS-Air-1	2.17.3, 2.23.2.7, 3.3.2.2, 5.1	Concrete Batch Plant, Diesel Generator Emissions and Air Quality Impacts	Several sections of the Applicant Site Certification (ASC) continue to reference the possible use of a concrete batch plant and standby diesel generators to support startup. The concrete batch plant would also need a source of electrical power which is not explained but may include diesel generator(s). The emissions and air quality impacts associated with this equipment have not been characterized by the Applicant. EFSEC can only include a concrete batch plant (including possible diesel electric generator(s)) and/or diesel generators to facilitate startup/commissioning in the Site Certificate if the air quality impacts are evaluated and addressed in the EIS. Alternatively, the Applicant can proceed with Site Certificate review that does not include these project components but would require an amendment to the EFSEC Site Certificate if the Applicant wishes to incorporate them into the Project at a later date. If the Applicant chooses the latter path, please so indicate and provide written acknowledgement that an amendment to the ASC and the EIS will be required to include these sources in the Site Certificate at a later date. If the Applicant wishes for the Site Certificate to include these components, please provide the following additional information so that air quality impacts can be properly evaluated in the EIS: - Complete inventory of equipment, including expected emissions associated with the concrete batch plant including a description of air pollution controls or other mitigation measures to reduce particulate matter emissions. Provide supporting calculations including all underlying assumptions including maximum material throughput, emission factors, hours per day and per year. - Indicate the expected location(s) of operation of the batch plant - If the batch plant will include the use of a diesel generator, provide operating schedule, expected emissions including supporting calculations, and description of air pollution controls, if any. - If diesel generators will be used for startup support, specify the location of use and provide operating schedule, expected emissions including supporting calculations, and description of air pollution control for each engine, if any.	**A batch plant will be required and the requested information, including equipment location, operating schedule, emissions, and dispersion modeling, will be provided by approximately May 15.** For each phase of construction, the batch plant and supporting equipment will be located at the central laydown area for that phase.

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			- For the above sources, provide a dispersion modeling analysis of expected maximum air quality impacts associated with the operation of these sources. Use dispersion modeling to compare the expected impacts of construction sources with ambient air quality standards (including consideration of background air quality). Dispersion modeling (with AEMOD or other appropriate model) should include consideration for all sources that will be operating concurrently during the construction period for each applicable averaging time. Provide all supporting computer input and output files for dispersion modeling including: - Source UTM coordinates, source configuration, stack or release emissions parameters, fence line receptors, identified sensitive receptors, receptor grid spacing, meteorological data, and model options selected. EFSEC recommends that the Applicant submit a modeling protocol for approval prior to performance of dispersion modeling.	
FEIS-Water-1	2.17.3, 2.23.2.7, 3.3.2.2, 5.1	Concrete Batch Plant	Several sections of the ASC refer to the possible use of a concrete batch plant. The Applicant indicated they wish to retain the possibility of using a single plant in multiple locations through the construction period. The concrete batch plant would require a source of water and mitigation measures to prevent sediment-laden water from interacting with surface water. This information on the impacts of a concrete batch plant on water resources is not characterized by the Applicant in the ASC. Details would be required to evaluate the impacts in the EIS. Alternatively, the Applicant can proceed with Site Certificate review that does not include these project components but would require an amendment to the EFSEC Site Certificate if the Applicant wishes to incorporate them into the Project at a later date. If the Applicant chooses the latter path, please so indicate and provide written acknowledgement that an amendment to the ASC and the EIS will be required to include these sources in the Site Certificate at a later date. If the Applicant wishes for the Site Certificate to include the concrete batch plant, please provide the following additional information so that water impacts can be properly evaluated in the EIS: - Provide the location(s) of the proposed concrete batch plant. - Describe sources of runoff and method of collection and disposal of water. - Provide proposed measures to reduce or control surface water runoff and changes to drainage patterns from the concrete batch plant. - How much water would the concrete batch plant require for the duration of construction?	**A batch plant will be required and the requested information, including plant locations and measures to reduce or control surface water runoff, will be provided by approximately May 15.**
FEIS-Vegetation-1	Appendix L, pg 20	Option 1 Conservation Easement The Applicant states that, “Option 1 may include a conservation easement on habitat that will provide functions and values for native vegetation and wildlife with an emphasis on	The Applicant did not provide a functional assessment of the habitats prior to disturbance. Please provide what the functional assessment would consist of and whether the disturbed areas would be assessed following the same criteria prior to disturbance so that the offsets can be compared to the disturbed areas in terms of function.	The baseline function of the habitats is assumed to be consistent with the corresponding baseline mitigation ratios that are discussed in the WDFW Wind Power Guidelines (2009), for simplicity. According to the WDFW Wind Power Guidelines habitat types are used as the functional currency when determining the amount and type of mitigation. **If the habitat types are mitigated at the ratios prescribed by the Wind Power Guidelines, it is inherent that the**

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		mitigating those functions and values being impacted by the Project. The actual mitigation acres may be adjusted to account for these functions and values."		**functions and values that are lost or disturbed during construction on-site will be mitigated by the mitigation area on-site.** During discussions with WDFW and EFSEC it was made clear by them that on-site mitigation options should be considered. The on-site area proposed in the draft habitat mitigation plan was derived from communications with WDFW regarding portions of the project areas that they thought suitable for mitigation purposes. The intention was to propose the site with the highest habitat quality, meaning a site with the most mature shrub-steppe habitat, which is what the proposed mitigation site provides. The mitigation site will potentially be combined with other Mitigation Options described in Appendix L, as deemed appropriate in consultation with WDFW and the Technical Advisory Committee as the HMP is finalized.
FEIS-Vegetation-2	Appendix L, pg 20	Option 1 Conservation Easement The Applicant states "Sufficient acreage of like-kind habitat may be available within the Project Lease Boundary to mitigate for Project impacts and achieve no loss of habitat functions and values."	Acreage within the Project Lease Boundary is currently under Lease by the Applicant. Provide the threats to development besides from the Project. In addition, how does avoiding shrub-steppe in some portions of the Lease Boundary but impacting shrub-steppe (or other habitat) in other portions of the Lease Boundary result in no net loss of habitat functions and values? This is an example of avoidance mitigation not offsetting. If there is no on-site restoration and you are merely avoiding some of the shrub-steppe, there is still a net loss, and no offsetting has been achieved. Same question for Option 1 – What is the justification for the fee to not include the cost to conduct restoration efforts including monitoring? Just putting land into an easement will still result in net loss of habitat function and value from the areas impacted.	**The region of the Horse Heaven Hills, including Project lands under lease by the Applicant, is under constant threat of land conversion from native habitats to agricultural uses, expanding exurban development, electrical transmission upgrades, transportation projects, and resource extraction of earthen materials. Clean energy project deployment, although a development threat, is a relatively rare random act.** As discussed by WDFW (2009; Section 5.1), implementation of the habitat mitigation measures presented by WDFW and proposed by the Applicant are presumed to fully mitigate for habitat losses for all species, including species classified as "protected," in the Washington Administrative Code (WAC 232-12-011). This type of approach has longstanding precedent in Washington where in WDFW POL-M5002, which specifies the scope and process of achieving no net loss with a focus on hydrologic projects; avoidance, minimization, and remediation are the top three forms of mitigation, in descending order. In addition, the term mitigation is defined in the State Environmental Protection Act guidance as avoidance; minimizing; repairing or restoring; reducing or eliminating over time; replacing, enhancing, or providing substitute resources; and/or monitoring the impact and taking appropriate corrective actions (Washington State Department of Ecology 2002). **The combined compensatory and voluntary actions proposed by the Project in Appendix L, Appendix M, and throughout the Application will meet and even exceed the standards.** **The act of placing a property under conservation easement and managing the property for conservation values does provide ecological uplift over time.** Final details of enhancement-related management activities will be determined during the finalization of the HMP with WDFW and EFSEC prior to construction. The question implies that there would be no on-site habitat restoration. All temporary impacts, as defined by WDFW (2009) and discussed in the Application (see Sections 1.10.1, 4.2.1.3, 4.2.3.4, for example) would be restored with a floristically appropriate and approved native seed mix that would be monitored as part of the success criteria. For off-site conservation easements (Option 1), all agricultural lands will be restored to shrub-steppe habitat and Appendix L, Section 8.2 §1–5 discusses the monitoring and reporting process that would be used to monitor habitat enhancements and success. **The funding, or lack thereof, of these activities is not synonymous with a fee-based mitigation option.**

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FEIS-Vegetation-3	Appendix L, pg 21 and Figure 3	Proposed Easement Area to Fulfill Mitigation Option 1	The proposed easement area is located in an area that existing conditions are dominated by shrub-steppe. The threat to development was wind turbines from the Project; however, the Applicant avoided turbines in this segment. This is an example of avoidance. How will functions and values of the shrub-steppe on this site be improved such that it compensates the loss of 779 acres of habitat from the Project (based on Table 5 in Appendix L)? How will habitat function and value be measured? If no restoration efforts take place, please explain how there is no net loss. Based on the discussions with WDFW, was this area agreed on as an easement for offsetting?	See response to FEIS-Vegetation-2 for discussion of existing threats to the easement area and for information regarding how mitigation ratios outlined in the WDFW Wind Energy Guidelines fully mitigate habitat loss. **Establishing a conservation easement on a parcel where development could have been proposed and is on-site, and precluding development in the future is consistent with WDFW and SEPA mitigation policies (WDFW 2009, Washington State Department of Ecology 2018).** By mitigating at a higher ratio (e.g., 2:1 mitigation ratio per WDFW [2009]) it is implied that habitat loss would be offset. By protecting and enhancing (e.g., invasive plant control, grazing control) there is expected to be ecological uplift on the mitigation site. Further, due to the amount of time it takes to establish sage brush in a restoration scenario, it is generally preferred to protect intact habitat that is already providing ecological functions being lost on the Project site. During a meeting with EFSEC and WDFW, held February 3, 2022, the mitigation ratios were agreed to. During that same meeting WDFW presented a map showing “landscape mitigation options proposed by WDFW” and the proposed easement location is within the area identified on that map.
FEIS-Habitat-1	Appendix L, pg 17-18	Set back from active nests. Text reads “Around all active nests, WDFW recommends avoiding human access and ground-based activities within 820 feet of the nest between March 1st and May 30th, and preventing prolonged activities lasting greater than 0.5 hour within 3,280 feet of a nest between March 1 and August 15 (WDFW 2005). The Project would implement those avoidance and minimization criteria as necessary, depending on nest location and status and distance from Project infrastructure.”	The text suggests that the Applicant will maintain infrastructure 3,280 feet from a FEHA nest; however, the preceding section says that the active nest is located 2,795 feet from Turbine 116 and the closest nest is 1,115 feet from Project infrastructure.	**The comment that the text suggests infrastructure will be avoided within 3,280 feet of active nests is inaccurate**. Text in Appendix L (pages 17-18) states the Project will avoid prolonged human access and ground-based activities, which is consistent with published management recommendations. This measure is intended to minimize disturbance to active nests during construction. The sentence is meant to minimize human presence during those time periods if nests are active. Linear distance is only one aspect that may influence disturbance at a raptor nest; topography and visibility from the nest (i.e., line-of-sight) to the disturbance is another aspect that will be evaluated when implementing minimization measures around active nests during construction.
FEIS-Habitat-2	Appendix L, pg 17-18	Setbacks from nests	The text in this commitment is consistent with WDFW 2005 but does not consider information on FEHA range provided by WDFW in recent meetings with the Applicant. How has the Applicant addressed the potential loss of FEHA foraging habitat?	The Project is within the nesting range of ferruginous hawk in Washington and nests have been documented in the region. Appendix L elaborates on the status and location of those nests. **WDFW did not bring forward any new information about the range of the species.** WDFW presented information about habitat use around nest sites, including the concept of Core Use Area and Home Range. In the Applicant’s comments on the Draft EIS, submitted January 30, 2023, it was recommended that a more specific definition of ferruginous hawk nest be included in the Final EIS. The recommendation was to change Mitigation Measure Spec-5 to replace every occurrence where ferruginous hawk nests are mentioned with the new description as follows: "...ferruginous hawk stick nests that have been occupied by a raptor species within the previous year’s breeding season.” That in turn will better define where ferruginous hawk foraging habitat is located. In raptor nests surveys conducted in 2022 and based on initial survey results in

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				2023, there are no active ferruginous hawk nests within 2 miles of Project infrastructure. The Applicant has committed to conduct raptor nest surveys annually at the Project for the first 5 years of operation and the results will be integrated into minimization measures through the adaptive management plan managed in coordination with the Technical Advisory Committee. The Project has committed to mitigating for the loss of habitats consistent with requirements in the WDFW Wind Power Guidelines and minimizing impacts according to the management recommendations in Larson et al. (2004). Habitat impacts to potential ferruginous hawk foraging habitat that include grasslands or shrublands will be replaced through compensatory mitigation. **Presumably any mitigation sites within 10 km of active ferruginous hawk nests (i.e., WDFW-defined home range) would provide foraging habitat.** The additional detail provided in Appendix L in December 2022, including the criteria that would govern where mitigation lands are located, is in part focused on providing mitigation land that support ferruginous hawk foraging, based on the information WDFW provided regarding potential Core Use Areas. In addition, the voluntary mitigation measure to strategically expand nesting opportunities via the installation of **artificial nesting platforms will facilitate access to surrounding foraging habitat that contain suitable vegetative characteristics and mapped areas of high prey concentration as identified by the Washington Habitat Connectivity Working Group (WHCWG).**
FEIS-Habitat-3	Appendix L, pg 20	During construction, WDFW-recommended seasonal buffers (per Larsen et al. 2004) for ferruginous hawk nests would be observed to avoid disturbing nesting ferruginous hawks.	Is this measure consistent with the commitment above to apply guidance from WDFW 2005?	**Yes, the commitment to implement temporal and spatial restrictions around active ferruginous hawk nests is consistent with management guidelines for Priority Habitat and Species that are discussed by WDFW in Larson et al. (2004).** This and other the Ferruginous Hawk Avoidance and Minimization Measures (Appendix L, Section 7.2) were added to the December 2022 updated version in response to concerns expressed during meetings with WDFW and EFSEC in 2021 and 2022.
FEIS-Habitat-4	Appendix L, PDF pg 20	Consistent with recommended mitigation measure Spec-4 in the Draft Environmental Impact Statement (EFSEC 2022), during construction, WDFW-recommended seasonal buffers (per Larsen et al. 2004) for burrowing owl nests would be observed to avoid disturbing nesting burrowing owls, if present. If impacts to potentially suitable habitat cannot be avoided during final design, the Applicant will consult with WDFW regarding the need for burrowing owl surveys prior to construction, including surveys to determine habitat suitability for burrowing owls, and surveys for breeding owls if suitable habitat is present.	What would be considered suitable habitat? Burrowing owls can use a variety of anthropogenic features for nesting. Would active nests be protected through operation?	**Natural habitat with existing burrows suitable for burrowing owl nesting would be considered potential nesting habitat.** Anthropogenic features would not be considered potential nesting habitat for the purpose of establishing pre-construction survey areas. **However, if a nesting pair establishes a nest during construction or operations, including in anthropogenic features (e.g., drainage culvert or beneath an abandoned building), activity buffers will be implemented to minimize nest disturbance according to Larsen et al. (2004)** and specified in the Wildlife Incidental Reporting and Handling System (WHIRS; Appendix M). Those buffers would be applied whether the nest was discovered during pre-construction surveys or incidentally during work activities. Though it is assumed that owls that establish a nest in an active construction or operation area are inherently acclimated to the level of activity occurring.
FEIS-Habitat-5	Appendix L, PDF pg 21	The Project will avoid the application of pesticide and rodenticides during the construction and operation.	In the preceding section, the Applicant said they would try to avoid the use of pesticides and rodenticides. Can the Applicant commit to not using these?	**The Applicant will not use pesticides on-site. Rodenticide may be used in areas with electrical equipment to control the damage inflicted by rodents**.

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				Controls placed on the method of delivery and the collection of carcasses will use best management practices to avoid impacts from use.
FEIS-Habitat-6	Appendix L, PDF pg 24	Mitigation siting criteria is intended to offset any loss of function	How was the extent of loss of function calculated?	**The extent of loss and function of habitat was calculated using a commonly applied formula used by WDFW for previous renewable energy projects and discussed during meetings with WDFW during 2021 and 2022.** Loss of function and value from Project impacts is calculated in coordination with WDFW. The form of the calculation considers the type of habitat, type of impact, and applies the corresponding mitigation ratio which reflects the inherent function and value of the habitat that is impacted. Below is an example from a photovoltaic solar energy project that was approved and permitted through EFSEC in 2021. The Applicant anticipates a similar mathematical calculation be applied for the Project under current consideration. Calculation of Compensatory Mitigation Acres (CMA) $(acres\ shrub\ steppe\ permanent\ *\ 2)$ $+\ (acres\ shrub\ steppe\ altered\ *1.85)$ $+\ (acres\ CRP\ permanent\ *1)$ $+\ (acres\ CRP\ altered\ *0.5)$ $=\ CMA$
FEIS-Habitat-7	Appendix L, PDF pg 24	Removal of foraging habitat within core use areas (~3.2 kilometers/ ~2 miles) and home ranges (~10 kilometers/~6.2 miles) of occupied ferruginous hawk nests will be addressed by completing mitigation similarly within a core use area or home range on an occupied nest.	Is this in addition to the mitigation provided in Table 4? Provide some details on how the criteria established for ferruginous hawk would be measured/established prior to selecting a mitigation site (e.g. additional field surveys, available background information).	**No, the amounts of compensatory mitigation listed in Table 4 are inclusive of all habitat disturbance anticipated in the ASC. In addition to the acreage presented in Table 4, the applicant anticipates additional conservation benefit to ferruginous hawk nesting habitat and access to foraging areas from the voluntary mitigation measure that will construct artificial nesting platforms in historical territories distant to the Project where nesting substrates have been lost.** The criteria set forth in Appendix L are intended as the closest approximation of habitat impacts at the Project; the final scope of the mitigation package as discussed in Section 7 of Appendix L will be selected in coordination with WDFW and EFSEC. Finally, note that in raptor nest surveys conducted in 2022 and based on initial survey results in 2023, there are no active/occupied ferruginous hawk nests within 2 miles of Project infrastructure.
FEIS-Habitat-8	Appendix L, PDF pg 24	Mitigation Siting Criteria 3 - Landscape Habitat Connectivity	The criteria listed make sense; however, will there be any weighting to a particular criterion (e.g. will locating mitigation within an area mapped by WHCWG and ALI be weighted higher than the other two criteria)?	**For Criteria 3, there was no intention to value one of the three bullet points over another.** The intention was that if mitigation could be sited in a location that met at least one of the three bulleted elements under Criteria 3, then it would meet the overall criteria of contributing to landscape level connectivity.
FEIS-Habitat-9	Appendix L, PDF pg 25	Option 1 - The actual mitigation acres may be adjusted to account for these functions and values. For example, fewer acres of mitigation land may be required if that land is higher functioning (e.g., provides higher quality habitat, supports WDFW priority species) relative to the Project site or provides a	How would this be calculated and would EFSEC be provided the supporting data and rationale for approval?	**The statement in question just reflects that the habitat mitigation plan is draft, and the final mitigation solution would be approved by WDFW and EFSEC. Mitigation ratios, and thus the size of the mitigation easement, were calculated according to the habitat mitigation criterion discussed in the WDFW Wind Power Guidelines (2009, Section 5).** Currently, WDFW uses a formula that considers the type of impact (permanent, temporary, or modified) and the type and amount of habitat impacted using the 2009 mitigation ratios as a

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		beneficial expansion of high-value habitat (e.g., adjacent to existing or assumed future protected land).		baseline and may modify those ratios depending on the condition of the replacement habitat. This aspect and its implementation in the habitat mitigation framework is discussed in numerous sections of the 2009 WDFW Wind Power Guidelines (Section 5.2§B, 5.3§B,C, 8.2 Footnote 7). **In coordination with WDFW, EFSEC would be provided the supporting data and rationale for approval.** At that point there will be consideration for the value of the proposed mitigation site relative to the actual habitat loss from the project. During these final approvals, the size of the easement will be adjusted to address the actual project impacts and, in the past, in similar circumstances, consideration has been given for protecting higher quality habitat, particularly if that higher quality habitat is offsetting the loss of lower quality habitat.
FEIS-Habitat-10	Appendix L, PDF pg 25	The mitigation areas may be onsite (i.e., within the Project Lease Boundary). For example, areas of sagebrush shrub-steppe and grassland initially proposed for Turbine locations have been avoided in the current layout, including areas of sagebrush shrub-steppe habitat subtype that were avoided due to their designation as WDFW PHS locations and critical areas (e.g., see Figures 3.4-1 and 3.4-4 of the EFSEC ASC).	Avoiding areas is not the same as mitigation. This measure has already been considered under "avoidance". The function of sagebrush shrub-steppe and grassland in the Lease Boundary that will not be directly impacted may be reduced due to disturbance. Provide an explanation of how indirect habitat loss would be considered if mitigation areas are onsite. For example, would the areas be required to be a certain distance from Project components? One of the criteria established in Appendix L is that the area selected be at risk of development. Are there risks of development in these areas beyond the Project?	**See response to FEIS-Vegetation-2 for discussion of existing threats to the easement area and for information regarding how mitigation ratios outlined in the WDFW Wind Energy Guidelines fully mitigate habitat loss.** **The WDFW mitigation hierarchy prioritizes areas located on-site and like-kind (WDFW 1999, WDFW 2009), meaning mitigation actions are preferred to be in the same area as the disturbance and would include similar habitat types that are affected by the Project.** Interest in this type of mitigation strategy was vocalized by WDFW during meetings in 2021 and 2022; hence the text being reflected here. Specifically, during a meeting with EFSEC and WDFW, held February 3, 2022, the mitigation ratios were agreed to. During that same meeting WDFW presented a map showing “landscape mitigation options proposed by WDFW” **and the proposed easement location is within the area identified on that map.** That meeting and that map highlighted the importance of on-site or near-site mitigation options. The mitigation Options discussed in Appendix L are simply that – options that will be considered during the development of the Final Habitat Mitigation Plan in consultation with WDFW and EFSEC once the final Project design is identified and final impacts are calculated. **The extent of the final HMP may utilize a combination of Options and include conditions that reflect the unique characteristics (land cover types, sizes, arraignment) of the surrounding landscape.**
FEIS-Habitat-11	Appendix L, PDF pg 26	Proposed easement	Has WDFW been consulted on the location of this easement?	**Yes, the concept of a conservation easement and specific details about the location have been discussed with WDFW on numerous occasions prior to the development of the D-EIS.** On November 30, 2021, the Applicant, WDFW and EFSEC met to discuss types of mitigation options including the conservation easement. On December 6, 2021, a memorandum detailing plans for mitigation was submitted to WDFW via EFSEC. On January 20, 2022, the Applicant continued discussing the scope and scale of the mitigation with WDFW and EFSEC and received broad concurrence the draft ratios, mitigation options, and preliminary location of the conservation easement were consistent with WDFW Wind Power Guidelines (2009) and would offset Project impacts. Based on feedback received from WDFW during these planning meetings, the Applicant developed the Draft Habitat Mitigation Plan (February 2021) that was submitted with the ASC and revised in February 2022 and again in December 2022 to

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				reflect additional measures the Applicant would take to avoid, minimize, and mitigate impacts from the Project.
FEIS-Habitat-12	Appendix L, PDF pg 28	Table 5	Would agricultural lands be restored to shrub-steppe?	**Yes. Agricultural lands with Habitat Classification IV located within the conservation easement would be replanted with a floristically appropriate native seed mix.** The details of revegetation, including monitoring and success criteria, will be outlined in the final Habitat Mitigation Plan.
FEIS-Habitat-13	Appendix L, PDF pg 28	Mitigation Siting Criteria 2 - Ferruginous Hawk Nesting and Foraging Habitat	Criteria 2 outlined on pdf pg 24 requires that the area have had supported an active nest in the last 3 years. Pg 28 indicates that the nest in the easement was last active in 1986. Confirm how the area supports Criteria 2.	**In Criteria 2 on Page 19 of Appendix L the importance of historical nest locations was omitted from the criteria. This was intended to state that mitigation "…must be within the core use area or home range of a ferruginous hawk nest that is known to be active in the last three breeding seasons or is in a location with documented historical ferruginous hawk nesting activity or a historical nesting territory."** This nuanced change generalizes the temporal condition of three years and allows greater flexibility to apply mitigation in an area where a greater suite of factors (limited existing human presence, limited fragmentation) would be considered to increase the effectiveness of the mitigation. Limiting mitigation to nests where activity in the past three years is known eliminates the majority of historical nests in Washington since WDFW last conducted their state-wide survey in 2016. During discussions about ferruginous hawk nesting in the Project region WDFW routinely stated the importance of historic nesting territories to species persistence in the region.
FEIS-Habitat-14	Appendix L, PDF pg 29	Ferruginous hawk platforms	Was this mitigation option discussed with WDFW? Are nesting locations a limiting factor for ferruginous hawk in the region? From the Applicant's nest data, there appear to be several locations available for hawks to nest that are currently unoccupied.	**Yes, on April 5, 2022, a meeting was held to discuss the voluntary mitigation option with WDFW. As discussed in Appendix L, artificial nest platforms (ANP) have been used in Washington by WDFW and WDOT to expand and replace nesting opportunities for ferruginous hawk.** **Nesting substrates may be a limiting factor in historical territories or core breeding areas where nesting substrates have been removed or destroyed due to habitat loss caused by wildfire or anthropogenic disturbance.** Nesting opportunities may be expanded in the core breeding areas where landscape factors (e.g., high concentration areas [HCA] of prey, reduced human footprint) increase the likelihood of nest occupancy. **Historical ferruginous hawk nests in proximity to the Project are not subject to the consideration of ANP placement.** As described in the siting criteria on page 24, ANPs would be placed ≥ 5 km from proposed Project Turbines and operational Turbines to decrease the likelihood of interacting with facilities in the future.
FEIS-Habitat-15	Appendix L, PDF pg 29	Ferruginous hawk platforms	The Project is predicted to impact ferruginous hawk but reducing foraging habitat and increasing the risk of mortality through collisions with turbines. How does the voluntary mitigation measure in Section 7.5.1 address these project-related effects?	**Constructing ANPs in core breeding areas located away from the Project that expand or replace nesting substrates would proactively offset the loss of an individual from direct impacts at the Project by providing nest availability with the assumption young are added to the population via nest success. Expanding or replacing nest substrates with ANPs would increase access to the surrounding foraging habitat when sited in strategic locations with high prey concentrations areas (HCA) and suitable landscape characteristics.** Conservation easement options, unrelated to the construction of ANPs, that are discussed in Section 7.4.3 would also address the reduction in

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				foraging habitat by preserving or enhancing potential foraging habitat as described in the Options 1–3, for the life of the Project.
FEIS-Habitat-16	Appendix L, PDF pg 29	Ferruginous hawk platforms	How does the construction of nesting platforms address the limiting conditions identified for ferruginous hawk (Hayes and Watson 2021): habitat loss, habitat fragmentation, degradation of habitat (foraging), reduction in prey base, collisions with wind power, and climate change?	Construction of ANPs can help address some but not all of the conservation issues that were discussed by Hayes and Watson (2021). As discussed in FEIS-Habitat-14, **the construction of ANP ≥ 5 km from operating Turbines provides nesting substrate for breeding pairs that decreases their potential to interact with a Turbine**. When sited appropriately, **ANPs can expand or replace nesting habitat by providing supplemental nesting opportunities in historical nesting territories** where nesting habitat (i.e., nest substrates) have been lost due to wildfire or other forms of habitat loss. Since 1995, wildfires affected 15 nesting territories in 2010, 7 in 2015, and 5 in 2020. When natural nesting substrates are removed by wildfire, ANPs can be used to replace substrates or expand territories in suitable foraging habitat where nesting substrates are not available. ANPs directly address the loss of an individual from Turbine collision or nest abandonment by providing alternative nest locations in core nesting areas within the species range. The biological benefit of providing nesting opportunities for ferruginous hawk with ANPs that eventually successfully fledge young cannot address tangential and unrelated issues that affect the hawk such as reduction in prey base and climate change. When sited correctly in areas of high prey concentrations as modeled by the Washington Connectivity Working Group and verified in the field, **ANPs can offer nesting opportunities where prey are more abundant** but ANPs do not ameliorate the regional reduction in ferruginous hawk prey caused by non-native vegetation, disease, urbanization, and other factors. By contributing to the reduction in fossil fuel-based energy generation, **development of the Project itself positively contributes to the reduction of factors that affect climate change**; however, the utility of an ANP to have an effect on climate change is beyond the intent and ability of this voluntary mitigation measure. The qualification and criteria to use ANP to provide alternative nesting locations and support the population is not intended to address the myriad of conservation issues that affect ferruginous hawk in the western United States.
FEIS-Habitat-17	Appendix L, PDF pg 29	Ferruginous hawk platforms	According to Hayes and Watson (2021) WDFW has installed at least 9 platforms in Benton County and 29 platforms overall in Washington, two of which have been used. How would the Applicant adapt their management plan if the platforms are not occupied by ferruginous hawk or become used by species, such as corvids, that can compete with ferruginous hawks?	**Appendix L, Draft Wildlife and Habitat Mitigation Plan, Section 8.2 details the effectiveness of monitoring and reporting that would be implemented at ANPs in coordination with EFSEC and the Technical Advisory Committee (TAC), including actions for the discovery of unoccupied/undesired species at platforms.** The role of the post-construction TAC would be to advise additional measures that could be used to enhance the likelihood of ANP occupancy by ferruginous hawk based on monitoring data, which is the process inherent to adaptive management. The particular method that would be used to increase the likelihood of ANP occupancy of ferruginous hawk would be determined by the site-specific circumstance at the ANP and surrounding landscape.

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				The comment omits acknowledgment of the 56 platforms that have been constructed in Washington since 1987 in addition to the 29 platforms noted. The 29 ANPs installed in 2019 that the comment refers to have lacked annual monitoring to document nest occupancy due to COVID-19 restrictions as reported by WDFW, thus it is highly likely the reported occupancy rates in the comment underrepresent the biological reality. In a review of publicly available ferruginous hawk occupancy at 1,155 ANPs within the US and Canada, 32% were occupied in a particular year (average = 36 ± 24%; Jansen and Swenson (2022). Even at the lower range of historical ANP occupancy, at least one successful nesting attempt at an ANP constructed by the Project is anticipated to offset any direct impact to ferruginous hawk from Project operations, considering the low use (activity and nesting) of the Project as documented from field data, and number of fatalities documented at operational wind facilities overlapping the breeding range of ferruginous hawk in eastern Washington and Oregon, 2001–2021 (Appendix K of the Updated ASC; Jansen and Swenson 2022; Jansen 2023). The siting criteria discussed on page 24 would be used to identify areas on a coarse scale and further refined in the field to determine the most appropriate location that maximizes the likelihood of ANP occupancy by ferruginous hawk.
FEIS-Habitat-18	Appendix L, PDF pg 29	Fee simple contribution	Was WDFW or EFSEC consulted on this mitigation? How is this amount calculated in the mitigation measures options? Does the Friends of Badger Mountain have to show proof of how the funds were spent?	**Neither WDFW nor EFSEC was consulted on this transaction. The Friends of Badger Mountain has provided confirmation that the funds were used to buy property for their Little Badger project.** This transaction has occurred and was included in the Draft Wildlife and Habitat Mitigation Plan because the purchased habitat will provide benefits to native species in the region, including those potentially affected by the Project. However, this was included as additional voluntary mitigation, which exceeds the required level of mitigation outlined in the WDFW Wind Power Guidelines (WDFW 2009), which will be provided through one of the options described in the Draft Wildlife and Habitat Mitigation Plan.
FEIS-Cultural-1		Additional documentation	Provide the following for additional review: • Potential locations of on-site concrete batch plant • Cultural Resource Monitoring Plan (if available) • Inadvertent Discovery Plan (if available) • Redacted Traditional Use Study by the CTUIR (if available) • DAHP excavation permits (if available) • Curation agreements (if available) • References: ○ Litzkow, Jamie. 2020c. *Cultural Resources Survey on Bureau of Land Management Land in the Horse Heaven Hills Native Plant Interpretation Project, Benton County, Washington*. Bureau of Land Management Spokane District.	**Location of on-site concrete batch plant is identified in the FEIS-Air-1 response. Documents requested are attached to the response provided, except for the second, third, and fourth bullet. The second and third bullet Draft Plans are anticipated to be provided in a supplemental response by the end of April 2023. For the fourth bullet re: redacted TUS, CTUIR has only provided an executive summary of the Traditional Use Study of the Horse Heaven Wind Farm Project.** Documents included in Attachment FEIS-Cultural-1 are: • DAHP Permits.pdf • 2022.008_WHC Curation Agreement_Redacted.pdf • Executive Summary_CTUIR Traditional Use Study of the Horse Heaven Wind Farm Project.pdf • Litzkow 2020_Redacted.pdf
FEIS-Cultural-2		Additional communication	Provide communications with Tribes or agencies, particularly post-application correspondence. The following would be especially helpful: • 7/7/21 letter from Dave Kobus (Scout) to Casey Barney (Yakama Nation), confirming request for formal consultation through government-to-government process overseen by EFSEC	**Documents that fall in the categories requested are attached to the response provided, except for the fifth bullet.** All correspondence addressing First Nation TCP's is confidential and will not be provided in the public domain. Documents included in Attachment FEIS-Cultural-2 are: • Adding Insult to Injury -- Climate Commitment Act Negotiations Final.pdf

Data Request 7 Item ID	ASC Section	Item	Question or Information request	Applicant Response
			• Forwarded letter to EFSEC on 10/22/21: Adding Insult to Injury - Climate Commitment Act Negotiations Final (Snoqualmie Indian Tribe and NCAI) • Forwarded letter to EFSEC on 10/22/21: DAHP-SHPO_Response to Randazzzo Memo_10-22-21 • SCOUT letter to Governor's office, EFSEC, and DAHP • Materials sent to Yakama Nation from SCOUT on 3/09/22 and 5/31/22 • 11/4/22 letter response to Yakama Nation from Darin Huseby • 11/8/22 letter to Yakama Nation from Michael Rucker	• DAHP-SHPO_Response to Randazzo Memo_10-22-21.pdf • Figure 9_20211020_Scout_DataReq3_Visual 20.pdf • HHCEC_Slidedeck_J.Lally.pptx • Scout Ltr to EFSEC DAHP Gov 3-2-22.pdf • VP 12_Fig 16_20211020_Scout_DataReq3_Visual 67.pdf • VP 13_Fig 17_20211020_Scout_DataReq3_Visual 68.pdf • VP 3_Figure 5_20211020_Scout_DataReq3_Visual 56.pdf • VP 5_Fig 8_20211020_Scout_DataReq3_Visual 59.pdf • VP 7_Fig 10_20211020_Scout_DataReq3_Visual 61.pdf • VP 9_Fig 13_20211020_Scout_DataReq3_Visual 64.pdf • Yakama Nation - SCE Overview Letter_20210707_signed.pdf • Yakama Nation_Council Req_20221108.pdf • Yakama Nation-DAHP Response_20221104.pdf
FEIS-Visual-1	4.2.3	New Key Observation Points (KOPs) and Simulations	Based on public comments received, including those from Benton City and the Yakama Nation, additional KOPs and simulations have been requested. Specifically, an additional KOP/simulation has been requested to represent unobstructed views from Benton City, closer views from Interstate 82, and a viewpoint across the Wallula Gap. Potential locations for these new KOPs have been provided but suggest reviewing these locations with Benton City, Benton County, and the Yakama Nation to confirm they address their and the public's concerns. **Potential additional Benton City KOP location** (also would represent views from the adjacent Horse Heaven Hills Recreation Area): 46°14'35.11"N, 119°28'36.91"W. Review viewshed analysis to identify potential new KOPs further into Benton City where views would be more unobstructed. **Potential additional I-82 KOP location:** 46°4'33.03"N, 119°13'18.71"W **Potential Wallula Gap KOP location:** 46°2'38.46"N, 118°56'21.11"W	**Photos for the Benton City and I-82 KOP locations have been or will be obtained and visual simulations will be prepared accordingly, to be provided to EFSEC by May 15.** Based on discussion with EFSEC on Monday, April 3, we understand that EFSEC is working with Yakama Nation to determine the appropriate location for the Wallula Gap KOP. **A photograph and visual simulation for that location will be prepared as soon as the location is confirmed.**
FEIS-Visual-2	Appendix G: Shadow Flicker Analysis Memo	Shadow Flicker, historical sunshine availability	The WindPro shadow flicker analysis was partially based on historic sunshine availability for Spokane, Washington. While Spokane has a higher number of sunshine days than most other readily available cities in WA (roughly 190 days based on sources below and from the NOAA data referenced in Appendix G), sunshine at the Project site is significantly higher (between 220 and 240 days of sunshine, sources below). If a more representative data set is available for use, the WindPro shadow flicker analysis should be re-run using a more representative data set. https://ingalls.weathertogether.net/2018/04/25/does-the-tri-cities-really-get-300-days-of-sunshine-a-year/ https://climate.washington.edu/cloudcover/	The shadow flicker analysis used the WindPro software to calculate expected shadow flicker impact from the Project at surrounding receptors (residences). **WindPro is designed to use sunshine probability data (Sunshine - Average Percent of Possible) in these calculations and the Spokane station is the closest monitoring location (about 213 kilometers [km] from the Project) that reports this type of data.** As noted in the comment, the shadow flicker analysis included assumptions on sunshine availability based on sunshine probability data collected at the Spokane WA meteorological monitoring station as reported in the National Oceanic Atmospheric Administration's (NOAA's) Comparative Climatic Data summary. The next closest station reporting this type of data is located in Seattle WA (about 274 km away). As described in the comment and documented by the Office of the Washington State Climatologist, cloud cover data is collected at stations closer to the Project including one located at Pasco WA (about 16.5 km away). While the Pasco monitoring station is closer to the Project and potentially more representative of the sunshine conditions, it

Data Request 7 Item ID	ASC Section	Item	Question or Information request	Applicant Response
				does not contain data in the format (sunshine probability) needed by WindPro to calculate expected shadow flicker. A comparison of the cloud cover data collected at both the Pasco and Spokane monitoring stations does suggest the Project area may have a higher sunshine probability than that measured in Spokane. The cloud cover data indicates that the average number of clear days in Pasco (113.4 days day per year) is greater than the average number clear days in Spokane (73.8 days per year). While this data cannot be readily converted to the sunshine probability values needed for the WindPro, it does suggest expected shadow flicker could be somewhat higher than was calculated. Thus, the Applicant intends to work with the owners of non-participating residences with a modeled exposure from the final facility layout and turbine selection greater than 15 hours per year with a goal of reaching amenable agreements including shadow flicker waivers. Such agreements could include mitigation measures and/or financial compensation. In cases where such agreements and waivers cannot be reached, certain Turbines will be equipped with a curtailment feature that will limit actual shadow flicker for non-participating residences. The Turbines that would be equipped with such curtailment feature are those that contribute to a modeled exposure from the final facility layout and turbine selection greater than 15 hours per year at non-participating residences. Limiting shadow flicker only for those non-participating residences is consistent with our response to DEIS mitigation measure SF-1.
FEIS-Visual-3	4.10.2.2, Shadow Flicker	Turbine (Option 1 and Option 2) layout and receptor locations in areas of maximum impact	Based on public comments, wind turbine and receptor locations were not clear to the public, therefore zoomed in figures to show the closest turbine(s) and shadow flicker impacts at Receptor ID locations of maximum impact have been requested. These areas should include the Receptor ID locations identified in Tables 4.10-10 and 4.10-12. The figures need to be zoomed in enough so that IDs can be labeled and identified clearly on the figure(s).	**See Attachment FEIS-Visual-3 for figure with insets to show detail for the receptor IDs identified in the listed tables.**
FEIS-Noise-1	4.11.2.2	Turbine and noise receptor locations in areas of maximum impact.	Based on public comments, wind turbine and NSR locations were not clear to the public, therefore zoomed in figures to show the closest turbine(s) and noise impacts at the NSR and boundary locations of maximum impact have been requested. These areas should include those NSR locations identified in Tables 4.11-8 and 4.11-9. The figures need to be zoomed in enough so that NSR locations can be labeled and identified clearly on the figure(s).	**See Attachment FEIS-Noise-1 for figure with insets to show detail for the receptor IDs identified in the listed tables.**
FEIS-Recreation-1	N/A	Downwind effects on recreation	What are the downwind effects (e.g., increase in turbulence, variability, etc.) on microclimates and how will these affect paragliding?	Several studies have probed the physical structures of wind turbine wake zones and potential impact on light aviation. A summary of this information, along with reference source documentation, is provided in Attachment FEIS-Recreation-1. **The implications for light aviation traffic in the vicinity of a wind farm are as follows:** • **At wind speeds above cut-in speed (approx. 7 mph), exercise caution if the flight path is within 10 rotor diameters (approx. 3,000 feet) downwind of the wind turbines. *Note: the nose of a wind turbine always faces upwind and the rotor has a clockwise rotation.*** • **Atmospheric conditions can vary quickly causing changes in wind speed and direction, potentially causing unpredictable hazard within 10 rotor diameters (approx. 3,000 feet) downwind of the wind turbines.**

Data Request 7 Item ID	ASC Section	Item	Question or Information request	Applicant Response
				See Attachment FEIS-Recreation-1 for additional detail.
FEIS-Transpo-1	2.25 -- 4.3.2.2	"For socioeconomic and transportation impact analyses, the construction schedule, including phasing of specific elements of the Project, can alter the details of the analysis"… "The example provided in Table 2.15-1 and Section 2.15 of this ASC is for illustrative purposes only and does not represent all possible phasing approaches that may be considered." Updated ASC: "If Project construction were not phased and the Project were constructed in a consolidated schedule, the LOS conditions are expected to be generally the same as those described in Table 4.3-7 because the access roads for the two Phases are different" "Note that Locust Grove Road is planned for use during both Phases. If Project construction occurred on a consolidated schedule instead of a phased schedule, there would be minimal additional use of Locust Grove Road above that forecasted in Table 4.3-7."	The example of the likely phasing scenario does not represent the worst-case scenario for traffic. Construction of two solar areas, instead of the three proposed, are considered in the phased approach. The ASC did not analyze State Route (SR) 14, or the SR 22 and I-82 Exit 82 interchange in the scope of the affected transportation system. The traffic analysis included in the ASC did not utilize actual traffic counts at affected intersections. Provide updated existing and forecasted LOS of the haul route using actual traffic counts. To ensure that transportation circulation, safety due to increased traffic, and LOS assumptions are accurate, provide not to exceed traffic volume estimates. Provide copies of all counts collected from online programs such as WSDOT GIS Viewer. *-alternatively-* Provide a statement that traffic estimates provided represent the worst-case scenario and will not exceed what was provided in the ASC. Provide a statement that SR 14 or the SR 22 and I-82 Exit 82 interchange will not be used by construction-related traffic.	The transportation analysis provided in the ASC assumed that the Project would be constructed in two phases over a period of approximately 21 to 22 months. Phase I was assumed to include construction of both solar and wind power generating facilities and a BESS facility over a period of 11 months, with a peak workforce of 467 workers. The Phase 2 construction workforce levels and construction duration would depend on the Phase 2 alternative selected. Phase 2a would include construction of both solar and wind facilities with a BESS facility, over a period of approximately 11 months, with a peak workforce of 430 workers. Phase 2b would include construction of additional Turbines but no additional solar or BESS facilities, over a period of approximately 10 months, with peak workforce levels of 412 workers. **The traffic analysis in the ASC was based on the assumed worst-case construction-related impacts associated with the construction of Phase I (467 workers).** Per ASC Section 2.3, the ASC is seeking permitting authorization for up to 244 Turbine locations and the maximum extent of solar arrays in terms of total land area described in this ASC (see Table 2.3-1), with all possible Turbine locations and solar array extent cumulatively reviewed in the analysis of potential resource impacts, although fewer Turbines and solar arrays may be constructed for this Project. The final layout of Turbines and solar arrays would be determined prior to construction. **Thus, construction of two solar areas is considered the worst-case scenario for traffic associated with the solar facility construction.** **As currently envisioned, no overweight/oversized trucks are anticipated to use SR 14 or the SR 22/I-82 Exit 22 interchange.** The analysis provided in the ASC identifies the routes that will be used for heavy equipment delivery, which do not include the SR 22/I-82 or SR 14 interchanges; thus, it was analyzed in the ASC. **It is anticipated that the majority of construction workforce commuting traffic will be oriented to/from the Tri-Cities area directly north of the Project site, with relatively minor workforce commuter trips on SR 14 or through the SR 22/I-82 Exit 22 Interchange.** A full Traffic Impact Analysis (TIA), which would include actual traffic counts at affected intersections, cannot be completed by target date as it will require several months for data collection, modeling, and analysis. **However, a comprehensive TIA in accordance with WSDOT's Traffic Analysis Procedures Manual and Benton County requirements will be prepared for the Project during the pre-construction phase.** The TIA will include capacity and safety analyses of the area roadways and intersections to be identified through a traffic scoping meeting to be held with EFSEC, WSDOT and/or Benton County officials. **A traffic scoping letter will be prepared for EFSEC's review (including input by Benton County and WSDOT at EFSEC's discretion) by April 28, 2023 which will detail the methodology, including study area intersections, proposed by the Applicant to be used in the TIA.** Once agency comments (including EFSEC, WSDOT and Benton County at EFSEC's discretion) on the traffic scoping letter are received, work will commence on the TIA.

Data Request 7 Item ID	ASC Section	Item	Question or Information request	Applicant Response
FEIS-Transpo-2	2.22.6 --- App V	"All wind energy components, including tower sections, the nacelle and turbines, and blades would be shipped to either a western U.S. port or overland on the Interstate highway system. The U.S. ports are either the Port of Longview or Port of Vancouver, from which components would be transported by specialized trucks along Interstate, state, county, and private roadways". --- "The customer's provided a map with preliminary site plans and access points but was later reported that it was outdated. The proposed project was reviewed based on the information provided at the time of the review… Site access from known source locations was not conducted at this time". "This report does not represent a complete list of all necessary improvements".	WSDOT identifies any proposal where project-generated traffic would degrade a highway's LOS to below the established LOS threshold as having a probable significant adverse impact to the state highway system. To ensure that transportation circulation, safety, and that LOS will not degrade beyond acceptable levels, provide a comprehensive traffic impact analysis (TIA) with an updated transport study, performed by a licensed traffic engineer, including a LOS analysis, from all known source locations, including both the Port of Longview and Port of Vancouver to the Project. The minimum contents of a TIA report are listed in WSDOT's Traffic Analysis Procedures Manual. To establish the appropriate scope and boundary limits of the TIA, consultation between WSDOT and those preparing the TIA is encouraged before beginning the study. To provide reviewers the ability to discern between rural and urban developed areas, reference federally approved urban boundaries. Provide copies of all counts collected and used in the analysis from online programs such as WSDOT GIS Map Viewer. Provide LOS calculation reports (PDFs) or the HCS7 files for verification of intersection lane geometry, turning movement volumes, and delay experienced by vehicles at intersections and at freeway segments. Ensure that all school zones and rail crossings that haul routes intersect are identified. Provide a review of intersection crash history for intersections associated with the haul route. Use five full calendar years (January 1st to December 31st) of historic crash data for safety analyses where available. Document the study period, reasoning behind the selection and any assumptions. Provide a draft safety management plan with an outline identifying the minimum best management practices and safety practices, including, but not limited to, contractor and employee training. *-additionally-* Provide a statement that no ports other than Port of Longview or Port of Vancouver will be used during the construction, operation, or decommissioning of the Project.	**A comprehensive Traffic Impact Analysis (TIA) will be prepared for the Project in accordance with WSDOT's Traffic Analysis Procedures Manual and Benton County requirements, performed by a licensed traffic engineer (see response to Data Request 7 Item FEIS-Transpo-1).** As part of the detailed TIA to be completed prior to construction, all school zones and rail crossings that haul routes intersect will be identified. A review of intersection crash history for all of the study area identified as part of the TIA scoping sessions with WSDOT and Benton County will be conducted as part of the TIA preparation. The crash history review will comply with WSDOT and Benton County requirements. Additionally, the TIA to be completed during the pre-construction phase of the Project will include a draft Safety Management Plan. **No ocean vessel–accessible ports other than Port of Longview or Port of Vancouver will be used during the construction, operation, or decommissioning of the Project and it is recognized that a supplemental analysis will be required if another port is used.** **No inland ports will be used during the construction, operation, or decommissioning of the Project and it is recognized that a supplemental analysis will be required if an inland port is used.**

Data Request 7 Item ID	ASC Section	Item	Question or Information request	Applicant Response
			-alternatively- If inland Ports are expected to be used during the construction, operation, or decommissioning of the Project, provide LOS analysis for waterways and any haul routes from inland ports to the Project.	
FEIS-Transpo-3	2.22.6 -- 4.2.3.3	"Rail transportation could be utilized as there are Burlington Northern-Santa Fe Railway facilities south of the Project in Washington state." Vs. "Although there is existing waterborne, rail, and air traffic within the area, these methods of transportation are not being proposed for use by the Project within the analysis area. Because the Project would not use waterborne or rail transportation during operations, and no Project activities would interfere with existing waterborne or rail transportation, no impact would occur within the analysis area".	Provide a LOS analysis for all rail transportation expected to be used. Ensure LOS analysis from rail yard to Project is provided in LOS analysis. -alternatively- Provide a statement that rail transportation will not be used during the construction of the Project and recognize that a supplemental analysis will be required if rail is used.	**Rail transportation will not be used during the construction of the Project and it is recognized that a supplemental analysis will be required if rail transport is used.**
FEIS-Transpo-4	N/A	Use of ATVs and UTVs	Provide clarification as to whether the Applicant will use ATVs or UTVs during the construction, operation, or decommissioning of the Project.	**The Applicant will use ATVs/UTVs for early construction, micrositing, etc. – a common practice. Once the roads are installed, the primary mode of personnel transport will be pickup trucks.**

Attachment FEIS-Cultural-1

Grant County
PUBLIC UTILITY DISTRICT

Powering Our Way of Life.

26 March 2022

Sara J. Davis
Archaeologist
HISTORICAL RESEARCH ASSOCIATES, INC.
1825 SE 7th Avenue | Portland, OR 97214
sdavis@hrassoc.com

Re: Request for Curation Horse Heaven Wind Farm project in Benton County

Dear Sara Davis:

The Wanapum Heritage Center agrees to curate the archaeological collections (material and archives) for the Horse Heaven Wind Farm project in Benton County. Our understanding is that this is a result of archaeological excavation of five sites:

- Sites 45BN2086 and 45BN2093 (landowner will retain artifacts)
  - o Desert Land, LLC
  - o [redacted]
  - o [redacted]
- Site 45BN2088 (landowner will curate artifacts at an appropriate facility)
  - o Wooden Teton Properties, LLC
  - o [redacted]
  - o [redacted]
- Sites 45BN2157 and 45BN2158 (landowner will retain artifacts)
  - o Christian Acres, LLC
  - o [redacted]
  - o [redacted]

Please have the landowner(s) complete the attached Deed of Gift for any artifacts that are being transferred.

Sincerely,

Angela J. Neller, Curator
Wanapum Heritage Center
(509) 76603468
Anelle1@gcpud.org

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

ARCHAEOLOGICAL EXCAVATION
PERMIT NO: 2022-21

Archaeological sites:	45BN2157 and -2158
Individual Responsible for carrying out the terms and conditions of the permit:	Dave Kobus Scout Clean Energy
Individual responsible for field investigations: Historical Research Associates	Emily Ragsdale
Nature of work:	Testing
Repository in which collected records and data shall be deposited:	Wanapum Heritage Center
Date fieldwork to begin:	Upon receipt, but notify parties of start
Date fieldwork shall end:	November 1st 2022
Period of analysis:	Concurrent through November 1st 2023
Date final report due:	November 1st 2023

Special Conditions:

1. Follow protocols stated in revised permit application of May 2022
2. Provide Tribes and DAHP at least 72 hours advance notice of start date and time
3. Allow for on-site visits from DAHP and Tribal representatives
4. Provide PDF copy of draft and final reports & updated site form to consulted parties, Tribes, & DAHP
5. Allow 10 business for review of reports by consulting parties
6. Report must meet DAHP's Survey & Inventory Standards; include maps drawn to scale, catalog and DAHP permit number
7. If human remains are encountered, stop work, secure the area, notify the county medical examiner, police, DAHP, & affected Tribes per RCW 27.44.055

Issued this 3rd day of June 2022.

Lance Wollwage

Lance Wollwage
Assistant State Archaeologist

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

June 3, 2022

Emily K. Ragsdale
Historical Research Associates
1825 SE 7th Avenue
Portland OR, 97214

Dear Ms. Ragsdale:

I have reviewed the application you submitted for archaeological testing at 45BN2157 and -2158. It is my intention to grant the permit application for excavations at 45BN2157 and -2158. Please take note of the Special Conditions on the permit.

If you feel aggrieved by this decision you may request an administrative hearing within twenty-one days after receipt of this notice. Your request should be sent to the address listed below. Director Department of Archaeology and Historic Preservation PO Box 48343 Olympia, WA 98504-8343

Sincerely,

Lance Wollwage

Lance Wollwage, Ph.D.
Assistant State Archaeologist
(360) 890-2616
Email: lance.wollwage@dahp.wa.gov

Enclosure

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

ARCHAEOLOGICAL EXCAVATION
PERMIT NO: 2022-22

Archaeological sites:	45BN2088
Individual Responsible for carrying out the terms and conditions of the permit:	Dave Kobus Scout Clean Energy
Individual responsible for field investigations: Historical Research Associates	Emily Ragsdale
Nature of work:	Testing
Repository in which collected records and data shall be deposited:	Wanapum Heritage Center
Date fieldwork to begin:	Upon receipt, but notify parties of start
Date fieldwork shall end:	November 1st 2022
Period of analysis:	Concurrent through November 1st 2023
Date final report due:	November 1st 2023

Special Conditions:

1. Follow protocols stated in revised permit application of May 2022
2. Provide Tribes and DAHP at least 72 hours advance notice of start date and time
3. Allow for on-site visits from DAHP and Tribal representatives
4. Provide PDF copy of draft and final reports & updated site form to consulted parties, Tribes, & DAHP
5. Allow 10 business for review of reports by consulting parties
6. Report must meet DAHP's Survey & Inventory Standards; include maps drawn to scale, catalog and DAHP permit number
7. If human remains are encountered, stop work, secure the area, notify the county medical examiner, police, DAHP, & affected Tribes per RCW 27.44.055

Issued this 3rd day of June 2022.

Lance Wollwage

Lance Wollwage
Assistant State Archaeologist

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

June 3, 2022

Emily K. Ragsdale
Historical Research Associates
1825 SE 7th Avenue
Portland OR, 97214

Dear Ms. Ragsdale:

I have reviewed the application you submitted for archaeological testing at 45BN2088. It is my intention to grant the permit application for excavations at 45BN2088. Please take note of the Special Conditions on the permit.

If you feel aggrieved by this decision you may request an administrative hearing within twenty-one days after receipt of this notice. Your request should be sent to the address listed below. Director Department of Archaeology and Historic Preservation PO Box 48343 Olympia, WA 98504-8343

Sincerely,

Lance Wollwage

Lance Wollwage, Ph.D.
Assistant State Archaeologist
(360) 890-2616
Email: lance.wollwage@dahp.wa.gov

Enclosure

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

ARCHAEOLOGICAL EXCAVATION
PERMIT NO: 2021-74

Archaeological sites:	45BN2086 and -2093
Individual Responsible for carrying out the terms and conditions of the permit:	Dave Kobus Scout Clean Energy
Individual responsible for field investigations: Historical Research Associates	Emily Ragsdale
Nature of work:	Testing
Repository in which collected records and data shall be deposited:	Eastern Washington University or Burke
Date fieldwork to begin:	Upon receipt, but notify parties of start
Date fieldwork shall end:	May 1st 2022
Period of analysis:	Concurrent through May 1st 2023
Date final report due:	May 1st 2023

Special Conditions:

1. Follow protocols stated in revised permit application of November 2021
2. Notify Tribes and DAHP of start date and time
3. Allow for on-site visits from DAHP and Tribal representatives
4. Provide PDF copy of draft and final reports & updated site form to consulted parties, Tribes, & DAHP
5. Allow 10 business for review of reports by consulting parties
6. Report must meet DAHP's Survey & Inventory Standards; include maps drawn to scale, catalog and DAHP permit number
7. If human remains are encountered, stop work, secure the area, notify the county medical examiner, police, DAHP, & affected Tribes per RCW 27.44.055

Issued this 29th day of November 2021.

Lance Wollwage

Lance Wollwage
Assistant State Archaeologist

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

November 29, 2021

Emily K. Ragsdale
Historical Research Associates
1825 SE 7th Avenue
Portland OR, 97214

Dear Ms. Ragsdale:

I have reviewed the application you submitted for archaeological testing at 45BN2086 and -2093. It is my intention to grant the permit application for excavations at 45BN2086 and -2093. Please take note of the Special Conditions on the permit.

If you feel aggrieved by this decision you may request an administrative hearing within twenty-one days after receipt of this notice. Your request should be sent to the address listed below. Director Department of Archaeology and Historic Preservation PO Box 48343 Olympia, WA 98504-8343

Sincerely,

Lance Wollwage

Lance Wollwage, Ph.D.
Assistant State Archaeologist
(360) 890-2616
Email: lance.wollwage@dahp.wa.gov

Enclosure

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 *Walúulapam, Weyíiletpu,* and *Imatalamłáma* 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 *Walúulapam, Weyíiletpu*, and *Imatalamłáma'*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: *Ku̇sipamá* and *Piyuušmaamí Pu̇štáy*.

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 *Weyíiletpu, Imatalamłáma*, and *Walúulapam* 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.

CULTURAL RESOURCES REPORT COVER SHEET

Author(s): Jamie Litzkow

Title of Report: A Cultural Resources Survey on Bureau of Land Management Lands in the Horse Heaven Hills Native Plant Interpretation Project, Benton County, Washington

Date of Report: August 13, 2020

County(ies): Benton

Township(s) and Range(s) with Section(s):
T. 9 N., R. 26 E., Sec. 30

Quad(s):
Acres: 3

PDF of report submitted (REQUIRED) ☒ Yes

Historic Property Inventory Forms to be Approved Online? ☐ Yes ☒ No

Archaeological Site(s)/Isolate(s) Found or Amended? ☐ Yes ☒ No

TCP(s) found? ☐ Yes ☒ No

Replace a draft? ☐ Yes ☒ No

Satisfy a DAHP Archaeological Excavation Permit requirement? ☐ Yes ☒ No

Were Human Remains Found? ☐ Yes DAHP Case # ☒ No

DAHP Archaeological Site #:

_____
_____
_____
_____

A Cultural Resources Survey on Bureau of Land Management Lands in the Horse Heaven Hills Native Plant Interpretation Project Area, Benton County, Washington

by

Jamie M. Litzkow
Bureau of Land Management
Archaeologist

BLM Survey Report #130200401
DAHP Project #2020-05-03370
T. 9 N., R. 26 E., Sect. 30
Bureau of Land Management
Spokane District
Border Field Office

August 2020

Project Description

Name: A Cultural Resources Survey on Bureau of Land Management Lands in the Horse Heaven Hills Native Plant Interpretation Project Area, Benton County, Washington

Survey Report No.: 130200401 **Inventory Acreage:** 3

Project Description: The Bureau of Land Management (BLM) Border Field Office is considering a BLM botany project that would establish a native plant educational area at the main trailhead in Horse Heaven Hills. The Columbia Basin Chapter of the Washington Native Plant Society plans to donate native plants and labor to assist with the project. The project would use locally sourced species and would have complimentary identification signs/plaques and one to several interpretive signs for the purpose of educating the public on how native plants support pollinators and wildlife, while also reducing invasive species.

Nature of Disturbance: Potential for disturbances to cultural resources involve ground-disturbing activities associated with planting, sign and plaque installation, weed control (including spraying and hand pulling), improvement of existing and installation of new fencing, placement of landscaping material (rocks, wood, etc.) to designate trails within the educational area, and maintenance of the parking area and steps. The project would allow for future improvements to the trailhead and parking area which are further addressed in the "Conclusions and Recommendations" section below. The APE has been defined as the perimeter encompassing the parking area, trailhead, interpretive garden, and barrier fencing. A polygon of the APE (as displayed in the Project Maps below) has been uploaded to WISAARD under DAHP Project #2020-05-03370.

Project and Survey Location

County: Benton **BLM District:** Spokane **BLM Resource Area:** Border

Legal Description: T. 09 N., R. 26 E., SW¼NE¼ Sec. 30

UTM Grid (NAD83, Z11): 308426mE x 5123593mN, 308439mE x 5123602mN, 308463mE x 5123580mN, 308440mE x 5123569mN, 308433mE x 5123611mN, 308460mE x 5123627mN, 308479mE x 5123635mN, 308496mE x 5123620mN, 308497mE x 5123643mN, 308520mE x 5123643mN.

Map Reference (USGS Quads): Whistran NE, Wash 7.5'

Access: From Spokane, take I-90 west towards Seattle for 71 miles. Merge onto U.S. 395 south towards Ritzville/Pasco and continue for 74 miles then keep right to merge onto I-82 west/U.S. 12 west towards Prosser, Yakima. Stay on I-82 for 14 miles. Take exit 96 onto SR-224 east towards SR-225 north, Benton City for 5.9 miles. At the roundabout, take the 4th exit onto N. Webber Canyon Road and continue south for about .50-mile and turn right onto N. McBee Grade

Road. The BLM trailhead/parking area is located about .50-mile down McBee Grade Road on the left (south) side of the road. The planting area is located on the south side of the road behind an existing fence line.

Relationship to Cadastral Markers and Other Permanent Features: No cadastral markers were noted in the field.

Environment

Geology/Geomorphology: The geology of the Horse Heaven Hills area consists of Miocene-aged Saddle Mountain Basalts (Reidel and Fecht 1994). The general area is located above the Yakima River Valley, where three members of this basalt group are exposed. The top member is the youngest, the Elephant Mountain Member. This is the ridge former and local cap rock. Below this is the Pomona Member, and below that is the Umatilla Member. An exception to this occurs in the project area, where a thrust fault has displaced the units. Quaternary landslide deposits are located below Chandler Butte. The floor of the valley is mapped as the youngest Quaternary outburst flood deposits consisting of silt and sand.

Slope: 8-12%

Aspect: NE

Soils: The majority of the soil in the area is from the Kiona series (USDA 1971). This is a well-drained very stony medium-textured soil underlain by basalt rubble. The two prominent map units are Kiona very stony silt loam, 30-65% slopes, and Kiona very stony silt loam, 0-30% slopes. The Ritzville series is represented by the Ritzville silt loam, 30-65% slopes, which is a well-drained medium textured soil. It developed under bunch grasses in silty, windblown deposits mixed with small amounts of volcanic ash. There is also a small amount of Warden silt loam, 0-5% slopes, which is also a well-drained medium textured soil. It developed under bunch grasses in a mantle of windblown deposits over reworked lacustrine material.

Vegetation Community: The survey area is located within the Shrub Steppe with *Artemisia tridentata* as defined by Franklin and Dyrness and lies within Daubenmire's *Artemisia tridentata-Agropyron* Vegetation Zone (Franklin and Dyrness 1988:45). Early spring vegetation around the project area includes sage, rabbitbrush, cheatgrass, bunchgrass, dandelion, Russian thistle, lily-like foliage, yellow bells, and Lomatium (likely white camas or Canby's lovage) which have been observed growing in areas of exposed pebbles and cobbles by BLM archaeologists in the past (Perry 2001:4).

Surface Water: The nearest water source is the Yakima River, about .25 mile NE of the project area. Numerous ephemeral seeps are located along the western slope of this portion of Horse Heaven Hills.

Contemporary Land Use: In general, Horse Heaven Hills receives heavy use from recreationists. Hang gliders, horseback riders, and hikers frequent the ridgeline above the McBee Grade Road on a consistent basis, as do recreational shooters, mainly in the vicinity of the gravel pit (on private lands). The trail at the base of HHH receives heavy daily use from runners, hikers, and horseback riders.

Background Review

Consultations/Existing Data Review: Past cultural resource surveys performed within the APE and known sites discovered (as a result) located within 1 mile of the project area:

Year	Title and Author(s)	Survey within APE?	Sites Recorded within 1 mile of APE?
2020	A Cultural Resources Survey on Bureau of Land Management Lands in the Badger Mountain Challenge SRP Route, Benton County, Washington	Yes - partial	[redacted]
2016	A Cultural Resources Survey on Bureau of Land Management Lands in the McBee Command Fire Suppression Line Rehabilitation Project Area, Benton County, Washington.	No	No
2012	Horse Heaven Hills Geotech Project Cultural Resources Survey Report, Benton County, Washington	No	[redacted]
2009	Cultural Resources Report for Clipper Windpower's Chandler Butte 2009 Meteorological Tower Project: Towers 1, 2, 2a, 3b, 3c, and 5, Benton County, Washington	No	[redacted]
2008	A Cultural Resources Survey on Bureau of Land Management Lands in the 2007 McBee Grade Fire Area, Benton County, Washington	No	[redacted]
2007	Cultural Resources Survey Report for Chandler Butte Meteorological Tower Project: Proposed Towers in Sections 20 and 23	No	No
2002	A Cultural Resources Survey on Bureau of Land Management Lands in the McBee Fire Project Area, Benton County, Washington.	No	No
1980	Benton County URA Step II (Class II Inventory) Field Evaluation	Yes	[redacted]

Both the SHPO and BLM databases were reviewed to obtain past survey and site information. All of the inventories listed above occur within one mile of the APE. A small portion of the APE (the trail running through the project polygon) was surveyed on November 7, 2019 as reported in the 2020 inventory report for the Badger Mt. Footrace SRP (Litzkow 2020). Historical records, such as GLO surveys in the Section, were also reviewed for this analysis. Consultation on the APE was initiated to the Confederated Tribes of Umatilla Indian Reservation (CTUIR), the Confederated Tribes and Bands of the Yakama Nation, the Nez Perce Tribe, the Wanapum Band

of Indians, and the Washington State Department of Archaeology and Historic Preservation (WA DAHP) on May 28, 2020.

Ethnography, Precontact, and Post-Contact History of the Project Area

Ethnohistory

The project APE lies within the traditional use area of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and the Confederated Tribes and Bands of the Yakama Nation. Like other Plateau peoples, these groups employed a settlement and subsistence pattern characterized by winter residence in semi-permanent villages along major streams, and travel to various resource procurement areas throughout the rest of the year to collect and process such staples as roots, berries, fish, and game (Galm et al. 1981, Hunn 1990). Ray (1936:144) places a small Yakama village of twelve to sixteen lodges [redacted] A permanent village and scout camp, jointly occupied by the Yakama, Umatilla, and Celilo, was located [redacted] (Schuster 1998).

Landscapes are directly reflective of the relationship of people with their environment, and as humans interact with the world, they create social spaces, composed of both natural and constructed features (Kelly 2008). These spaces become tangible reflections of a community's historically rooted activities, traditions, beliefs, and practices, and can be considered critical in maintaining the cultural identity and continuity of a living community (Parker and King 1998). Traditional cultural properties/places (or TCPs, as defined by Parker and King 1998) and tribal cultural landscapes (or TCLs, as defined by Ball et al. 2014) are terms commonly applied to the study of these spaces by cultural resource management personnel.

A Traditional Cultural Properties and Cultural Landscape study was prepared for the Spokane BLM by the Yakama Nation that covers the Project Area (Lally 2011). The study identified landscape features and numerous cultural sites [redacted] Likewise, a published atlas of Sahaptian place names indicates [redacted] (Hunn et al. 2015).

Precontact Overview

A vast majority of known precontact sites in the Horse Heaven Hills area consist of ridgetop rock alignments, circles, and cairns. The exact function of these particular features is unknown, and few archaeological studies have focused on methods for dating or classifying cairns and other stacked rock features in general (but see: Jakien 2018, Jankowski 2012, and Kelly 2008). They are, however, known to have served as markers of one function or another (Sharley and Bailey 1999), and can be visually symbolic of a living community's complex relationship with the cultural landscape upon which they occur (Kelly 2008).

Archaeological investigations conducted for hydroelectric and flood control projects in the [redacted] during the middle 20th century uncovered numerous precontact cultural sites within riverine settings, including housepits, village sites, rockshelters,

talus pits, rock art, rock cairns and other alignments, fishing sites, and campsites (Galm et al. 1981). The archaeological resources discovered in the region of study are most commonly attributed to the Middle Columbia Plateau culture sequence, first proposed Swanson (1962) and Nelson (1969), which incorporates many of the traits of the Cascade phase defined by Leonhardy and Rice (1970) and Bense (1972) for the Lower Snake River region (Ames et al. 1998).

Period 1A Paleoindian and Paleoarchaic (Graf and Schmidt 2010) sites represent the earliest known cultural manifestation in the area, dating to around 11,500 years ago (Ames et al. 1998). Fluted point styles like Folsom and Clovis are poorly represented in the Plateau in general, but have been reported as surface finds and at Richey-Roberts Clovis cache (Ames et al. 1998). Point styles of the Western-Stemmed Tradition (WST) (Beck and Jones 2010) are more common in the Southern Plateau at the Pleistocene-Holocene boundary, and are present at various early sites throughout the region during period 1B (ca. 11,000 – 7,000 years ago) (Ames et al. 1998). Projectile points of the WST are characterized by large, lanceolate points of unstemmed, contracting stemmed, and indented base varieties. Locally, this tradition is most represented during the Windust phase (Leonhardy and Rice 1970) in the Southeast Plateau and the Vantage phase in the South-central Plateau (Swanson 1962; Nelson 1969; Galm et al. 1981). Recent analyses hypothesize that the WST developed in the northwest, while Clovis developed in the Plains and eastern regions (Jenkins et al. 2012). It has also been suggested that the WST may have developed out of an as-yet-defined pre-Clovis tradition, with many supporters adhering to a Pacific Coast Migration Model for the initial peopling of North America (Beck and Jones 2010; Erlandson and Braje 2011). Faunal evidence suggests that people of the WST were seasonally mobile and practiced a broad-spectrum hunter-fisher-gatherer subsistence economy, their technology geared towards maximum flexibility supporting low population densities (Ames et al. 1998). The presence of a Levallois-like lithic reduction technology occurs most commonly in Cascade assemblages of the South-central Plateau (Muto 1976) but have also been noted as far north as [redacted] (Stevens and Galm 1991). Microblades and crescents have been noted as occurring in Period IB sites in the Southern Plateau in general but are relatively rare (Ames et al. 1998).

The transition to Period II (ca. 7,000-4,000 years before present) in the South-central Plateau is marked by distinct changes in cultural assemblages, which signal important shifts in subsistence and settlement patterns of humans occupying the region (Ames et al. 1998). In the Project Area, specifically, this period is marked by the gradual disappearance of the Cascade technique and technology, growing populations, increased sedentism, and a heavier reliance on anadromous fish and root crops (Ames et al. 1998). Pithouses begin to appear and material evidence points to the seasonal reoccupation of favored sites amongst the area's inhabitants. Assemblages during this period includes a variety of smaller laurel-leaf Cascade projectile points, and also Mahkin Shouldered and Cold Springs Side-Notched (Lohse 1985). Archaeological sites dating to this critical period of transition are rare in the South-central Plateau, however, and the details about the how and why such changes occur in the cultural record remains a topic of debate amongst archaeologists (Ames et al. 1998).

Subperiod IIIA (ca. 4,000-2,000 years before present) sites in the South-central Plateau are marked by denser populations than Period II, and increasing sedentism signaled by the rise of villages along most of the major waterways in the region (Ames et al. 1998). Functionally

diverse artifact assemblages, the appearance of communal dwellings, and an increase in the trade of non-local materials are the hallmark of the transition to Period III in the vicinity of the Project Area. Artifact assemblages during this period are dominated by expedient tools such as utilized and/or modified flakes, gravers, spokeshaves, and scrapers (Ames et al. 1998). Local cryptocrystalline silicates are the most common manufacturing material utilized, with a marked reduction in the use of fine-grained basalt as compared to Period II (Ames et al. 1998).

Subperiod IIIB (ca. 2,000-300 years before present) sites in the South-central Plateau are marked by the ethnographically defined "winter village pattern", with pit house villages present at most anadromous fishing interception points along the major waterways, and an increase in upland camps at specialized use areas (quarries, plant gathering and processing, and hunting locations) (Ames et al. 1998). Artifacts assemblages appear relatively the same as the beginning of the Period, with copper choppers, large flake and bifacial knife implements and bone artifacts being very similar in morphology (Galm et al. 1981). Small projectile point forms mark the appearance of bow and arrow technology throughout the region during this time (Ames et al. 1998). A rise in personal ornamentation, often manufactured from exotic raw materials (such as dentalia and olivella marine shell beads), bone cylinder and cut disk bone and shell beads, incised steatite and soapstone pendants signal an increase in social complexity in the region (Ames et al. 1998). Despite the increase in communal dwellings that mark the beginning of Period III sites, the circular, semi-subterranean house pit remains the dominant residential structure present throughout the region up to contact with Euroamericans (Ames et al. 1998).

In summary, humans are known to have been present in this stretch of the Yakima River for at least 11,000 years. Projectile point forms associated with Period I sites have been found in the [redacted] (Galm et al. 1981). Human skeletal remains have also been found [redacted]. These human remains (colloquially known as "Kennewick Man") have been carbon-dated, and yielded a minimum age of 9,300 years before the present (Hill 1996).

Previously known archaeological resources [redacted] include precontact and/or modern rock cairns, precontact rock alignments, and historic dumps and debris scatters. Cultural sites located [redacted] are dominated by precontact campsites that have yielded a diverse range of artifact types, suggestive of Period II to Period III village sites. Historic sites are few, and are characterized by irrigation features and dumps. [redacted] considered very high probability to yield intact cultural remains associated with pre/protohistoric-contact utilization of upland campsites and specialized use areas.

Historic Background [w/excerpts from Sharley and Bruyer 1997]
The Middle Columbia peoples' first known contact with Euro-Americans came in 1805 as the Lewis and Clark expedition descended the Snake and Columbia Rivers (Anonymous 1904, Fuller 1931, Parker 1979). Other explorers, trappers, and traders followed, and in 1818 the Canadian Northwest Company established a fur trading post, Fort Nez Perces (later known as

Fort Walla Walla), near the mouth of the Walla Walla River (Galm et al. 1981, Hunn 1990); company records from the three decades the fort was in use note that employees regularly harvested wild timothy hay from the lower Yakima River valley (Parker 1979).

During the 1820s the Hudson's Bay Company established a boat landing at White Bluffs, on the east bank of the Columbia River opposite present-day northern Benton County, the trailhead for a supply route to Fort Colvile. In 1840 a Protestant mission, *Shimnap*, was established near the mouth of the Yakima River, but the project was abandoned one year later due to unfavorable conditions at the site. In 1847 a Catholic mission, St. Rose, was constructed on the lower Yakima River; this facility, however, was also destined to be short-lived--within a year it had been abandoned in favor of a location on the upper Yakima with a more plentiful wood supply (Hunn 1990, Parker 1979).

During the 1840s large numbers of permanent settlers began arriving, via the Oregon Trail, in the country south of the Columbia River (Attwell 1977, Neils 1985). In 1855, as Euro-American demand for new lands mounted, Washington Territorial Governor Isaac Stevens convened a council in Walla Walla for the express purpose of extinguishing Indian title to the region north of the Columbia (Hunn 1990). Under pressure, the Indians in attendance--assumed to be representatives of their respective groups--signed the treaty, ceding half of eastern Washington to the federal government in exchange for reservations and other considerations (Hunn 1990). Under the 1855 treaty, the eastern half of Benton County was ceded by the peoples grouped under the name Umatilla, while the western half was ceded by peoples grouped under the term Yakama Nation (Hunn 1990). A period of unrest and skirmishes followed the signing of this treaty.

During the Indian Wars of 1855 to 1858, a military order left eastern Washington officially closed to further Euro-American settlement (Ballou 1938, Hunn 1990). In 1858 the Military Department of Oregon and Washington announced that peace had been restored and the lands east of the Cascades lay ready for settlement (Meinig 1968). Ranchers immediately expanded into the bunchgrass rangelands north of the Columbia River (Galm et al. 1981, Meinig 1968, Parker 1979). Over the next decade the cattle industry in the mid-Columbia region boomed in response to the demand for beef created by British Columbia, Idaho, and Montana gold strikes (Galm et al. 1981, Meinig 1968). The bunchgrass hills of Benton County were initially viewed only as rangelands. Experiments with dryland wheat farming in the Palouse and Walla Walla regions during the 1870s, however, established the feasibility of growing crops in the dry uplands, and the bunchgrass zones came to be viewed as wheat country (Meinig 1968).

After the Northern Pacific Railroad was completed through the lower Yakima River valley in 1884, tying the region into national and international markets, the Benton County wheat industry boomed (Galm et al. 1981, Meinig 1968, Parker 1986). As elsewhere, extension of the railroads, the growth of towns, and development of agriculture in Benton County were closely intertwined (WSACCCE 1953). The Northern Pacific Company, eager to sell its grant lands to settlers, began to finance and promote reclamation projects and actively recruit immigrants (Parker 1986, WSACCCE 1953). As settlers arrived, the area's railroad construction camps grew into the towns of Kiona, Pasco, Kennewick, and Prosser, and other towns sprang up along the rail lines (Parker 1986, WSACCCE 1953). By the 1890s the rush for agricultural lands had expanded to

the Rattlesnake and Horse Heaven Hills and, by the 1900s, nearly all arable lands in Benton County had been claimed (Galm et al. 1981, Parker 1986).

In 1905 Benton County was created from the eastern half of Yakima County, with Prosser as its county seat (BCHPA 1967, WSACCCE 1953). Development continued in the new county and during the next ten years new rail lines opened the remote farmlands of northern and southern Benton County, new irrigation projects expanded agricultural lands and natural gas fields were discovered in the Rattlesnake Hills (WSACCCE 1953). Prior to World War II the region's economy remained solidly based on agriculture, particularly wheat and irrigated crops (Parker 1986, WSACCCE 1953). 1943 marked the beginning of the most economically and historically significant series of events to occur in the county, the U. S. Department of Energy's Hanford Atomic Energy project (WSACCCE 1953). This project, located on the Hanford Atomic Reserve, conducted federal weaponry experiments until the end of the Cold War period (Parker 1979). In 1947, a second economically significant event occurred in the county, the construction of McNary dam across the Columbia River just above the town of Plymouth (WSACCCE 1953). While both of these projects resulted in displacement of people and loss of agricultural land, the positive economic impact on Benton County communities and the surrounding area is thought, by many, to have outweighed the drawbacks.

Survey Methods

Surveyor(s), Title(s): Jamie Litzkow, BLM Archaeologist

Organization: Bureau of Land Management, Spokane District, Border Field Office

Permit No.: N/A

Field Survey Design: The project APE is considered moderate to high risk for containing previously unrecorded surface and subsurface cultural resources due to its vicinity to [redacted] The goal of field survey was to inventory the project's vertical and horizontal area of potential disturbance based on the project description.

Field Date(s): July 9, 2020

Area Surveyed: The entire APE was surveyed to Class III Standards using a lazy S pattern, with transects spaced no more than 3 meters apart (Figures 1-3). The trailhead stairway leading into the proposed planting area, rodent backfill piles, and the cutbank running east-west along McBee Grade Road were all intensely inspected for any sign of exposed cultural deposits. The parking lot was inspected as permittable with the constant flow of vehicles entering and exiting throughout the day. A few shovel probes were placed within the APE (detailed in "survey results" below). All soil from these probes were sifted through 1/8" mesh screen onto a tarp and then backfilled into each hole once excavation was complete.

Visibility Factors: Visibility at the time of survey was moderate, with 50% of the ground surface unobstructed from view, the rest covered in thick grass. All of the ground surface in the vicinity of the steps and parking lot was fully visible, except under parked vehicles and the existing wood slats (Figure 1) The day was generally sunny and clear.

Time Expenditure:
Field: 1 day = 10 hours for travel to and from the site and survey time
Office (prefield and writeup of survey report): 35 hours
Total: 45 hours

Survey Findings

Survey Results: No cultural resources were discovered as a result of this inventory. Two shovel probes were placed within the most level area of the APE adjacent (on the south side) to the fence line, west of the trailhead. These shovel probes were placed within an area considered the highest potential for subsurface resources based on the varying (rolling, moderately steep) physiography of the APE. Relevant data on each probe is detailed in Table 1, below:

Table 1: Shovel Probe Details and Results

Probe #	Location (UTM NAD83 Z11)	Elevation	Dimensions	Cultural Material	Notes
1 (Figure 2)	308396mE x 5123572mN	1,451' amsl	28cm. (dia.) 46cm. deep	Negative - sterile	10YR 5/3 - silt loam, small (>1cm. dia.) charcoal chunks noted ~30cmbs
2 (Figure 2)	308376mE x 5123559mN	1,479' amsl	32cm. (dia.) 48cm. deep	Negative - sterile	10YR 5/3 - silt loam, rockier (rounded pebbles) and more compact than SP1

Cultural sites/isolates located: None

Other information/Cultural material noted but not formally recorded: N/A

Conclusions and Recommendations

Findings of Effect
Proposed activities associated with planting, sign and plaque installation, weed control, improvement of existing (and installation of new) fencing, placement of landscaping material (rocks, wood, etc.) within the educational area, and maintenance of the parking area and steps is expected to have No Effect to historic properties, as none are known in the APE. The project lead anticipates future improvements to the trailhead and parking area. If these improvements involve excavation, a BLM archaeologist will be onsite to monitor all ground-disturbing activities and implement standard operating procedures regarding inadvertent and post review discoveries in compliance with NAGPRA, NEPA, ARPA, and the NHPA.

Additional Data Needs/Recommendations: N/A

Eligibility/Protection Recommendations: See monitoring recommendations above regarding potential future improvements at the trailhead and parking lot.

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Project Maps

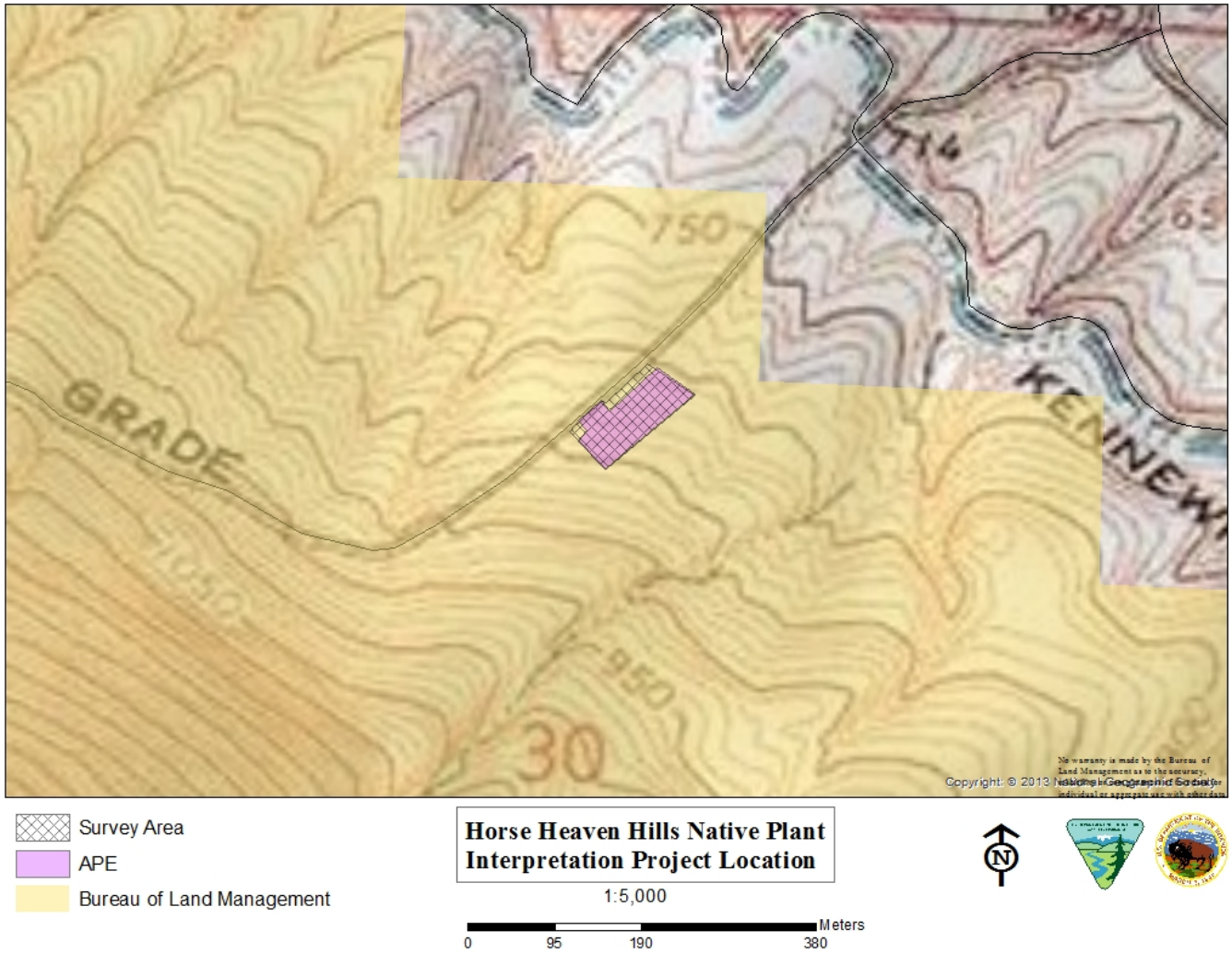


Figure 1. Overview of project APE and Class III survey area (T.09N. R.26E. Sec. 30)

Project Maps (cont.)

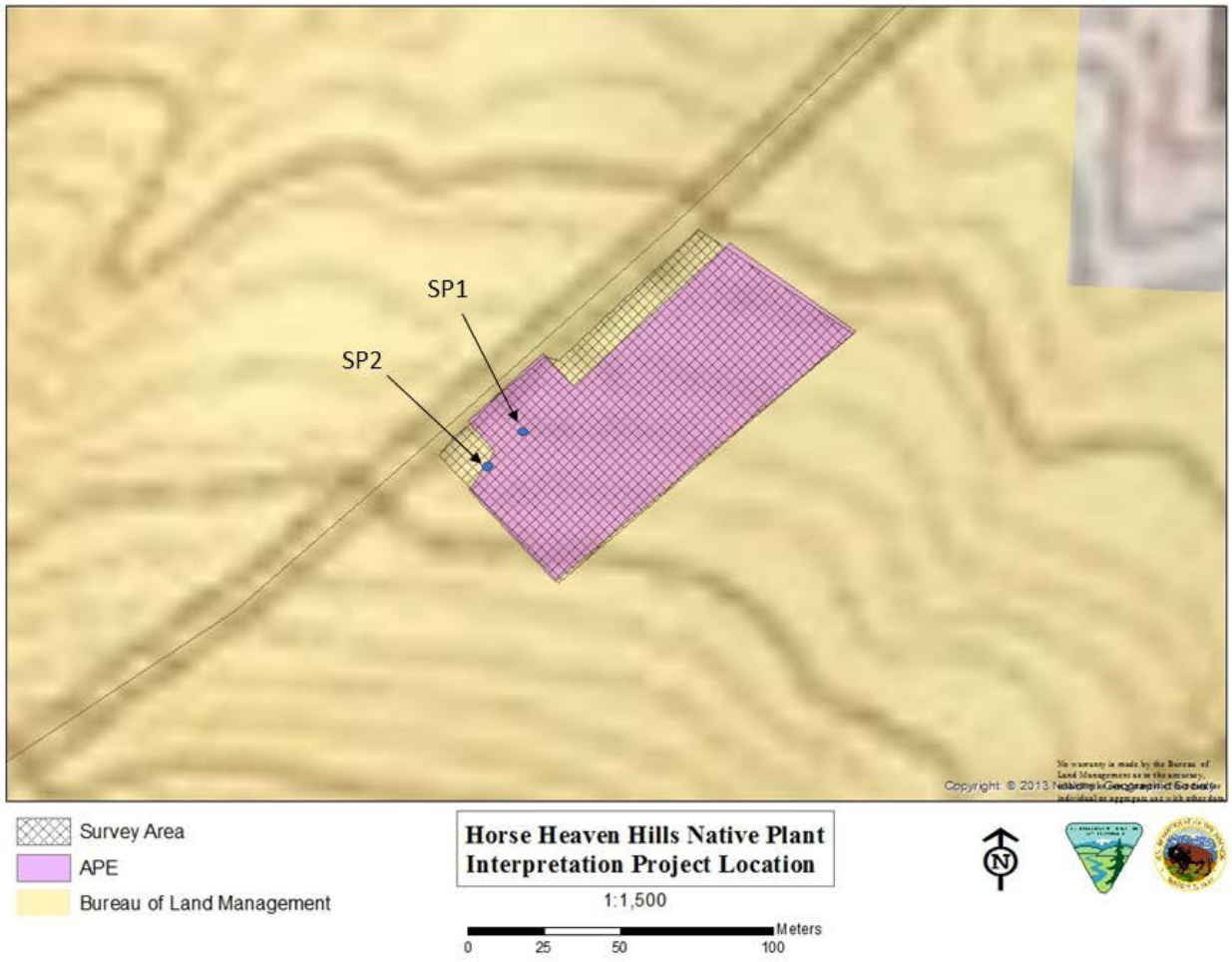


Figure 2. Overview of project APE, Class III survey area, and shovel probe locations (T.09N. R.26E. Sec. 30)

Photographs

Figure 1. ***(top)***: overview of survey location from the SW corner of the APE (car in parking lot); ***(bottom):*** detailed view of trailhead steps from parking lot.

Photographs (cont.)

Figure 2. ***(top):*** Overview of SP1 location (at shovel); ***(bottom)***: Overview of SP2 location (near shovel)

Photographs (cont.)

Figure 3. Overview of the survey area from the NE half of the APE

Attachment FEIS-Cultural-2

Adding Insult to Injury: The Governor's Climate Commitment Act Offer

A Memo Prepared by Matthew Randazzo V

On Behalf of the Snoqualmie Indian Tribe and NCAI President Fawn Sharp

This document is the official response on behalf of the Snoqualmie Indian Tribe and the President of the National Congress of American Indians, President Fawn Sharp, to recent communications from Governor Inslee's administration.

This document represents a collective in-depth analysis of the Inslee's Administration's first offer on how to address the unexpected veto of all tribal consultation provisions of the Climate Commitment Act, including the historic 'free, prior, and informed consent' provisions protecting sacred sites, burial grounds, and cultural resources.

The Snoqualmie Tribe's leadership, President Sharp, and I personally collaborated on the conception and drafting of the consent provisions in question with other tribal leaders and State Legislators. President Sharp is a United Nations recognized expert on this area of human rights law who has been studying this specific policy since her time receiving advanced legal training at Oxford University.

Disclaimer: We do not speak for anyone else. Every Tribe is sovereign and independent. This is a policy response and does not preclude any legal avenues we pay pursue.

Executive Summary of Our Analysis

The consent provisions of the Climate Commitment Act were historic, globally significant

human rights achievements won at great political cost by tribal leaders over seven decades.
The Governor issued a surprise veto of the consent provisions, and all tribal consultation within the Climate Commitment Act, based on false pretenses and without honoring the deals negotiated in the Washington State Legislature. This decision was a policy and political disaster that was roundly and broadly criticized in the harshest terms by even his closest allies.
It was a demonstration of a prejudice rarely exposed so openly: while no politician would ever suggest that a Governor has a unilateral right to tear down a church, mosque, synagogue, or attached religious cemetery to put up solar panels, the right to desecrate the sacred sites of Tribal Nations is now a right Governor Inslee explicitly reserved in law at great political cost.

Despite this hurtful and inexplicable decision, we offered no public comment for six months to give his administration time to mend the relationships he harmed and the policy vacuum he created.

The Governor offered his first proposal on how to move forward to Tribal Nations only last week. It came with no apology. Despite the damage done to his public image and relationships by his veto, the Governor's first offer to Indigenous leaders to address this veto is significantly worse than the language he vetoed.

In fact, it is demonstrably worse than the decades-old laws that we intended to replace.
The Governor's offer increases his personal authority to unilaterally overrule tribes when it comes to projects that desecrate their sacred sites, burial grounds, and archeological sites. The Governor's offer also conditions a Tribe's right to consult off reservation solely on the basis of

19th century treaties and executive orders, completely violating the inherent sovereign right of federally-recognized tribes to have a say on whether sacred areas can be destroyed.

Given the context and the hurt caused by the Governor's veto, and the universal criticism it received, this offer added insult to injury.

The Snoqualmie Indian Tribe and NCAI President Fawn Sharp categorically reject this proposal as the basis for any future negotiations and encourage all sovereign tribal leaders and nations to consider doing the same. They also call on the leaders of the Washington State Legislature to tell Governor Inslee that they expect him to respect the basic human rights of Tribal Nations and collaborate on restoring something close to, or better than, the provisions of the Climate Commitment Act he vetoed.

The Context of the Policy and Veto

Passing the tribal consent provisions of the Climate Commitment Act into law was one of the proudest achievements of 2021 for both the Washington State Legislature and many Tribal Nations and leaders. It was the culmination of seven decades of activism for FPIC ("Free, prior, and informed consent"), a globally adopted human rights standard that originated with the Tulalip Tribes here in Washington State.

It was truly an iconic and meaningful moment in the history of the struggle for civil rights in the Pacific Northwest, one whose importance will become clearer as time goes on, as tribes everywhere succeed in promoting consent-based negotiations instead of "tribal consultation" as the new human rights baseline.

For the first time in American history, a major law contained provisions that explicitly said a sovereign tribe could negotiate with the right to say “No” when it came to proposals that would desecrate a sacred site, archeological site, or burial ground. This provision was very narrowly applied and tightly defined, applying to only a single fund source created by the Climate Commitment Act.

As passed by the legislature, the bill ensured that tribes could say no to using carbon cap and trade revenue to fund a proposed climate change mitigation project if it desecrated a sacred site, archeological site, or burial ground. This issue has been treated as if the legislative language is extremely complex, but the previous sentence is all it means. It plainly says so in the text of the legislation. The Tribes did not ask for much.

In this one extremely sensitive circumstance, tribes wouldn’t have to “consult” and basically beg for their rights to be respected – in this one circumstance and with only this fund source, they could come to the negotiating table knowing their right to say “no” to the desecration of their cultural heritage was respected. The practical impact seems small, but the precedent is huge.

The Climate Commitment was the first major law in American history to simply recognize a sovereign Tribal Nation’s right to negotiate with an American state or federal government agency with the presumed right to say “yes” or “no” anywhere outside of a reservation.

The precedent it set was a new one, not just for the United States, but for most of the world’s great powers and richest countries. It was a global big deal in the human rights community, and Washington State was the historic first, and Native American tribal leaders and activists from

our own communities championed it. The language set the stage for Governor Inslee, and other Washington State leaders, to establish a legacy of protecting Tribal civil rights and irreplaceable cultural resources.

Countless state and tribal leaders, community of color coalitions, civil rights groups, environmental movement leaders, and legislators celebrated and took pride in the passage of the Climate Commitment Act's consent provisions. This was a collective achievement to be proud of. And as important as the precedent was, it was not exactly the riskiest policy proposition given its narrow application and recent experience here in Washington State.

After all, negotiating with a sovereign tribe on an issue that directly impacted them with the presumption that it required the tribe's "free, prior, and informed consent" to go forward was already the policy of the Attorney General's Office of Washington in appropriate circumstances. Attorney General Bob Ferguson became the first American leader to adopt "consent" instead of consultation as his state agency's tribal engagement policy 2 years ago and has had no issues. It is the same policy the Attorney General himself supported during the Legislative Session.

Governor Inslee himself supported "consent" policies in the I-1631 ballot initiative in 2018 and in his own presidential campaign proposals in 2020.

Even the traditionally conservative *Everett Herald* thinks consent's time had come:
"As sovereign nations, who either hold long-occupied lands or maintain cultural rights to their use, [tribes] should retain that right — as a government as equal in stature to the state itself — to

say no. As well, a denial isn't always the final word, as it can lead to further negotiations that can find compromise."

For some tribes that helped led the effort on the Climate Commitment Act, these historic provisions were the make-or-break, nonnegotiable necessity that decided their ultimate support for the bill. It was included in every negotiation, written and verbal, with the Governor's Office and State Legislature. There was no ambiguity about its inclusion. It was broadly discussed everywhere.

So Governor Inslee's surprise veto of this historic policy and civil rights victory was a devastating, hurtful, and destructive act that caused extreme hurt to many tribal leaders and extreme damage to Washington State's relationship with many tribes.

When the Governor grossly exaggerated to the media what the consent provisions did and denigrated their drafting, he insulted the achievement of tribal leaders while making provably false claims that undercut trust in his administration further.

Countless civil rights groups, communities of color coalitions, environmental groups, and legislators condemned his veto and behavior. The Chairs of both the House and Senate Natural Resource Committees, both moderate legislators representing a rural swing district, issued blistering statements.

The New Republic summed up the national response from Jay Inslee's voter base: "What you're left with is yet another egregious example of how even the most progressive officials, when

pressed to relinquish a modicum of their government's power in the name of righting institutionalized wrongs of colonialism, continue choosing power over Indigenous rights."

The Governor's veto was one of the most broadly and aggressively condemned actions of his entire career as a public servant. It was a damaging and hurtful mistake that met near universal condemnation, condemnation that also extended to the Governor's regrettable public comments to the press about which tribal leaders were "real" tribal leaders in his mind.

Given this particular context, when the Governor's Office made a unilateral offer to negotiate legislation to address his veto, the natural assumption would be that his offer would exist within the context of the political reality that he had plainly made a mistake and become an obstacle to an inevitable civil rights movement victory.

The unfortunate reality is the Governor's offer added insult to injury.

Issues with the Governor's Offer in Detail

A copy of the document with highlights is attached:

1. Consultation on Cultural Resources is an Inherent Sovereign Right of All Tribes and Does Not Require a Treaty, Executive Order, or Law

In section 2 and 4 of the Governor's proposal, the right to consult is predicated on the project either being on reservation or "on lands within which a tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order."

Predicating consultation rights on whether a tribe can show a treaty or executive order from the U.S. government specifically granting that right, or whether the state recognizes it, is legally preposterous and culturally offensive. It fits the textbook definition of imperialist and colonialist, predicating tribal rights solely on the paper trail left by the United States federal government across centuries of human rights abuses.

All sovereign tribes inherently have the right in their ancestral lands to protect their burial grounds, archeological resources, and sacred sites regardless if they agreed to sign a treaty, or if the US government chose to honor it. It is an entirely independent human right already recognized by the United Nations Declaration of the Rights of Indigenous Peoples, which the Biden Administration supports.

As President Sharp has asked me to point out, literally any tribal law student can tell you that cultural resources protections are not an adjudicated treaty right for any tribe. Besides, no “Treaty Tribe” theoretically wants or should require a court to decide whether it can even consult on its sacred sites.

In multiple communications, both verbal and written, we have been clear that the Governor Office's repeated insistence on using "treaty rights" as a foundation of this conversation is offensive, inadequate, and incorrect.

2. Inslee Administration Proposes Tribal Consultation Definition to be Filled in Later by Governor

After vetoing the best tribal consultation language ever put into law in the United States the Governor's Office proposes to replace it with a blank to be filled in unilaterally at a later date ... by the Governor's Office.

After 57 tribes across the Northwest consulted and created together the desired consultation process (through the Affiliated Tribes of Northwest Indians), and the Washington State Legislature passed that process into law, the offer from the Governor's Office after six months is for tribes to accept something undefined that the administration will figure out later.

Directly quoted, section 1, the Governor's Office proposes the administration will "develop an improved state agency tribal consultation process that meets the requirements of this section."

This proposal replaces the deliberative multitribal and legislative process that formed the original language with a unilateral executive process. It is offensive to tribal sovereignty and the will of the Legislature.

3. The Governor Retains Dictatorial Authority to Overrule Tribal Nations on Their Own Cultural Resources and Sacred Sites

The Governor's Office recognizes that tribes may consult on projects paid by Washingtonian tax dollars that desecrate their burial grounds, archeological sites, or sacred sites, and can request a

meeting with the Governor or formal mediation. This is the bare minimum that any religious or spiritual community in Washington can expect if

their spaces are threatened.

However, at the end of this process, it remains the Governor's right to unilaterally overrule tribes. In section 7, the Governor's Office retains "their right to a final decision that meets their separate obligations and interests."

Given recent events, we are diametrically opposed to further empowering any Governor when it comes to desecrating tribal sacred lands.

4. Washington State is not a Sovereign Government

Lastly, the Inslee Administration continues to denigrate tribal sovereignty by claiming to be "sovereign" equals to tribal heads of state.

The United States of America is the sovereign counterpart to federally recognized tribes, not the subsidiary provincial government located in Olympia. This represents one of the many reasons this negotiation appears to operate according to an inappropriate balance of power dynamic.

In Section 7, the Governor's proposal says: "The mediation shall be conducted as a government=to-government proceeding, with each sovereign government retaining their right to a final decision." The "right to a final decision" means the Governor can overrule a tribe on desecrating its most sacred places and a tribe can ... sue? Complain?

In the Governor's proposal, only WA State has the right to say "yes or no", not the actually sovereign Tribal Nations, in this proposal. In this unbalanced power dynamic, "sovereign" applies only to the State government – the exact opposite of reality.

In Closing

Snoqualmie Chairman Robert de los Angeles, the Snoqualmie Tribal Council, and NCAI

President Sharp all prefer to resolve this impasse with a legislative compromise that addresses gubernatorial concerns without erasing a historic human rights achievement that they could never surrender in good conscience.

Thus far, much like the veto that unilaterally created this impasse, current negotiations have been dictated from above by the Governor while offering absolutely nothing as concessions.

We believe that this is inconsistent with the values of Washington State and the values and achievements of the Washington State Legislature. We also believe it is inconsistent with political reality in 2021. We are confident that the rights of sovereign Tribal Nations to protect their most sacred lands from desecration will be recognized in Washington State law. We are prepared to work relentlessly, systematically, and unapologetically towards that goal however long it takes.

Sincerely,

MRV

Senior Adviser and State Lobbyist for Snoqualmie Indian Tribe

Senior Adviser to NCAI President Fawn Sharp

Co-author of Tribal provisions in Climate Commitment Act and I-1631

Former Senior Adviser to the Commissioner of Public Lands

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

October 22, 2021

Subject: Response to Matthew Randazzo's memo

Dear Tribal Leaders:

As your State Historic Preservation Officer I feel it is important to respond to Matthew Randazzo's memo of October 19th accusing the state of desecrating burials, and archaeological, cultural and sacred sites. This is not only untrue and disappointing, but the state, in conjunction with the tribes, has developed some of the most comprehensive cultural resource protections in the nation. We are proud of the legislation we have passed together but more importantly, of the cultural resource partnership that we have developed over decades of working in collaboration.

Since 1989 the state has protected archaeological sites on both private and public property. An archaeological site cannot be disturbed without a permit from the Department of Archaeology and Historic Preservation and the permitting process goes through a 30 day tribal review. When taken to court over the permitting process the agency has vigorously defended the law.

Since 2005 the state has required that state funded projects, including state pass through funding, to go through a state and tribal consultation process to identify potential impacts to sacred places, archaeological and cultural sites. Although originally written as Executive Order 05-05 it was passed as law, as part of the state capital budget, every subsequent year. This year, the Executive Order 05-05 was replaced, after tribal review, with stronger language and a requirement that project proponents file their tribal consultation documents with the Department of Archaeology and Historic Preservation. The new Executive Order 21-02 was immediately codified in the state capital budget. This has actually *increased* tribal consultation for even the smallest state funded projects. Further, the state does not sign any mitigation agreements until a tribe has signed first or has notified the agency that they approve.

Prior to 2008 the reporting of Native American skeletal remains was *voluntary*. In response, the agency, in coordination with tribes, prosecutors, law enforcement, real estate developers, the timber industry and county officials, rewrote the human remains law to ensure that reporting was *mandatory*. The legislation also established the position of a State Physical Anthropologist in the Department of Archaeology and Historic Preservation and created a human remains lab that resulted in the immediate recovery and repatriation of Native American remains to the appropriate affected tribes.

The state's repatriation process has been so successful that when the Corps of Engineers couldn't manage the repatriation of the Ancient One to the five claimant tribes, Congress chose to return the Ancient One to the Washington State Department of Archaeology and Historic Preservation knowing that the agency could manage the repatriation when the federal agency had failed. The actual repatriation process, conducted at the Burke Museum, took the agency less than ten minutes. The amount of time that all the tribal representatives needed to sign the transfer documents.

In terms of sacred and cultural sites Washington State has the highest number of tribal traditional cultural properties listed on the National Register of Historic Places in the country. From Snoqualmie Falls, to Mt. St. Helens the Department has worked closely with tribes and the National Park Service to get tribal spiritual and cultural places recognized on the National Register of Historic Places. While listing does not offer protection it does require the federal government to take a higher standard of care when proposed projects may affect those important places.

While I understand the concern that Green Energy projects might have impacts to tribal cultural resources what has not been stated is that the majority of these projects are very likely to go through the federal environmental and cultural review process, not a state process. The federal process is known as Section 106 and nationally, tribes have been discussing the problem that the federal process is weak. It doesn't mandate an outcome and it doesn't require consideration of sacred sites, only cultural and archaeological sites that a federal agency has determined is eligible for listing on the National Register of Historic Places.

As your State Historic Preservation Officer I have been very vocal at a national level about the fact that the federal process had deficiencies and the problems tribes have faced with having to prove their sacred and cultural places are historically significant. In Washington, we do not sign Memorandum of Agreements with any federal agency prior to receiving documentation or signatures that the consulted tribes are in agreement with the terms. This greatly improved the consultation process between the federal government and the tribes as it forced the federal government to take the appropriate standard of care that was previously insufficient.

The issue of Free, Prior and Informed Consent (FPIC) is a difficult one to apply in the U.S. and I have received phone calls from tribal lobbyists, attorneys and Chairs informing me that they are not on board with FPIC for cultural resources for a variety of reasons. First and foremost, it is not clear how tribal consent would function on state or private lands and still meet the Constitutional requirement for due process. It is not clear what would happen when a tribe has a project and another tribe or governmental agency doesn't give their consent. The rights of a private property owner in this situation are not clear.

None of this is to say that we can't do better when identifying Native American sacred and cultural places but we are doing far better than any other state in the U.S. If we want to put our focus into improving cultural resource protections we should jointly work on improving the federal process. Federal agencies are often the worst culprits when ignoring tribal concerns and refusing to acknowledge sacred and cultural places.

In the decades of work here in Washington State our agency, working in partnership with tribal cultural resource staff, have found ways to minimize harm to critical historic places and even slowed projects such as a coal terminal project when the federal government refused to follow their own cultural resource laws.

I am very proud of the relationship our agency has created with tribal cultural resource staff. I am also proud that over the years state agencies have increased both their tribal liaison positions and cultural resource staff in response to the Executive Orders.

On a personal level I have been called too tough, too outspoken, too volatile, and worse. I have been insulted, called names, yelled at, harassed and threatened with legal action. The issue of cultural

resource protection is very emotional and is often rife with insults and no apologies. But with all those insults *no one* has ever accused me, or the agency, of not caring about the cultural resources we work hard to protect.

There is a way forward where we can continue to balance cultural resource protection with project delivery. As your State Historic Preservation Officer I am looking forward to working with everyone on a path forward that can bring us important green energy projects while ensuring the consideration of the most important sacred and cultural places to everyone. The work we do together on cultural resource protection, and the relationships we have built, is often envied by those in other states.

To help frame what we do I am adding some additional information here:

1. Last year DAHP received 14, 027 reviews for cultural resource impacts for proposed federal and state projects.
2. Less than 3% of the state reviews have resulted in the need for mitigation.
3. Washington State is one of only a few states that protect archaeological sites on private lands. Any disturbance to an archaeological site requires a state permit. All state archaeological permits go through tribal review and consultation. Last year 86 permits were issued after consultations with 35 tribes.
4. The DAHP is known for having the most comprehensive cultural resource Geographic Information Systems platform in the United States shared with tribes, state and federal agencies, local governments, land use and transportation planners.
5. Executive Order 21-02, which is currently in law, requires tribal consultation on archaeological, cultural and sacred sites before any state funds can be released for ground disturbing activities. The consultation documentation must be provided to DAHP.
6. DAHP has a state physical anthropologist on staff with a human remains lab that ensures Native American human burials are recovered in conjunction with tribes and repatriated at a time frame established by the affected tribe. Last year 16 cases of Native American remains were repatriated to 16 Tribes.
7. DAHP has civil penalty authority. When an archaeological site is impacted without a permit the agency can fine the party up to $5,000, and require mitigation and site remediation.
8. Executive Order 21-02 has increased tribal consultation as project proponents must now document their tribal consultation process and results.

Please feel free to reach out with any questions or concerns.

Most Sincerely,

Allyson Brooks

Allyson Brooks Ph.D
Director/State Historic Preservation Officer
360-480-6922
Allyson.brooks@dahp.wa.gov

Horse Heaven Wind Farm

SCOUT CLEAN ENERGY

Figure 9

Representative Viewpoint Locations

BENTON COUNTY, WA

- Viewpoint with Direction
- Option 1 Turbine Location
- Proposed Substation
- Proposed Transmission Line
- Project Lease Boundary
- Solar Siting Area
- Existing Turbine
- Existing Substation
- Existing Transmission Line

TETRA TECH

Reference Map

1:150,000 WGS 1984 UTM Zone 11N

0 1 2 4 6 8 Miles

NOT FOR CONSTRUCTION

R:\PROJECTS\HORSE_HEAVEN_6430\VIEWSHED\MAPS\VISUAL_SIMULATION_LOCATIONS_20201216.mxd

Horse Heaven
CLEAN ENERGY CENTER

Horse Heaven Clean Energy Center

March 9, 2022 Presentation to Jessica Lally

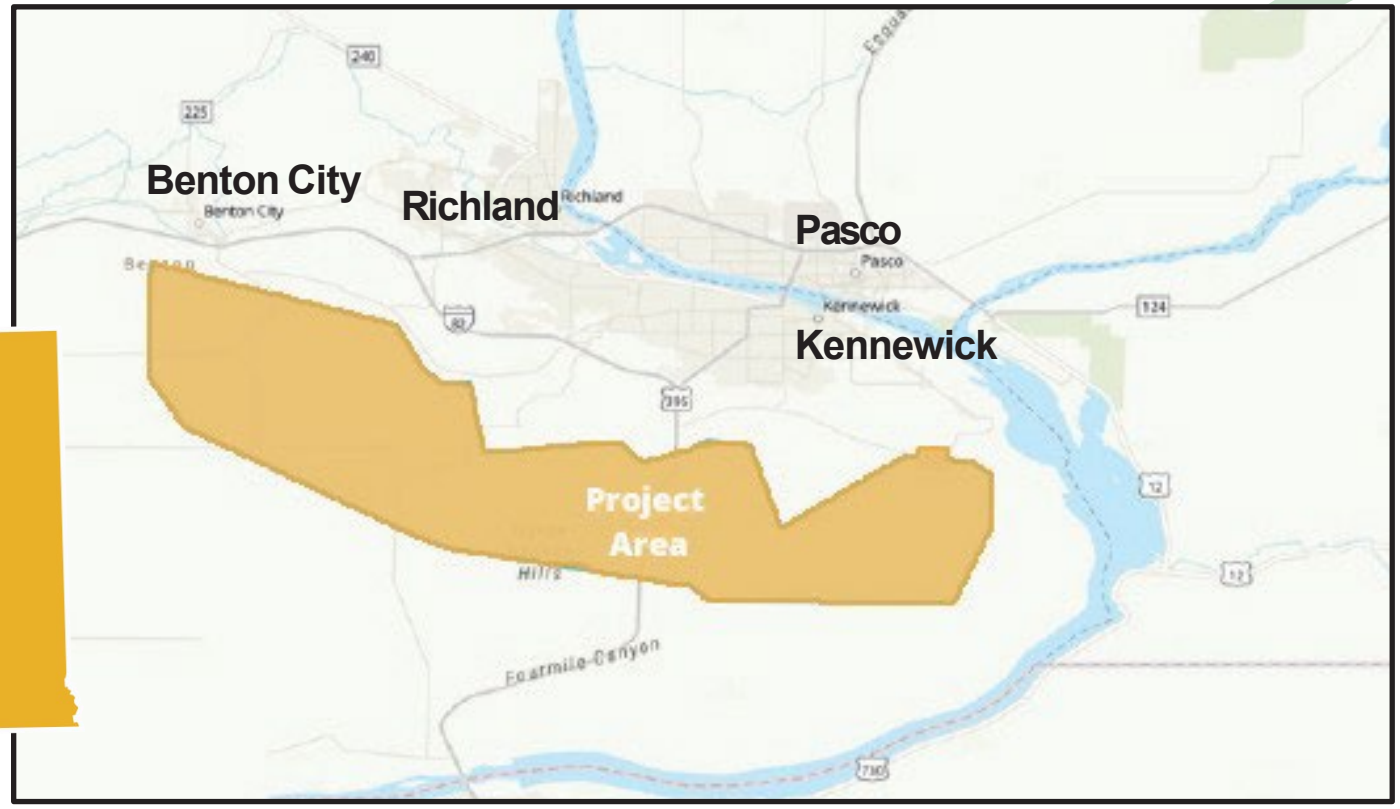
Today's Agenda:

- Project Overview and Introduction
- Project Updates
- EFSEC Status
- Discussion / Q & A

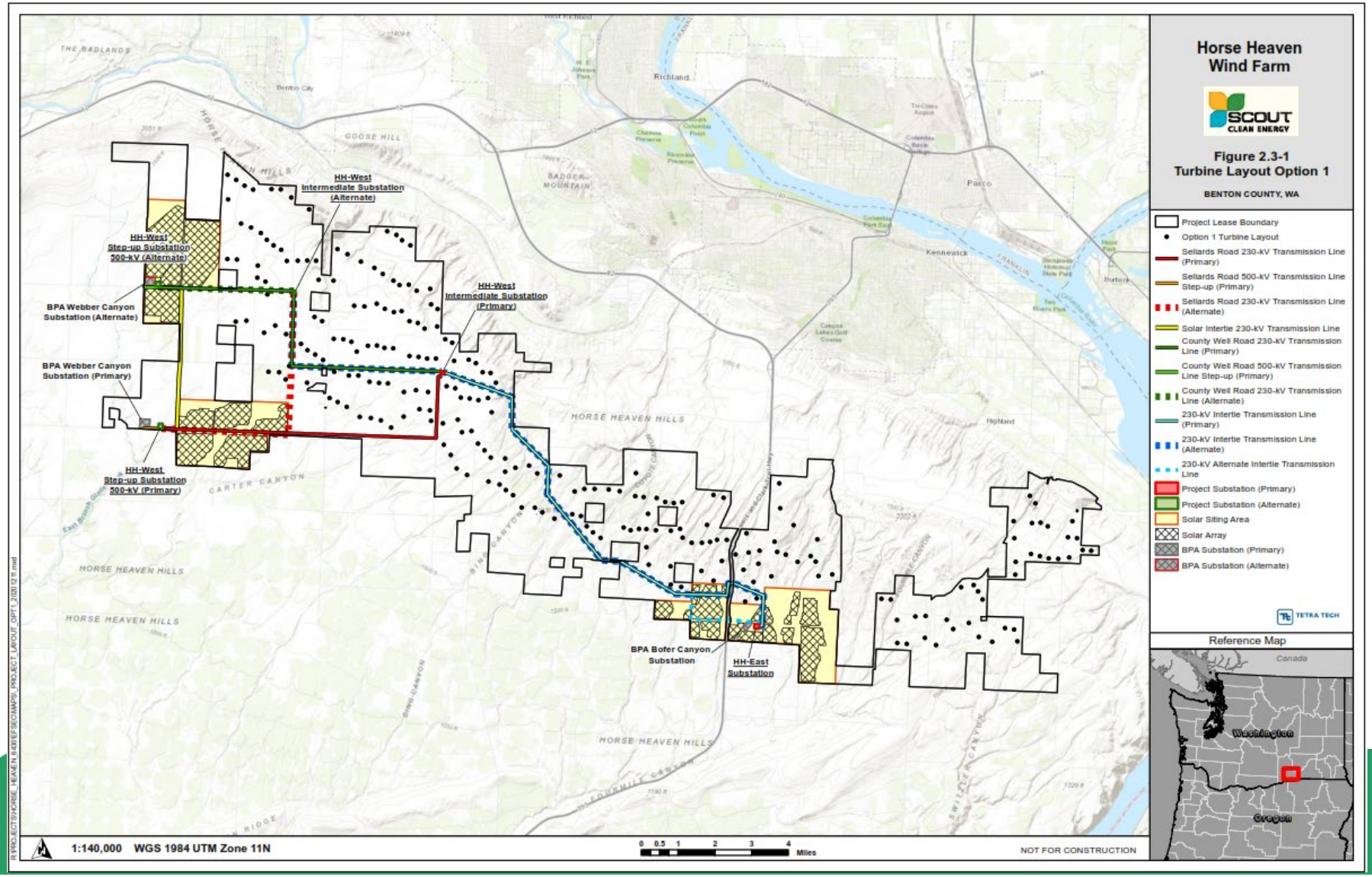
Horse Heaven
CLEAN ENERGY CENTER

Project Introduction and Update

Horse Heaven - Project Location



Project Overview



Horse Heaven Clean Energy Center

- 1,150 Megawatts
  - 244 wind turbines maximum
  - Solar Panels
  - Battery Energy Storage Systems
  - In total 6,869 acres disturbance (for life of project)
    - 1.1% of existing GMA Agriculture zoned lands in Benton County

Horse Heaven
CLEAN ENERGY CENTER

EFSEC Status - Permitting

State of Washington Energy Facility Site Evaluation Council

- Application for Site Certification submitted February 8, 2021
- Responding to several SEPA Scoping Data Requests to support Environmental Review process
- 10-month extension request approved by EFSEC to December 8, 2022.
- Draft Environmental Impact Statement scheduled for public review/comment Q2 2022
- Adjudicative process to follow with Final Environmental Impact Statement expected Q4 2022.
- EFSEC Determination and recommendation to Governor expected Q1 2023
  - 60-day consideration period for Governor decision

Horse Heaven
CLEAN ENERGY CENTER

Discussion

Allyson Brooks Ph.D.
State Historic Preservation Officer/Executive Director
Department of Archaeology and Historic Preservation

3/2/2022

Kathleen Drew
Chair, Energy Facility Site Evaluation Council

Craig Bill
Director,
Governor's Office of Indian Affairs (GOIA)

Dear Director Brooks, Chair Drew, and Director Bill:

I write today to encourage you to come together and meet with the Tribes impacted by SCOUT Clean Energy's Horse Heaven Clean Energy Center. With the increase in renewable energy projects in eastern Washington, it is imperative that the State engage the affected Tribes in meaningful discussions regarding Cultural Resources and Sacred Places. As the applicant, SCOUT understands the need for government-to-government consultations with the Tribes before meaningful discussions can be had between the Tribes and SCOUT. We appreciate the leadership of the Department of Archaeology and Historic Preservation to address these communication issues. We would urge the Energy Facility Site Evaluation Council and the Governor's Office of Indian Affairs, including the Chief of Staff, if appropriate, to designate informed representatives to meet with the Tribes to discuss ways to improve the communication between the Tribes, EFSEC and State Government Agencies.

We respect the EFSEC process and fully understand the need to comply with the statutory requirements contained in Chapter 80.50 of the Revised Code of Washington. We believe that the discussions not related to the adjudication process can and should occur between Tribes, EFSEC and DAHP to improve overall communication of how Tribal issues will be addressed in the EFSEC process.

SCOUT remains open to address any Tribal Governmental concerns with our proposed project and would welcome any opportunity to meet with Tribal representatives to address them.

Thank you for your consideration of my request,

Darin Huseby
Development Director – Western U.S.
SCOUT Clean Energy

Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

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Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 5
Representative Viewpoint 3

Existing Conditions and Project Simulations

BENTON COUNTY, WA

- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Substation/BESS
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	128
Horizontal field of view (deg):	56
Vertical field of view (deg):	15
Max. WTGs within field of view:	244 / 150
Max. Visible WTGs at tip height:	239 / 150
Max. Visible WTGs at hub height:	219 / 139
Closest WTG (mi):	2.5 / 2.8
Furthest WTG (mi):	28.1 / 27.6
Closest Solar Array (mi):	2.1
Closest Transmission Line (mi):	4.2
Closest Substation / BESS (mi):	Not in frame

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 8 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 8 inches from the eye.

NOT FOR CONSTRUCTION

TETRA TECH

Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 8
Representative Viewpoint 5

Existing Conditions and Project Simulations

BENTON COUNTY, WA

- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	236
Horizontal field of view (deg):	58
Vertical field of view (deg):	15
Max. WTGs within field of view:	101 / 76
Max. Visible WTGs at tip height:	101 / 76
Max. Visible WTGs at hub height:	101 / 76
Closest WTG (mi):	4.7 / 4.7
Furthest WTG (mi):	9.9 / 9.8
Closest Solar Array (mi):	No view
Closest Transmission Line (mi):	No view
Closest Substation / BESS (mi):	No view

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 8 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 8 inches from the eye.

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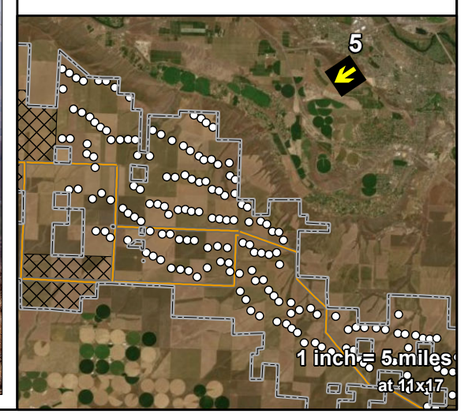
TETRA TECH



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Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

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Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 10
Representative Viewpoint 7

Existing Conditions and Project Simulations

BENTON COUNTY, WA

- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Substation/BESS
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	60
Horizontal field of view (deg):	58
Vertical field of view (deg):	15
Max. WTGs within field of view:	122 / 90
Max. Visible WTGs at tip height:	118 / 87
Max. Visible WTGs at hub height:	110 / 85
Closest WTG (mi):	5.8 / 5.8
Furthest WTG (mi):	11.9 / 11.8
Closest Solar Array (mi):	3.1
Closest Transmission Line (mi):	2.2
Closest Substation / BESS (mi):	No view

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 8 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 8 inches from the eye.

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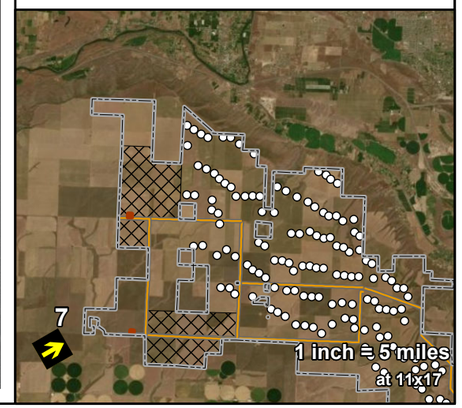


Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 13
Representative Viewpoint 9

Existing Conditions and Project Simulations

BENTON COUNTY, WA

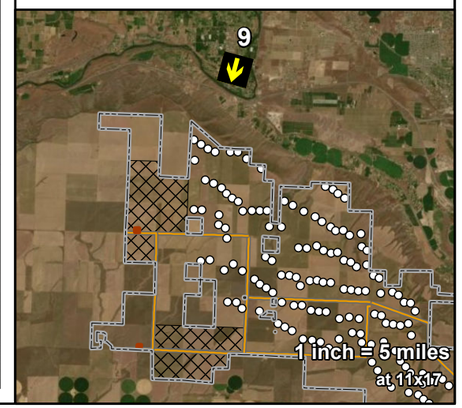
- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Substation/BESS
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	195
Horizontal field of view (deg):	73
Vertical field of view (deg):	19
Max. WTGs within field of view:	61 / 47
Max. Visible WTGs at tip height:	5 / 5
Max. Visible WTGs at hub height:	4 / 4
Closest WTG (mi):	2.7 / 2.7
Furthest WTG (mi):	9.7 / 9.6
Closest Solar Array (mi):	No view
Closest Transmission Line (mi):	No view
Closest Substation / BESS (mi):	No view

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 6 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 6 inches from the eye.

NOT FOR CONSTRUCTION

TETRA TECH



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Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

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Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 16
Representative Viewpoint 12

Existing Conditions and Project Simulations

BENTON COUNTY, WA

- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Substation/BESS
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	61
Horizontal field of view (deg):	73
Vertical field of view (deg):	19
Max. WTGs within field of view:	57 / 40
Max. Visible WTGs at tip height:	53 / 40
Max. Visible WTGs at hub height:	52 / 37
Closest WTG (mi):	2.5 / 2.5
Furthest WTG (mi):	8.7 / 8.6
Closest Solar Array (mi):	0.2
Closest Transmission Line (mi):	0.2
Closest Substation / BESS (mi):	0.5

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 6 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 6 inches from the eye.

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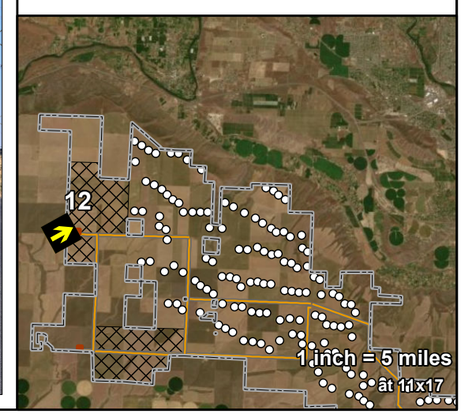

Existing Conditions

Project Simulation Option 1
244 WTG

Project Simulation Option 2
150 WTG

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Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 17
Representative Viewpoint 13

Existing Conditions and Project Simulations

BENTON COUNTY, WA

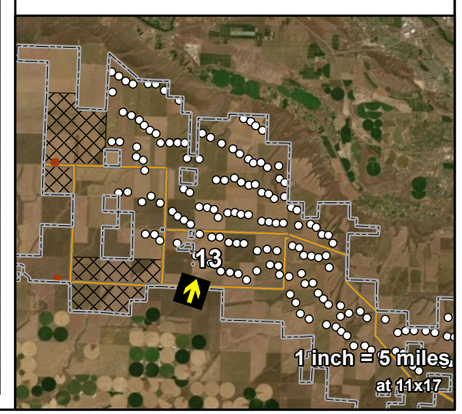
- Viewpoint Location and Photo Direction
- Project Lease Boundary
- Proposed Turbine Location
- Proposed Substation/BESS
- Proposed Transmission Line
- Solar Siting Area

View direction (deg):	18
Horizontal field of view (deg):	73
Vertical field of view (deg):	19
Max. WTGs within field of view:	73 / 54
Max. Visible WTGs at tip height:	69 / 52
Max. Visible WTGs at hub height:	65 / 51
Closest WTG (mi):	1.1 / 1.1
Furthest WTG (mi):	7.3 / 7.1
Closest Solar Array (mi):	Not in frame
Closest Transmission Line (mi):	0.2
Closest Substation / BESS (mi):	No view

To approximate how the project will appear to a viewer in the natural setting, this sheet should be printed at 11 x 17 inches, full size with no scaling, and viewed at 6 inches from the eye. If viewed on a computer monitor, the document should be scaled at 100% and viewed at 6 inches from the eye.

NOT FOR CONSTRUCTION

TETRA TECH



Casey Barney
Interim Program Manager
Yakama Nation Cultural Resources Program
PO Box 151, Toppenish, WA 98948

July 7, 2021

Dear Mr. Barney,

Thank you for the technical input the Yakama Nation's Cultural Resource Program (CRP) has provided to Scout Clean Energy and its proposed Horse Heaven Clean Energy Center project. Your initial feedback has helped us to better understand areas and locations of concern, importance, and interest as we prepare comprehensive field studies of the proposed Horse Heaven Clean Energy Center siting area.

Our team is striving to ensure that the concerns of the Yakama Nation and its members are clearly recognized and meaningfully addressed, and the initial technical feedback greatly informed our approach. While our team fully understands and respects the Yakama Nation's request that all formal consultation occur through the government-to-government process overseen by the Washington State Energy Facility Siting Council (EFSEC), Scout Clean Energy would like to extend an offer to the Yakama Nation for sharing further technical input and project details. As the Yakama Nation considers this project and its potential impacts, the Scout Clean Energy team can make itself available to further learn and understand the Yakama Nation's cultural history and interests as appropriate. We are also happy to provide any relevant proposed project details that are helpful and of interest to the Yakama Nation.

In the near term, cultural studies have progressed and updated reports are being prepared. Scout Clean Energy has in the past offered these studies and reports to the Yakama Nation for review and comment prior to final submittal. We continue to make this offer and will meet with you at your convenience. Please let us know if there may be an interest and when such exchanges may be appropriate.

Thank you for your time and consideration,

Sincerely,

Dave Kobus, Horse Heaven Clean Energy Center Project Manager

November 8, 2022

Confederated Tribes and Bands of the Yakama Nation
PO Box 151
Toppenish WA 98948

Dear Chairman Gerald Lewis and Members of the Yakama Nation Tribal Council,

I am writing to you as the CEO of Scout Clean Energy. My company is proposing to build the Horse Heaven Clean Energy Center, a renewable energy project which will be a hybrid facility consisting of wind and solar power.

Currently, we are a few weeks away from the Washington State Energy Facility Site Evaluation Council (EFSEC) issuing the Draft Environmental Impact Statement (DEIS) on our proposed project. We have been in regular communication with the Yakama Nation's Archeologist, Jessica Lally, and have received a May 12th, 2022, letter from Casey Barney, Interim Program Manager of the Yakama Nation Cultural Resources Program. They have both expressed concerns with our proposed wind turbine layout on Traditional Cultural Properties. Most recently, the project team met with Dr. Allyson Brooks, State Historic Preservation Officer and Director of the Department of Archaeology and Historic Preservation (DAHP), and Jessica Lally to address the Yakama Nation's concerns with the project with a particular focus on the wind turbines in proximity to Webber Canyon. While this meeting did not result in addressing the Yakama Nation's concerns with the project, we believe further discussion will be productive in resolving the Yakama Nation's concerns.

As the CEO of Scout Clean Energy, I and my team both respect and take seriously the Yakama Nation's treaty rights, concern with cultural heritage, and potential impacts to natural and cultural resources. We played a small role in communicating in writing to both EFSEC and DAHP, our support for better State of Washington communication and consultation with the Yakama Nation about our project (letter enclosed).

In order to find a balance between our proposed renewable energy project and impacts to the Yakama Nation's cultural heritage I would welcome the opportunity to meet with you and the Tribal Council to listen to your concerns firsthand and discuss ways we might be able to resolve them. We have been discussing options to mitigate the impacts of the project that may be of interest to the Yakama Nation. This could include land access agreements within the project boundary, funding for the Yakama Nation's Cultural Resource Program, tribal apprenticeships, Fish and Wildlife funding, and a potential royalty agreement. These are some of the ideas we are proposing, but we are interested in hearing from the Yakama Nation what you believe to be appropriate. Again, I and my team would welcome the opportunity to listen and learn more about the Yakama Nation's history, culture, and concerns with our project. We recognize that for centuries the Yakama Nation has had a connection to the cultural, spiritual, and natural habitats of the Horse Heaven area.

In closing, I hope we can come together and attempt to resolve any differences we may have with the project in a way that respects our joint goals to address climate change and the Yakama Nation's historic commitment to protecting our cultural and natural environment. Thank you in advance for considering our request to meet with the Tribal Council at your earliest convenience.

Respectfully,

Michael Rucker

President and Chief Executive Officer

CC:

Jessica Lally

Dr. Allyson Brooks

Darin Huseby

Dave Kobus

Tim Thompson

November 4, 2022

Jessica Lally
Yakama Nation Cultural Resources Program
PO Box 151
Toppenish WA 98948

Subject: **CONFIDENTIAL** - Yakama Nation Traditional Cultural Properties (TCP's)

Horse Heaven Clean Energy Center (HHCEC) representatives participated in a video meeting convened by Dr. Allyson Brooks, DAHP, with the Yakama Nation on Friday October 21st, 2022. Those in attendance were:

- Jessica Lally, Yakama Nation Archaeologist
- Dr. Allyson Brooks, State Historic Preservation Officer/Executive Director DAHP
- Sydney Hanson, DAHP
- Darin Huseby, VP, Scout Western Region
- Dave Kobus, HHCEC PM, Scout
- Tim Thompson, Thompson Consulting Group
- Ryan Thompson, Thompson Consulting Group

The primary purpose of the meeting convened by Dr. Brooks was to discuss the status of the HHCEC and the Yakama Nation's concerns with the project. Tim Thompson stated that Scout is motivated to listen to assure that the Yakama Nation's concerns are clearly understood. In addition, Scout is interested in discussing mitigation actions that are of interest to the Yakama Nation.

The discussion also focused on a topic from prior correspondence dated May 12th, 2022 from Casey Barney (Interim Program Manager, Yakama Nation Cultural Resources Program) wherein certain wind turbines within the proposed HHCEC layout were identified as having either direct or potential impact on Traditional Cultural Properties (TCP's). A request was also made for additional viewshed simulations. Jessica Lally pointed out that the Yakama Nation remains concerned about the turbines specifically in proximity to Webber Canyon and has requested their removal. During the Oct 21st meeting, Jessica Lally indicated that a written response to the May 12th letter should be provided. Tim Thompson and Dave Kobus spoke to the inability of Scout to remove those turbines due to their importance to the financial viability of the project. More discussion is required on this issue.

Response to May 12th Letter

Scout has opted to maintain the original project scope, which includes all wind turbines requested in the EFSEC application. Our reasoning is that the Draft Environmental Impact Statement (DEIS) is nearly complete and will trigger a public comment period once released. Waiting until the DEIS has been released and evaluated will allow for careful consideration of all potential impacts including turbines in the collective rather than attempting to address concerns individually.

During a June 16, 2022 conference call with the Yakama Nation, Dave Kobus discussed the additional visual simulations, noting that many of the wind turbines identified in the May 12th correspondence are the most productive on the site and their loss would severely impact the project's economic viability. This point cannot be overstated. Wind energy projects are often dependent on a small portion of the turbines producing at a higher level in order to bring the entire project's average production to a level that can sustain feasible economics at power prices that are acceptable to rate payers.

Current Development Status

In parallel with the HHCEC permitting effort, Scout is engaged with offtake counterparties in confidential negotiations. To enable meaningful offtake negotiations, Scout has fully analyzed the energy production potential along with the construction cost of each wind turbine site and has optimized its plan for construction. While Scout continues to seek ways to further optimize the wind turbine layout to improve project economics and minimize environmental impacts, the wind turbines identified by the Yakama Nation in the May 12th correspondence as having direct impact on Traditional Cultural Properties (TCP's) cannot simply be moved elsewhere without jeopardizing the financial viability of the project.

Next Steps

The parties discussed Scout's intended actions to:

1. Respond to the May 12th, 2022 letter, which is included above.
2. Develop a proposal for the Yakama Nation's consideration shortly after the DEIS is released.
3. Send a letter requesting a meeting with the Tribal Council.

Darin Huseby also confirmed Scout's desire for an opportunity to present mitigation options that may be of interest to the Tribal Council.

Please reach out with any questions or comments associated with these topics.

Respectfully,

Darin Huseby

Vice President of Development – West Region

Cc:

Dr. Allyson Brooks, State Historic Preservation Officer/Executive Director DAHP
Sydney Hanson, DAHP
Tim Thompson, Thompson Consulting Group

Attachment FEIS-Visual-3

Horse Heaven Wind Project

SCOUT CLEAN ENERGY

Figure 1

Expected Shadow Flicker Impact Area
244 Turbines (GE 2.82-127 89m)

BENTON COUNTY, WA

- Receptor - Participating
- Receptor - Non-participating
- Option 1 Turbine Location
- Project Lease Boundary

Shadow Flicker (Hours per Year)

- >15 - 30
- >30 - 50
- >50 - 100
- >100 - 200
- >200

TETRA TECH

Reference Map

1:140,000 WGS 1984 UTM Zone 11N

0 0.5 1 2 3 4 Miles

NOT FOR CONSTRUCTION

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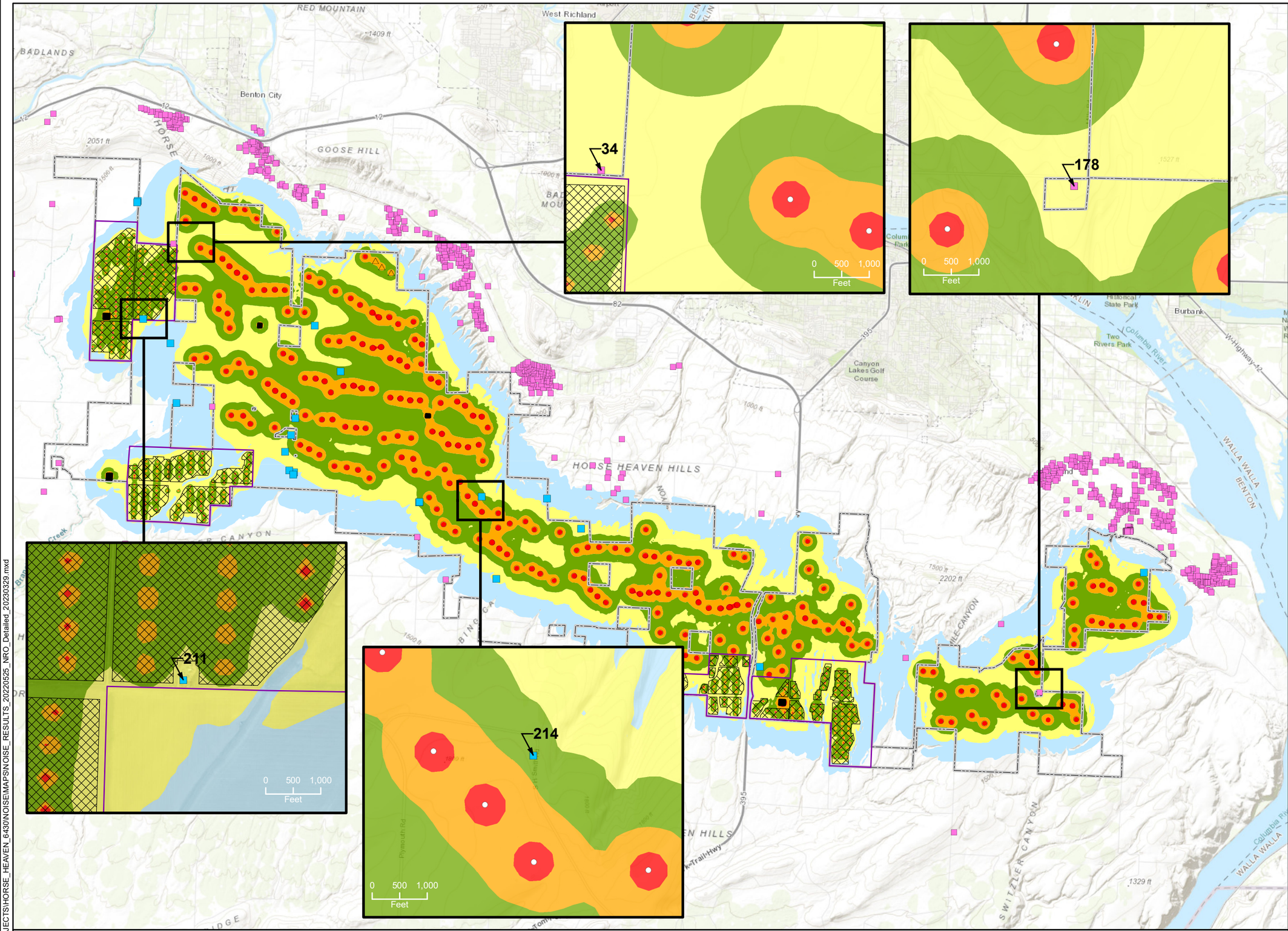
Attachment FEIS-Noise-1

Horse Heaven Wind Farm

SCOUT CLEAN ENERGY

Figure 4.1.1-2
Operational Received Sound Levels
Option 1 G.E. 2.82 MW Wind Turbines (NRO Mode)

BENTON COUNTY, WA



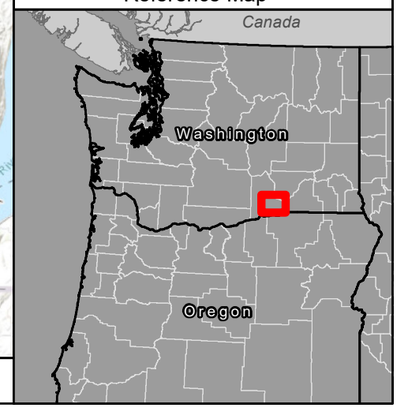
Receptor - Participating
Receptor - Non-participating
Proposed GE 2.82 Wind Turbine
Proposed GE 2.82 Wind Turbine - NRO 106
Project Lease Boundary
Proposed Project Substation
Solar Siting Area
Solar Array

Sound Level Contour

40 - 45 dBA
45 - 50 dBA
50 - 55 dBA
55 - 60 dBA
> 60 dBA

TETRA TECH

Reference Map



1:140,000 WGS 1984 UTM Zone 11N

0 0.5 1 2 3 4 Miles

NOT FOR CONSTRUCTION

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Horse Heaven Wind Farm

SCOUT CLEAN ENERGY

Figure 4.1.1-4
Operational Received Sound Levels
Option 2 G.E. 5.5 MW Wind Turbines

BENTON COUNTY, WA

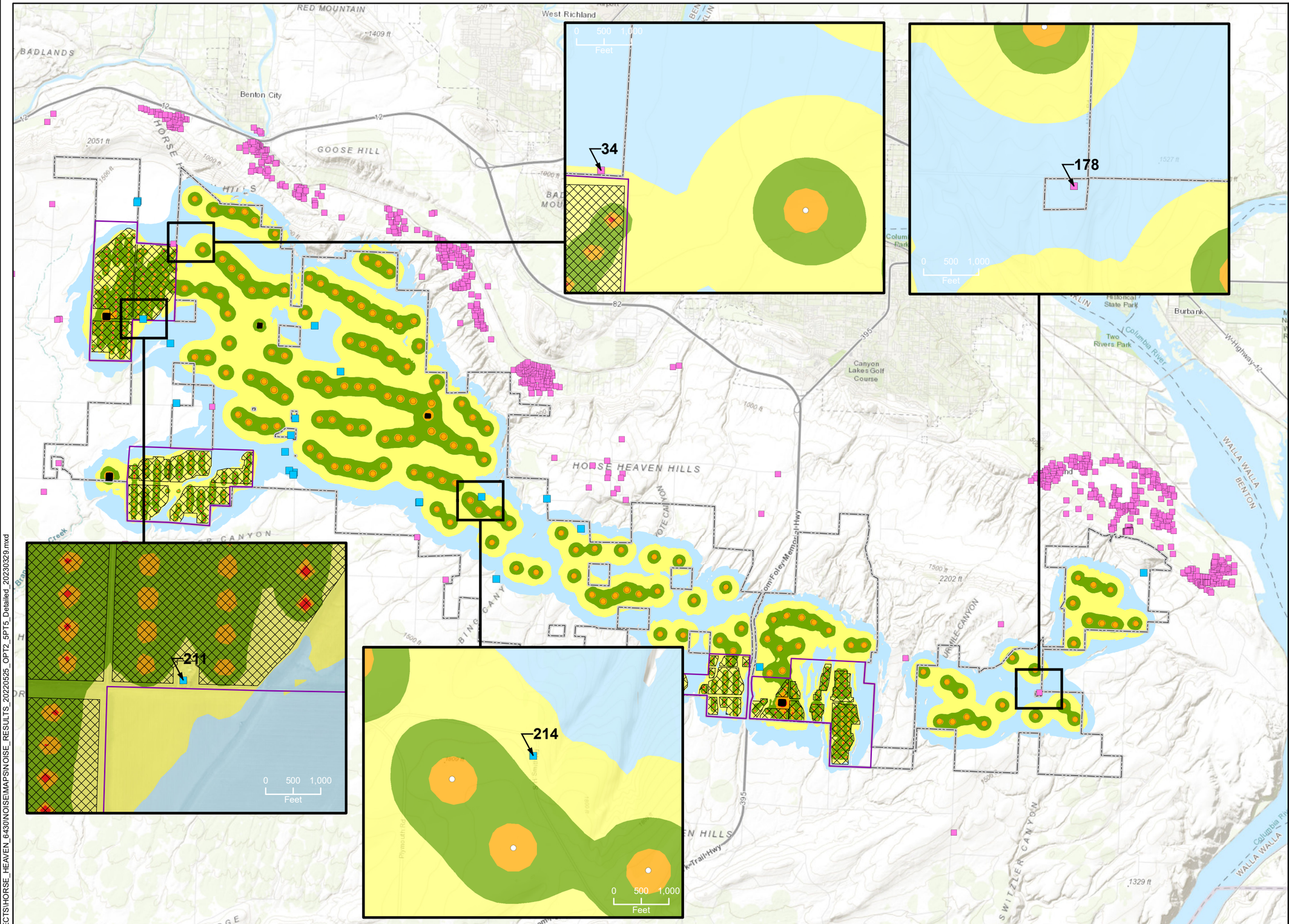
- Receptor - Participating
- Receptor - Non-participating
- Proposed GE 5.5 Wind Turbine
- Project Lease Boundary
- Proposed Project Substation
- Solar Siting Area
- Solar Array

Sound Level Contour

- 40 - 45 dBA
- 45 - 50 dBA
- 50 - 55 dBA
- 55 - 60 dBA
- > 60 dBA

TETRA TECH

Reference Map



1:140,000 WGS 1984 UTM Zone 11N

0 0.5 1 2 3 4 Miles

NOT FOR CONSTRUCTION

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Attachment FEIS-Recreation-1

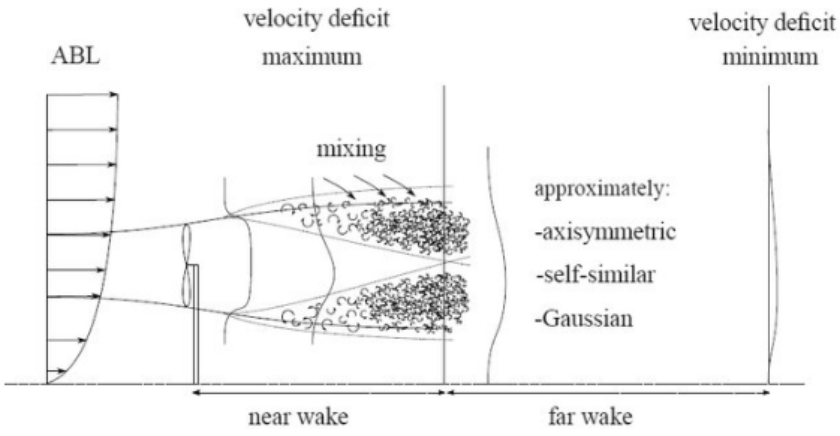
Attachment FEIS-Recreation-1

WIND TURBINE WAKE EFFECT

In any wind farm, operating wind turbine generators convert the kinetic energy of the free-stream wind flow into electricity through the rotation of blades over a large swept area that turns an internal generator in the nacelle of each unit. In the process of extracting kinetic energy from the incoming free-stream wind flow, every wind turbine will leave a 'wake' downwind of the turbine rotor swept area. This 'wake effect' can be described as a trail of reduced wind speeds and enhanced turbulence inside the 'wake zone'. The length and width of the wake zone behind each wind turbine is highly variable and will vary by specific atmospheric conditions including temperature profiles above the surface, wind speed intensity, barometric pressure, relative humidity and the resulting air density at any given moment.

Generally, wakes are characterized and described in two zones:

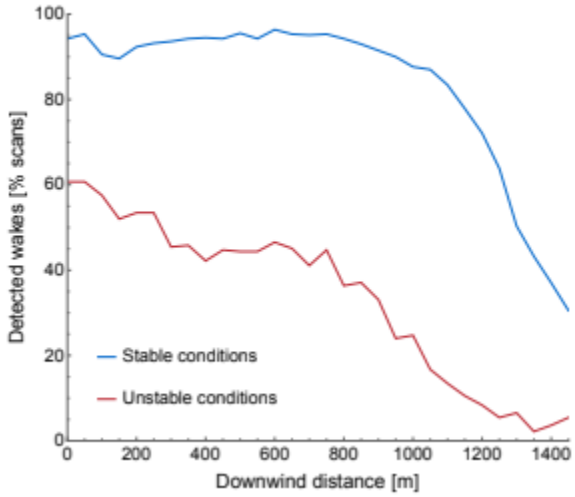
- The first is called the 'Near Wake' zone where the air flow immediately behind an operating wind turbine has the highest wind deficit (lowest wind speeds) as a large portion of kinetic energy has just been extracted and the highest turbulent kinetic energy (or turbulence). Typically, the Near Wake zone begins immediately behind the operating wind turbine and extends to approximately 3 to 5 rotor diameter lengths. For example, a 127-meter rotor diameter would typically see Near Wake zones extend as far as 380 to 635 meters (~ 1,250 to 2,000 feet downwind).
- The second area is called the 'Far Wake' zone which is the area where there is a transition between the highly turbulent airflow behind the wind turbine rotor to an area where the surrounding air flow from the lateral sides and above the wake begin the recover the wind flow. Typically, the Far Wake zone begins immediately behind the Near Wake (at ~ 3 to 5 rotor diameters) and could extend as far as 8 to 10 rotor diameters behind the operating wind turbine. A wind turbine with a 127 meter rotor diameter would typically see far wake effects extend out to 1000-1270 meters (~ 3280 – 4150 feet downwind). The Far Wake zone is characterized as an area of lower wind speeds than the free-stream wind flow, lower wind shear with height up to the blade-tip height of the rotor (~ 500 feet AGL), and air not as turbulent than the Near Wake zone. After the Far Wake zone, winds mostly recover into the free stream at distances > 10 rotor diameters. These distances can vary somewhat based on the atmospheric conditions and stability at specific times.



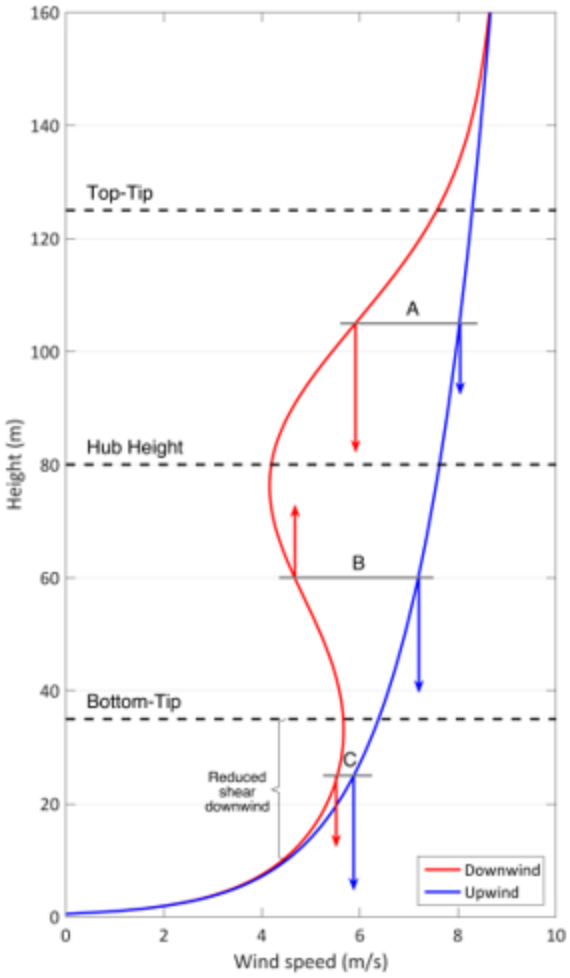
Many detailed research studies have been completed throughout the years investigating the effects of wind turbine wakes individually and as a group. These studies utilized instrumentation such as on-site met towers and remotes sensing devices such as LIDARs (Light Detection and Ranging) and SODARs (Sound Detection and Ranging).

Overall, the general findings can be characterized by the following:

- The strongest wakes are those with the highest wind speed loss in the flow behind the wind turbine and longest downwind distance. The strongest wakes occur during nighttime stable atmospheric conditions.
- The weakest and shortest downwind wakes are typically in the daytime hours when heating of the surface and low-level atmospheric mixing is at its highest (during unstable atmospheric conditions).



- The wind speed velocity reduction decreases with distance from the wind turbine within the wake. In other words, the lowest winds and highest turbulence are immediately behind the turbine and then slowly recover over distance within the wake.
- The width of the wakes increases with downwind distance much like a cone shape in typical daytime atmospheric conditions.
- Wind turbine wakes can evolve over time and distance as wind speeds and temperatures are constantly changing over time. Wakes have been observed to exhibit different kinds of motions, even from inside the same wind farm. Motions such as meandering (snake-like back and forth motion behind the wind turbine), looping, and wave-like motion are possible.
- Above the surface, the wind speeds exhibit a wake like vertical profile where there is lower wind shear with height and in some cases, negative shear (wind speeds decreases with height) inside the wake zone.



Several studies have probed the physical structures of the Wake zones and the impact on light aviation. A summary of reports directly related to Wind Turbine wakes are listed below as References.

The implications for light aviation traffic in the vicinity of a wind farm are as follows:

- At wind speeds above cut in speed (approx. 3 mph), exercise caution if the flight path is within 10 rotor diameters (approx. 3,000 feet) downwind of the wind turbines. *Note: the nose of a wind turbine always faces up-wind and the rotor has a clock-wise rotation.*
- Atmospheric conditions can vary quickly causing changes in wind speed and direction, ofttimes causing unpredictable hazard.

References:

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