



STATE OF WASHINGTON
— OFFICE OF GOVERNOR BOB FERGUSON —

August 22, 2025

Kurt Beckett
EFSEC Chair
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, WA 98504-3172

Re: Carriger Solar Project – Response to EFSEC’s Recommendation for Approval

Dear Chair Beckett:

Pursuant to RCW 80.50.100(3)(iii), I am directing the Energy Facility Site Evaluation Council (EFSEC) to reconsider certain aspects of the draft Site Certification Agreement following further input from the Yakama Nation (also referred to herein as the Tribe). I recognize that considerable work has been done by both EFSEC and the Tribe in connection with this important project, and I expect the final stage of this process to proceed efficiently, with EFSEC resubmitting the draft Site Certification Agreement to me no later than 60 days from today.

Importance of the Carriger Solar Project

Washington State needs clean energy. Based on the record developed in this matter, I find that the Carriger Solar Project is consistent with state policies regarding the mandated shift to renewable and zero-emitting sources for energy production and to meet the state’s greenhouse gas emission requirements. Despite Washington being a national leader in climate policy, we rank 50th out of 50 states in renewable electricity growth. Between 2019 and 2024, ten new utility-scale clean energy projects were developed and became operational in the state, totaling 823 MW of operational nameplate capacity (340.5 MW of solar and 280 MW of wind). Another nine projects were in the permitting or construction stage during this period, totaling 4,036 MW of additional nameplate capacity once operational. If all 19 projects are built as planned, Washington will add 4.8 GW of total generation. To meet the state’s projected 2050 electricity needs, Washington will still require an additional 24.2 GW of electricity generating capacity. The Carriger Solar Project would help to meet that need.

Construction of the Carriger Solar Project would have to begin quickly because of the impending expiration of federal tax credits for clean energy. H.R. 1 repealed or phased out nearly all Inflation Reduction Act clean energy tax credits. In order to qualify for the full production and investment tax credits, solar and wind projects must begin construction by July 4, 2026. Carriger Solar is one of a select number of clean energy projects that will be able to achieve this narrow time window. These tax credits are critical to ensure not only that the project remains financially viable, but that the energy it generates will remain affordable for Washingtonians.

I find that EFSEC's review of State Environmental Protection Act (SEPA) compliance and its coordination with relevant agencies regarding environmental considerations was thorough, and that in many cases, the environmental mitigation requirements included in EFSEC's draft Site Certification Agreement exceed applicable requirements. EFSEC staff considered other commercially available battery chemistries for battery energy storage systems and determined that the Carriger Solar Project's lithium-ion phosphate chemistry offers the best combination of commercial availability, safety margin, and longevity. When the system is due for replacement, EFSEC's draft Site Certification Agreement requires reassessment of all battery chemistries that are widely commercially available, and EFSEC will need to approve the chemistry selection.

I further find that EFSEC has adequately addressed fire-safety concerns associated with battery energy storage systems. EFSEC provided for annual coordination with Klickitat County Fire Protection District 7 on fire response plans, with any changes to these plans subject to EFSEC approval. EFSEC also required the project applicant to install and maintain a 10,000 gallon, opaque, enclosed water cistern to store water for potential fire protection needs, with the location and access for the cistern to be developed in coordination with the Fire Protection District.

Tribal Engagement and Further Steps Needed

The Carriger Solar Project is both important and time-sensitive, as noted above. But before I make a final decision on this project, further tribal engagement steps are needed. Specifically, EFSEC should offer the Yakama Nation an opportunity to:

- 1) Review and provide input on the June 19, 2025, memorandum describing the June 4, 2025, meeting between the Tribe and the EFSEC Chair and staff; and
- 2) Provide any further input on five proposed mitigation measures that the Tribe apparently did not have an adequate opportunity to comment on before EFSEC finalized its Revised Mitigated Determination of Nonsignificance (RMDNS).

In accordance with RCW 80.50.060, on March 15, 2023, EFSEC provided notice of the application for certification of the Carriger Solar Project to federally recognized tribal governments that may be affected by the proposed facility, including the Yakama Nation. EFSEC offered to conduct government-to-government consultation with these Tribes. The Yakama Nation's Cultural Resource Program determined that the project could have significant impacts on traditional cultural properties. In the summer of 2023, EFSEC staff engaged with the Yakama Nation's Cultural Resource Program staff to address this.

EFSEC agreed to finance a one-year confidential study of impacts to traditional cultural properties to be performed by the Yakama Nation's Cultural Resource Program beginning in December 2023. The Yakama Nation conducted this study and provided a confidential report on the study's findings to EFSEC on October 28, 2024. Because the report contained sensitive information that the Tribe did not want to share with the project applicant, on December 11, 2024, the Yakama Nation's Cultural Resource Program provided EFSEC with a summary letter that could be shared with the applicant. According to EFSEC, this summary letter described three categories of affected traditional cultural properties: (1) diminished abundance of or access to traditional plants; (2) diminished access to traditional resource-gathering; and (3) diminished

cultural experience caused by visual changes to the landscape.¹ According to EFSEC, the summary letter also offered three mitigation recommendations from the Tribe: (1) that the State promulgate siting regulations to limit adjoining projects or to favor projects that secure surrounding parcels for non-industrial use; (2) that State lands be omitted from industrial developments where they have been identified as containing sensitive tribal resources; and (3) that the project applicant fund the Tribe's continued documentation of archeological/historical aspects of impacts to traditional cultural properties.

Based on the summary letter, the project applicant developed proposed mitigation options that EFSEC discussed with Yakama Nation staff and legal counsel on February 7, 2025. By mid-March, EFSEC had completed its technical and legal evaluation of the mitigation options proposed by both the Tribe and the applicant. EFSEC determined that it lacked legal authority to impose the land-use mitigation measures proposed by the Tribe because it holds no authority over state-owned land development and has no opportunity to gain control of the adjacent DNR-leased parcel. As to the Tribe's third mitigation proposal noted above, the June 19, 2025, memorandum from the EFSEC Chair notes that "Proposed mitigation from the Applicant included obtaining an Applicant commitment to provide the Yakama Nation with funding up to \$100,000 for the purposes of continued TCP research in the area..." It is not clear from the record whether this proposed funding will be provided if the Carriger Solar Project is approved.

On April 7, 2025, EFSEC issued a Mitigated Determination of Nonsignificance (MDNS) under SEPA, followed by a 14-day comment period and then a public comment hearing. The MDNS included several mitigating conditions addressing "Visual and Aesthetics" and "Historic and Cultural Resources." The Yakama Nation submitted a written comment on the MDNS on April 18, 2025.

On June 4, 2025, the Yakama Nation met with the EFSEC Chair, the EFSEC Director, and EFSEC staff and legal counsel. The discussion held at that meeting is summarized in a June 19, 2025, memorandum from the EFSEC Chair to the six members of the EFSEC Carriger Project Counsel (provided as Attachment 1 to EFSEC's Report to the Governor on Application Docket No. EF-230001).

On June 16, 2025, EFSEC issued its RMDNS, providing for a 7-day public comment period. EFSEC's Report to the Governor notes that the RMDNS incorporates the following mitigation measures for traditional cultural properties into the draft Site Certification Agreement:

- "Increased setbacks of fencing and solar panels from SR 142 and Knight Road"
- "Increased setbacks of fencing and solar panels on both the north and south side of a Department of Natural Resources managed parcel"
- "Installation of further screening tools, such as earthen berms, rock piles or native vegetation to further mitigate visual impacts to users of the north side of the adjacent state-owned parcel"

¹ The complexity, nuance, and significance of these traditional cultural properties is not fully captured by the brief descriptions used in this letter, which are kept at a high level out of respect for their sensitive nature.

EFSEC's Report to the Governor also states that EFSEC included additional mitigation conditions in the draft Site Certification Agreement following its June 4, 2025, meeting with the Yakama Nation:

- "The traffic control plan, as required in the SCA Article IV.K, will ensure that tribal access to TCPs is maintained throughout construction"
- "EFSEC will include Yakama Nation in the review of the initial site restoration plan as required by SCA Article IV.G and in the review of the detailed site restoration plan as required by SCA Article VIII.A"

The Yakama Nation submitted a written comment on the RMDNS on June 18, 2025. Although the Tribe did provide input on the RMDNS through this comment, it had only a short time to do so, as part of the 7-day public comment period.

On June 26, 2025, EFSEC recommended that the Governor approve the Carriger Solar Project.

In sum, the record reflects that EFSEC had substantial engagement with the Yakama Nation over a two-year period regarding the Carriger Solar Project's impacts on traditional cultural properties and potential mitigation measures to address this. However, two additional steps should be taken:

First, EFSEC should give the Yakama Nation an opportunity to review and provide input on the June 19, 2025, memorandum from the EFSEC Chair to the Council membership describing the Chair and staff's June 4, 2025, meeting with the Tribe. The Tribe's June 18, 2025, comment letter notes that because this memorandum has not been shared with the Tribe, the Tribe "cannot say whether or not our concerns were accurately summarized and conveyed to the Council."

Second, EFSEC should give the Yakama Nation an opportunity to provide further input on the following five mitigation measures, as the Tribe's June 18, 2025, comment letter indicates that it did not have an adequate opportunity to review and respond to these proposals before the RMDNS was finalized:

- "Increased setbacks of fencing and solar panels from SR 142 and Knight Road"
- "Increased setbacks of fencing and solar panels on both the north and south side of a Department of Natural Resources managed parcel"
- "Installation of further screening tools, such as earthen berms, rock piles or native vegetation to further mitigate visual impacts to users of the north side of the adjacent state-owned parcel"
- "The traffic control plan, as required in the SCA Article IV.K, will ensure that tribal access to TCPs is maintained throughout construction"
- "EFSEC will include Yakama Nation in the review of the initial site restoration plan as required by SCA Article IV.G and in the review of the detailed site restoration plan as required by SCA Article VIII.A"

EFSEC should give due consideration to any input received on these five mitigation measures from the Yakama Nation through the final stage of this process, and should account for this input as appropriate in the resubmitted draft Site Certification Agreement.

I expect these steps to be completed efficiently, and that EFSEC will resubmit a draft Site Certification Agreement promptly, and no later than 60 days from today.

Going forward, I will be asking EFSEC to provide my office with detailed information regarding its tribal consultation policies and practices. My office will evaluate these policies and practices and will work with EFSEC to evaluate whether any changes should be made to the manner in which EFSEC engages with Tribes.

Sincerely,

A handwritten signature in blue ink, reading "Bob Ferguson". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Bob Ferguson
Governor