

**WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL**

RESOLUTION NO. 360

**CARRIGER SOLAR LLC
REVISED DRAFT SITE CERTIFICATION AGREEMENT**

Preface/Background

The Council submitted its recommendation and draft Site Certification Agreement (SCA) for Carriger Solar, LLC in Klickitat County to the Governor on June 26, 2025. On August 22, 2025 the Governor provided a remand letter to EFSEC Chair Beckett directing the Council to reconsider certain aspects of the draft SCA. The Governor's letter outlined very specific instructions for Council and staff to complete prior to its resubmittal to him within 60-days.

Although the Governor recognized that the record demonstrated that both EFSEC and the Yakama Nation had done considerable work on this project, he requested EFSEC take the following two additional steps:

1. EFSEC should offer 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 Yakama Nation Tribal Council. The Yakama Nation'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."
2. EFSEC should offer the Yakama Nation an opportunity to provide further input on the mitigation measures, identified within the Tribe's June 18, 2025 comment letter, for which the Tribe was not provided adequate opportunity to review previously. These mitigation measures were incorporated into the Revised Mitigated Determination of Non-significance (RMDNS) and include:
 - a. Increased setbacks of fencing and solar panels from SR 142 and Knight Road
 - b. Increased setbacks of fencing and solar panels on both the north and south side of a Department of Natural Resources managed parcel
 - c. 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
 - d. The traffic control plan, as required in the SCA Article IV.K, will ensure that tribal access to TCPs (Traditional Cultural Properties) is maintained throughout construction

- e. 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 Actions to Governors Remand Letter

On August 26, 2025, EFSEC Chair Beckett sent a letter to Chairman Gerald Lewis of the Yakama Nation Tribal Council. Chair Beckett requested that the Yakama Nation review 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 and provide input on the mitigation measures the Governor outlined in his remand letter. To that end, Chair Beckett's letter attached the following pieces of information for the Yakama Nation's review:

- A copy of the June 4, 2025, Chair Beckett memo
- Three figures demonstrating the original and revised setbacks for the solar array layouts along SR 142 and Knight Road.
- Nine photo simulations from 3 Key Observation Points established along SR-142 and Knight Road
- Two-figures demonstrating the original and revised setbacks for the solar array layouts adjacent to the north and south boundaries of the DNR parcel.
- Six-photo simulations demonstrating the original and revised setbacks from two supplemental viewpoints from within the DNR parcel boundaries looking north and south
- Two narrative excerpts from the first and second RMDNS that explain supplemental mitigation requirements adjacent to the northern portion of the DNR parcel regarding visual and aesthetics impacts.

Yakama Nation Response

EFSEC received a response from the Yakama Nation Chairman Lewis on September 26, 2025. This response letter articulates that central to the Tribe's concerns is its contention that EFSEC's Director and SEPA Responsible Official made an erroneous decision to issue a Mitigated Determination of Non-significance (MDNS) for the Carriger Project as there remains "significant unmitigated impacts on Yakama Nation's natural and cultural resources."

Following review of Chair Beckett's June 19, 2025, memorandum, Chairman Lewis identified the following concerns:

1. The memorandum does not convey the depth of the Yakama Nation's concerns with the project. Chairman Lewis states that because EFSEC did not engage directly with the Tribal Council through an adjudication process, EFSEC cannot hear directly from the tribal members and therefore EFSEC's interpretation of impacts to TCPs will be flawed and based on second-hand accounts.
2. The memorandum does not sufficiently reflect the Yakama Nation's determination that the Carriger project will result in significant impacts to

TCPs from this project alone and when considered cumulatively with other reasonably foreseeable developments.

3. The Yakama Nation argues EFSEC recent practice with wind, solar, and BESS projects of not requiring the project proponent to secure water supply for the project until just before construction fails to meet EFSEC's legal obligations to evaluate the project's water sources before recommending Governor approval of an SCA. The Tribe has raised this issue on previous projects and believes this contradicts EFSEC's current rules and SEPA and therefore EFSEC should abandon current policy actions until rulemaking can be completed on this issue.

Following review of the mitigation measures specified in the Governor's remand, Chairman Lewis identified the following concerns:

1. The Tribe recognizes that the setbacks EFSEC is imposing on the project "could" potentially be considered minimization measures as defined under the State Environmental Policy Act (SEPA) Washington Administrative Code 197-11-768. However, the Yakama Nation asserts that the measures remain insufficient to minimize the projects impacts to the TCPs in the area.
2. The Tribe further notes that due to the landscape's topography, the proposed natural screening tools also do not minimize impacts to the same TCPs.
3. Instead of using setbacks and natural screening tools, the Tribe proposed that one option for appropriate mitigation to avoid and minimize impacts to TCPs would be to deny approval for all solar panels in the northern portion of the project area and require the developer to acquire conservation leases on those parcels.
4. If panels were to still be sited in the northern portion of the project area, the Tribe would recommend that EFSEC withdraw the MDNS and Draft Recommendation and initiate the development of a full environmental analysis and an adjudication process on the project.
5. While the Yakama Nation is appreciative for the engagement on the traffic control and site restoration plans, Chair Lewis states that these measures are not considered mitigation for the impacts to TCPs, as defined in SEPA.

EFSEC Considerations to Yakama Nation Responses

As demonstrated in the April 7, 2025, MDNS, June 16, 2025, First RMDNS, and July 14, 2025, Second RMDNS, EFSEC's SEPA responsible official had made the determination that sufficient, reasonable and feasible mitigation is available to reduce impacts to TCPs down to level below significance, as defined by SEPA. Director Bumpus reaffirms the findings outlined in those documents and the efficacy of the included mitigation measures.

While the Yakama Nation did not make any specific edit requests following its review of Chair Beckett's June 19, 2025 memorandum, the following responses from EFSEC address the concerns Yakama Nation identified:

1. As found in Section II.G of EFSEC's Report to the Governor on Application Docket No EF-230001, Expedited Processing Decision and Order, EFSEC granted Carriger Solar, LLC expedited processing of its application. Under RCW 80.50.075, EFSEC is not required to hold an adjudicative proceeding on an application once it has granted expedited processing.
2. EFSEC has reflected the Yakama Nation's statement on the likelihood of this project resulting in significant TCP impacts both individually and cumulatively in its SEPA documentation, including the Staff Memo attached to the MDNS, which states: "Yakama Nation staff have stated that they anticipate Project actions would result in significant TCP impacts both specific to this Project and cumulatively, when combined with other reasonably foreseeable developments."
3. The Yakama Nation did not cite a specific rule or regulation that it contends EFSEC was violating by not requiring a water source be identified until just before construction. EFSEC has completed a full environmental analysis of this project's anticipated impacts to water resources, which is included in the MDNS and associated Staff Memo. Further, as noted in the Tribe's letter, EFSEC has responded to the Tribe's repeated concerns on this issue during the June 4, 2025, meeting and on other recently approved solar projects.

EFSEC understands and respects the fact that the Yakama Nation does not concur with our determination of nonsignificance and resulting publication of an MDNS, and two subsequent RMDNSs, for this project. The Yakama Nation has been consistent in its position that EFSEC's recommended mitigation, as structured in the Draft SCA, is insufficient to reduce adverse environmental impacts to a level below significance.

EFSEC concurs with the Yakama Nation that the Carriger Project, as initially proposed, would have resulted in significant adverse impacts to TCPs without mitigation. EFSEC maintains, however, that sufficient mitigation has been identified and applied to the Carriger Project to reduce adverse environmental impacts to TCPs to a level below significant. This mitigation includes:

- Substantial setbacks from identified TCPs and publicly-accessible transportation routes to these TCPs to minimize adverse impacts to visual aesthetics, sense of place, access, and quality of experience;
- Design and layout of project fencing, approved by the Washington Department of Fish and Wildlife, to minimize barriers to game wildlife movement to minimize adverse impacts to Tribal hunting practices;
- Development of a natural visual screening plan, including foliage, rocks, and berms, between the Carriger Project and the state-owned parcel (identified in comments and being used by tribal members) to minimize adverse impacts to visual aesthetics, sense of place, and quality of experience within the regional TCPs in which the project is proposed;

- Incorporation of the Yakama Nation into the review of all site restoration plans to ensure that the Project area is fully restored following construction and decommissioning;
- Other measures, as described in the Draft SCA

EFSEC acknowledges that the Yakama Nation provided two additional mitigation proposals to address adverse impacts from the Carriger Project on TCPs, specifically the denial of approval for all solar panels in the northern portion of the project area and requiring the project developer to obtain conservation easements on all parcels within the northern portion of the project area.

Ultimately, EFSEC has determined that these mitigation proposals would not be allowable under SEPA substantive authority, as defined in WAC 197-11-660, which mandates that "mitigation measures shall be reasonable and capable of being accomplished." The prohibition of siting solar panels on the northern portion of the Project area would not be reasonable when compared to the anticipated Project impacts to TCPs. EFSEC maintains that the mitigation measures within the Draft SCA effectively reduce the adverse impacts of the Carriger Project on TCPs to a level below significance. The Council declines Yakama Nation's proposal to modify the SCA to deny approval of the north half of the Project and to require the applicant to negotiate the purchase of conservation easements from owners of those privately owned parcels. We find this would be inconsistent with the policy in RCW 80.50.010 that "It is the policy of the state of Washington to recognize the *pressing need for increased energy facilities*, and to ensure *through available and reasonable methods* that the location and operation of all energy facilities . . . will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life."

The cultural resource impacts identified by Yakama Nation largely stem from a perception that solar farms are industrial in appearance, and fundamentally different from the currently prevailing agricultural land use, which is visually closer to the condition of the land prior to agricultural development over the last century and more. Solar facilities inevitably have visual impacts in the areas in which they are sited. The area in which this project is proposed is already the site of an electrical transmission corridor and associated right-of-way, homes and outbuildings, roads and fence lines, and a large electrical substation. The solar arrays are proposed entirely on private property, and are therefore only viewable from neighboring private properties, while driving on public roads adjacent to the site, or by tribal members asserting a treaty right of "hunting, gathering roots and berries . . . upon open and unclaimed land"¹ on the adjacent parcel of state land managed by the Washington Department of Natural Resources. The SCA requires setbacks from roads to minimize impacts to motorists and visual setbacks and

¹ Treaty with the Yakama, 1855, Art. 3.

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. In this context, we find that the setbacks and visual impact minimization measures included in the SCA represent the "available and reasonable methods" of minimizing adverse effects on the visual character of the surrounding area as a cultural resource.

The Governor's letter directing the Council to reconsider certain aspects of the draft certification agreement observed that:

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.

The Council is advised that the Applicant has committed to provide grant funding if the Project is approved. To clarify this commitment, the Council approves the addition to the SCA of an explicit requirement for Carriger Solar, LLC to provide grant funding up to \$100,000 to the Confederated Tribes and Bands of the Yakama Nation at the start of commercial operations for the Tribe to perform further internal research and documentation of TCPs in the area surrounding the future Carriger Project. This addition to the original draft SCA is found in Article VII.H of the revised Draft SCA.

In conclusion, with the amendment described above, the Council concludes that the SCA includes all reasonable and available methods to address the environmental impacts from the Project identified by the Yakama Nation.

RESOLUTION

The Council hereby:
Approves the Revised Draft SCA

DATED at Lacey, Washington and effective on **DATE**
WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Kurt Beckett, EFSEC Chair

Sonia E. Bumpus, EFSEC Director