

July 12, 2024

Allyson Brooks, State Historic Preservation Officer
Washington Department of Archaeology and Historic Preservation
PO Box 48343
Olympia, WA 98504-8343

Dear Dr. Allyson Brooks,

The Washington State Environmental Justice Council (EJ Council) was created through the Washington State Healthy Environment for All (HEAL) Act to promote environmental justice and serve as a forum for Tribes and communities ([chapter 70A.02 RCW](#)). The EJ Council is writing to share our opposition to the proposed pump storage project at *Pushpum* (FERC Project No. 14861) that would cause negative and irreparable damage to Traditional Cultural Properties and traditional foods and medicines and inflict an environmental injustice on the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) and its subsidiary Rock Creek Band members.

The EJ Council recognizes the Yakama Nation's inherent sovereignty and rights reserved by the [Treaty of 1855](#) and upholds the Yakama Tribal Council Resolution adopted on May 24, 2021, opposing "the pump storage development at *Pushpum* to protect sacred religious and ceremonial places of inherent importance to Yakama culture." *Pushpum*, also known as Juniper Point, is within the Yakama Nation Treaty territory under Article I of the Treaty of 1855 and has been a site of religious, ceremonial, and cultural importance to the Yakama People since time immemorial. On July 2, 2024, the EJ Council adopted a policy affirming the rights of Tribal Nations and upholding free, prior, and informed consent as follows:

The Environmental Justice Council (Council) affirms the rights acknowledged under the [United Nations Declaration of the Rights of Indigenous Peoples](#) and emphasizes the importance of practicing free, prior, and informed consent. The Council also upholds the [Principles of Environmental Justice](#) adopted at the First National People of Color Environmental Leadership Summit in 1991, including the principle that "Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants, [other laws, and executive orders], affirming sovereignty and self-determination." The Council knows the urgency of the climate crisis (particularly for Tribes and other frontline communities) and supports the need to transition to safer, cleaner, and more sustainable energy

production. The Council further upholds that when this transition involves a project of non-Tribal proponents, it must happen only with free, prior, and informed consent from Tribes who have been, and continue to be, the stewards of the land since time immemorial.

Thereafter the EJ Council adopted a statement to stand with the Yakama Nation in opposition to this proposed pump storage project. The EJ Council centers both the letter and the spirit of the HEAL Act in standing with the Yakama Nation and its subsidiary Rock Creek Band members in their opposition to the proposed development at *Pushpum*. The HEAL Act describes environmental justice to include addressing disproportionate impacts of environmental decisions by prioritizing overburdened communities (including Tribes) and eliminating harm to these communities from government decision-making. The HEAL Act defines “environmental harm” to include “loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods.” It is essential that the Washington State and Federal governments work side by side to eliminate environmental harms given that both governments are working to advance environmental justice.

Washington State and the Federal Government run the risk of repeating history by permitting the Goldendale development at the expense of harming Tribal Nations’ sacred lands and waters. The impacts to Celilo Falls, Bradford Island, and Bateman Island at the hands of both the State and Federal Governments are nearby examples from a pattern of harm toward Traditional Cultural Properties and traditional foods. A June 2024 Department of Interior report, [Historic and Ongoing Impacts of Federal Dams on the Columbia River Basin Tribes](#), outlined the unique and disproportionate harms to Tribes (at page 42):

The dams silenced these sites that for thousands of years were filled with the noise of rushing water and people communing, praying, fishing, trading, and celebrating. As Yakama Tribal members and others expressed in consultation, all that remains now are the memories of those who once lived there, stripping future generations of the opportunity to witness and experience some of the most important places for Tribal fishing and culture. Although it is difficult to describe catastrophic loss, one Yakama Tribal member compared the loss of Celilo Falls to what it would be like for the United States to lose New York City because of their similar societal roles as centers of culture, trade, history, and tradition.

Repeating history by approving the Goldendale permit application without free, prior, and informed consent from impacted Tribes is an environmental injustice.

FERC's lack of government-to-government Consultation with Yakama Nation on this proposed project means that the legal requirements for Consultation and the EJ Council's recognized principles of environmental justice have not been met. In alignment with the principles, policies, and analyses outlined above, the Department of Archaeology and Historic Preservation (DAHP) should not sign the Programmatic Agreement for this project until Consultation has been conducted with Yakama Nation and Yakama Nation has **consented** to the Programmatic Agreement.

As outlined in [RCW 70A.02.020](#) of the HEAL Act for non-covered agencies, we urge DAHP to incorporate the "principles of environmental justice assessment processes set forth in RCW 70A.02.060" into this decision-making process. The EJ Council is a partner in this work as outlined in [RCW 70A.02.110 \(11\)\(e\)](#) which indicates the EJ Council may provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities.

We look forward to a positive response.

In Solidarity,

Washington State Environmental Justice Council

Recipients

- Allyson Brooks, State Historic Preservation Officer, Washington Department of Archaeology and Historic Preservation

Copied

- Jaime Loichinger, Office of Federal Agency Programs, Advisory Council on Historic Preservation
- John T. Eddins, Office of Federal Agency Programs, Advisory Council on Historic Preservation
- Rob Whitlam, Ph.D., State Archaeologist, Washington State Department of Archaeology & Historic Preservation
- Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission
- Chair Willie L. Phillips and Members of the Federal Energy Regulatory Commission
- Vince Yearick, Director, Division of Hydropower Licensing, Federal Energy Regulatory Commission
- Michael Tust, Interagency Hydropower Coordinator, Federal Energy Regulatory Commission

- Elizabeth Molloy, Tribal Liaison, Federal Energy Regulatory Commission
- Gerald Lewis, Chairman, Yakama Nation Tribal Council
- Governor Jay Inslee, Governor of Washington State
- Becky Kelley, Senior Policy Advisor on Climate, Office of Governor Jay Inslee
- Carrie Sessions, Senior Policy Advisor on Environment & Water, Office of Governor Jay Inslee
- Anna Lising, Senior Policy Advisor on Climate, Office of Governor Jay Inslee
- Jerry Rivero, Environmental Justice & HEAL Implementation Coordinator, Office of Governor Jay Inslee

Appointed Environmental Justice Council Members:

- The Honorable Jarred-Michael Erickson, Interim Environmental Justice Council Co-Chair
- Co-Chair Maria Batayola
- Council Member Nichole Banegas
- Council Member Maria Blancas
- Council Member Tatiana Brown
- Council Member Running-Grass
- Council Member Rosalinda Guillen
- Council Member Aurora Martin
- Council Member David Mendoza
- Council Member Esther Min
- Council Member Todd Mitchell
- The Honorable Misty Napeahi
- AJ Dotzauer, Delegate for the Honorable Misty Napeahi
- Council Member Lua Pritchard
- The Honorable Monica Tonasket
- Council Member Raeshawna Ware
- The Honorable Jeremy Wilbur

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- Ex Officio Liaison for Department of Commerce Michael Furze
- Ex Officio Liaison for Department of Agriculture Nicole Johnson
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- Ex Officio Liaison for Department of Natural Resources Eliseo (EJ) Juárez

- Ex Officio Liaison for Department of Transportation Ahmer Nizam