



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

February 17, 2023

SENT VIA EMAIL

Fawn Sharp, President
National Congress of American Indians
Embassy of Tribal Nations
1516 P. Street NW
Washington, D.C. 20515

RE: PROTECT *PUSHPUM* – SUPPORT OF TRIBAL RIGHTS IN STATE AND FEDERAL
PERMITTING OF DEVELOPMENT THAT THREATENS TRADITIONAL CULTURAL PROPERTY

Dear President Sharp,

I write on behalf of the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) to thank the National Congress of American Indians (“NCAI”) at its Executive Committee for reviewing and considering our proposed resolution “In Protection of Traditional Cultural Properties – *Pushpum* (Juniper Point, Wash.)”. I urge the Executive Committee to convene on an emergency basis at the 2023 Executive Council Winter Session (“ECWS”) and adopt the proposed resolution. NCAI’s support has always been critical step in the advocacy for recognition of tribal rights in the government-to-government relationships between the federal government, states, and tribal sovereigns. And with this proposed resolution, NCAI’s support is critical step in the advocacy for protection of Traditional Cultural Properties (“TCPs”).

Below, I have outlined why the Yakama Nation sponsored the Affiliated Tribes of Northwest Indians (“ATNI”) Resolution No. 2023 – 15, and why the Yakama Nation now advocates for this proposed resolution at the ECWS in opposition to the proposed pumped storage project near Goldendale, Wash. at Columbia River mile 215.6 (“Project”) that, if permitted and constructed, would destroy *Pushpum*.

I. Treaty of 1855.

The 1855 Treaty between the United States and the Yakamas (“Treaty”) reserved a 1.3 million acre Reservation “for the exclusive use and benefit” of the Yakama people.¹ The Treaty further designated reserved rights for Yakamas to exercise “in common with” citizens of the United States at all usual and accustomed places within the Treaty territory.² A federal treaty is considered the supreme Law of the Land under the U.S.

¹ See Treaty with the Yakamas, U.S. – Yakama Nation, June 9, 1855, 12 Stat. 951, art. II, cl. 3.

² See *Id.* at art. III, cl. 2.

Constitution.³ Pursuant to its status as a sovereign Native Nation and its Treaty-reserved authority, Yakama Nation acts for the protection of all natural and cultural resources in Yakama Nation's Treaty territory, which encompasses usual and accustomed fishing sites, cultural areas, and ceremonial locations from the mouth of the Columbia River upstream north of the 49th parallel.

The Yakama Nation's enrolled membership exceeds 11,000 people whose history, culture, and way of life are intertwined with *Nch'i Wa'na*, the Columbia River, and its host of salmon, fish, root plants, natural medicines, and animals. The teachings from our ancestors have been passed from generation to generation through our language *Ichi-skiin sin-wit* to tell the story of the people and the land.⁴ Yakama People lived with the land, practicing our religions in respect for the landforms that have provided for the resources and our existence. These teachings describe the connectivity between all life – the water, land and air, with the sun watching over all things. The birds, fish, and animals show this interconnectivity between creatures that provide food, tools, and clothing for the survival of us all. All life has an order which we understand as the Creator's Law. By protecting the sacred resources, we will be rewarded; if we do not live our lives to protect these gifts, knowing that we could have made choices to better protect the resources and did not – we will suffer the consequences.

II. *Pushpum*.

Known to gatherers as the 'mother of roots', *Pushpum*, is associated with several Yakama TCPs of legendary cultural importance.⁵ Each TCP speaks of a story, including *Spilyay's* Journey, and also provides land-based references for passing knowledge on to future generations. These teachings pertain to traditional foods and medicine, legendary events, legendary figures, and important lessons. Standing at *Pushpum*, one can view other sacred sites that provide teachings and cultural orientation to the traditional cultural landscape (now Washington and Oregon). This view is expansive and focuses on the legendary aspects of the mountains and their connectivity.

The plants that survive at *Pushpum* uniquely provide Yakama People with important medicines and nourishment, and the culturally significant plants found here are endemic to the region. This is a resource that cannot be replaced because *Pushpum* is the natural seed bank for these plant resources, which include buckwheats, balsamroots, lomatiums, yarrow, sumac, lupin, dogbane, rose, onion, thistle, serviceberry, sagebrush, junipers, and many others. These plants and combinations of them are used by Yakama People to treat illness in the body and spirit. These plants have served for thousands of years as poultice, tea, bandages, pacifiers, drums, needles, rope, nets, and food. They are important to traditional ceremonies and religious practices.

³ See U.S. Const. art. VI, cl. 2.

⁴ *Ichi-skiin sin-wit* means the language that belongs to the land.

⁵ Western-trained archaeologists describe the development proposal area as two National Register of Historic Places ("NRHP")-eligible listings and nine archaeological sites, with two Multiple Property Documentations, all a part of the Columbia Hills Archaeological District.

III. Proposed Project And Permits.

a. Project Description

The Project would include the constructing of (i) a 61-acre upper reservoir, created with a 175-foot-high, 8,000-foot-long rockfill embankment dam and (ii) a 63-acre lower reservoir, created with a 205-foot-high, 6,100-foot-long embankment. The 124 acres of newly dammed reservoirs would be connected via a 2,200-foot-long, 29-foot-diameter underground concrete-lined high pressure tunnel system housing three 400-megawatt capacity hyrdo-turbines. The powerhouse and transformers are proposed to connect to the Bonneville Power Administration's existing John Day Dam 500-kV Transmission Line(s) and Substation. In total, the proposed Project development area encompasses approximately 681.6 acres. The proposed reservoirs require an initial water fill of 7,640 acre-feet of water and approximately 260 acre-feet of water each year to replenish evaporation loss and seepage.

b. Federal Permitting Entity

The Project Applicant, FFP Project 101, LLC ("Applicant" originally dba Rye Development) filed with the Federal Energy Regulatory Commission ("FERC") pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) – 825(r), and was accepted under FERC docket number 14861 beginning in December 2017. The Yakama Nation has consistently submitted written comment and opposition to the Project at every single phase of the FERC application review beginning in February 2018.⁶ The Yakama Nation has been disputing with FERC since August 2021 about FERC's failure to consult with the Yakama Nation on a government-to-government basis.⁷

The Yakama Nation has invited and advised FERC to consult on a government-to-government basis to cure its procedural and technical errors in reviewing the Project Application and failing to give equal consideration to the purposes of preservation for the cultural environment. At this time FERC continues to decline consultation with the Yakama Nation and continues to delegate its lead agency duties under the National Historic Preservation Act to the Applicant.⁸

c. State Permitting Entity

On May 23, 2022, the Project Applicant filed with the Washington State Department of Ecology ("Ecology") for a water quality certification, required under the Clean Water Act

⁶ See Letter from the Yakama Nation Deputy Director for Cultural Resources to Rye Development regarding Project Application (Feb. 14, 2018) (on file with author).

⁷ See Letter from the Yakama Nation Cultural Resource Program Manager to FERC Northwest Branch Chief regarding objection to Section 106 Delegated Consultation (Sep. 13, 2021) (on file with author).

⁸ See Letter from FERC Director of Hydropower Licensing Division to Yakama Nation Chairman Delano Saluskin regarding Ready for Environmental Analysis ("REA") (Jun. 28, 2022) (on file with author).

§ 401(a)(1) and pursuant to FERC regulations, 18 CFR § 4.34(b)(5). Under applicable FERC regulations, Ecology will be deemed to have waived its state certifying agency authority if the Ecology fails to issue or deny the Applicant’s certification request within one year. Under applicable state law, the State Environmental Policy Act (“SEPA”), the Applicant’s certification request triggered an Environmental Impact Statement (“EIS”).⁹

Under SEPA agencies are required to integrate environmental concerns into their decision-making processes by studying and explaining environmental consequences before decisions are made.¹⁰ In enacting SEPA, the state legislature gave Ecology the affirmative authority to deny projects where environmental impacts are significant, cannot be mitigated, and collide with local rules or policies. SEPA provides substantive authority for government agencies to condition or even deny proposed actions – even where they meet all other requirements of the law—based on their environmental impacts.¹¹ On December 21, 2022, Ecology completed its final EIS and published its findings in concurrence with the Yakama Nation’s concerns at *Pushpum*:

“To date, there is no information available about mitigation proposed by or supported by the Tribes. ... Current understanding of the construction and operation of the proposed project indicates significant and unavoidable adverse impacts on Tribal and cultural resources. These impacts include hunting and traditional gathering of wildlife and vegetation, as well as archaeological sites and TCPs used for camping, and traditional rituals, such as ceremonies and vision quests. Without effective mitigation that would reduce significant impacts to Tribal and cultural resources, those impacts would be considered unavoidable. ***Therefore, there would be significant and unavoidable adverse impacts to cultural resources, as well as the Tribes’ ability to use TCPs and gather culturally important plants.***” (emphasis added).¹²

The Yakama Nation and 17 Treaty-tribal governments have called on Washington State Governor Inslee and Ecology Director Watson uphold Treaty-reserved rights and respect the sovereignty of Native Nations to protect the usual and accustomed areas where first foods are gathered and ceremonies hold sacred importance.¹³ Now, the Governor’s own staff in Ecology have determined through an EIS that denying the Applicant’s certification request is the only way to avoid significant adverse impacts to cultural resources and Treaty-reserved rights at *Pushpum*.

⁹ See RCW § 43.21C.030 (2)(c).

¹⁰ See *Stempel v. Dep’t of Water Resources*, 82 Wn.2d 109, 117–18 (1973).

¹¹ See RCW § 43.21C.060.

¹² See SEPA Final EIS, Department of Ecology, Publication No. 22-06-015, Appendix H Tribal Resources Analysis Report 3.3.5, 18 (Dec. 21, 2022).

¹³ See Letter from Tribal Leaders Call[ing] On Gov. Inslee To Deny Permits For Goldendale Pumped Storage Project (Jul. 28, 2022).

IV. Necessary To Act On An Emergency Basis For National Advocacy.

a. Emergency Basis

Now is the time for NCAI to exercise its advocacy in protection of TCPs because critical documents before the Executive Committee are less than two months old and Washington State's authority to approve or deny the application for water quality certification can and must be exercised between now and May 23, 2023 -- or the Project Application advances towards development.

The Yakama Nation has worked persistently to oppose the Project since 2018. However, due to the complex national permitting scheme for new hydropower facilities under the FERC, it took the Ecology until December 2022 to publish its final EIS. That final EIS is an exhaustive and technical review of the Project that finally concurs and supports what the Yakama Nation has consistently asserted. Even though the final EIS identifies the TCPs that will be destroyed if this Project is permitted, Ecology has the authority to issue a favorable certification and advance the Project Application with FERC. The time is ripe for NCAI to call on Washington State's political leadership to deny this Project now. Prior to May 2023, Washington State may take action on the certification application and NCAI will lose this strong opportunity to advocate for the protection of TCPs.

b. National Scope

Every sovereign that has reviewed the Project agrees that it threatens to destroy significant TCPs, and that loss to the Yakama People cannot be avoided or mitigated. Yet here, the federal permitting entity, FERC, will not consult with the Yakama Nation on a government-to-government basis despite the assertion of Treaty-reserved rights, notions of federal Trust responsibility, statutory lead agency status,¹⁴ and regulatory consultation requirements.¹⁵ This Project Application is evidence of FERC's systematic failure to uphold federal obligations to tribal governments across a national permitting jurisdiction.

The Yakama Nation continues to preserve and pursue every available avenue to hold FERC accountable for the protection of TCPs. NCAI's adoption and concurrence with ATNI Resolution 2023 – 15 would signal its solidarity that all Native Nations can exercise inherent and legal authority in protection of resources from permanent destruction.

V. Conclusion.

No mitigation can replace the harmful impacts of this Project to the Yakama People and it would add to the cumulative sacrifice zone that has burdened indigenous resources in the Pacific Northwest for national hydro and nuclear energy development. This Project would increase restricted access to traditional village and fishing sites, ceremonial gathering places, and Treaty-reserve root and medicine gathering areas. Please consider

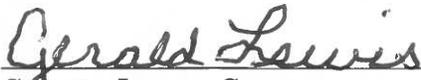
¹⁴ See 16 USC § 797(e).

¹⁵ See 18 CFR § 2.1c and 36 CFR 800.7(c)(4).

and adopt the proposed resolution “In Protection of Traditional Cultural Properties – *Pushpum* (Juniper Point, Wash.)” at this ECWS and stand with the Yakama Nation’s calls to deny this Project now.

For further comments or questions please contact Jerry Meninick, Deputy Director of Cultural Services, jerry_meninick@yakama.com, (509) 865-5121, ext. 6007.

Respectfully,



GERALD LEWIS, CHAIRMAN
YAKAMA NATION TRIBAL COUNCIL



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SAC-22-[DRAFT]

IN PROTECTION OF TRADITIONAL CULTURAL PROPERTIES – *PUSHPUM* (JUNIPER POINT, WASH.)

EXECUTIVE COMMITTEE

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Rebecca Crooks-Stratton
*Shakopee Mdewakanton Sioux
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NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Melvin Sheldon, Jr.
Tulalip Tribes of Washington

PACIFIC
Jack Potter
Redding Rancheria

ROCKY MOUNTAIN
VACANT

SOUTHEAST
Reggie Tupponce
Upper Mattaponi Indian Tribe

SOUTHERN PLAINS
Gonzo Flores
Lipan Apache Tribe of Texas

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Bernadine Burnette
Fort McDowell Yavapai Nation

EXECUTIVE DIRECTOR
Larry Wright, Jr.
Ponca Tribe of Nebraska

NCAI HEADQUARTERS

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Washington, DC 20005
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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (“NCAI”) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the NCAI-member tribal governments exercise inherent sovereign authority to protect Traditional Cultural Properties that have religious and ceremonial significance in their ancestral food-gathering and subsistence grounds; and

WHEREAS, the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”), an NCAI-member, opposes the development of proposed pumped storage at Juniper Point, Washington, known by indigenous knowledge as *Pushpum* “Mother of Roots” and located in the Yakama Treaty-territory, on the basis of permanent and irreparable destruction of Traditional Cultural Properties that hold sacred religious and ceremonial importance to the Yakama Nation; and

WHEREAS, in July 2022, the leadership of 17 Treaty-tribal governments issued a public letter in support of the Yakama Nation and urged the Washington State Governor to deny permits for proposed pumped storage development that would destroy sacred food-gathering and ceremonial sites at *Pushpum*; and

WHEREAS, in December 2022, final environmental analysis of proposed development at *Pushpum* under the Washington State Environmental Protection Act concurs that construction and operation of the proposed pumped storage project indicates significant and unavoidable adverse impacts on tribal and cultural resources; and

WHEREAS, in January 2023, the Affiliated Tribes of Northwest Indians (“ATNI”) adopted Resolution #2023-15 to support and stand with the Yakama Nation’s opposition to the proposed pumped storage in the protection of Traditional Cultural Properties at *Pushpum*; and

WHEREAS, the ATNI Resolution #2023-15 calls on the NCAI to consider and concur on an emergency basis for the purpose of standing together in support of indigenous inherent sovereignty and Treaty-reserved rights against state and federal permits for development that threatens to destroy Traditional Cultural Properties at *Pushpum*.

NOW THEREFORE BE IT RESOLVED, that the NCAI supports and stands with the Yakama Nation and the ATNI in opposition to proposed pumped storage development at *Pushpum* and the state and federal permitting of development that threatens to destroy Traditional Cultural Properties;

BE IT FURTHER RESOLVED, that the NCAI joins the Yakama Nation's and ATNI's calls on the Washington State Governor to honor the environmental conclusions from his own state Department of Ecology by denying permits and stopping the federal application for the proposed pumped storage project on sacred land; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the Executive Council at the 2023 Winter Session of the National Congress of American Indians, held in Washington, D.C, February 20 – 24, 2023, on an emergency basis that is national in scope relating to the exercise inherent sovereign authority to protect Traditional Cultural Properties under state and federal government-to-government relations.

Fawn R. Sharp, President

ATTEST:

Stephen Roe Lewis, Recording Secretary



RESOLUTION

WHEREAS, the Confederated Tribes and Bands of the Yakama Nation is a federally recognized Nation pursuant to the Treaty of 1855 (12 Stat. 951); and

WHEREAS, the Yakama Tribal Council is the governing body of the Confederated Tribes and Bands of the Yakama Nation, by the authority delegated by the Resolution of February 1944 and Resolution T-38-56; and

WHEREAS, the Tribal Council has the duty and responsibility according to the Resolution T-38-56 and T-10-61 to protect and preserve the Treaty Rights of the Yakama Nation, and

WHEREAS, centuries of oppression by the United States against Native Nations under the Doctrine of Discovery, affirmed by United States Supreme Court through *Johnson v. M'Intosh*, and implemented through Congressional policies of allotment and termination, have cost Native Nations hundreds of millions of acres of homelands of ancestral, spiritual, and ceremonial significance; and

WHEREAS, *Pushpum*, known as Juniper Point, is within the Yakama Nation's 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; and

WHEREAS, *Pushpum* is a place where Yakama People continue to exercise Treaty-reserved rights to gather traditional roots and medicines under Article III of the Treaty of 1855 and has been a site of sovereign food gathering since time immemorial; and

WHEREAS, Rye Development proposes to construct an industrial-scale pump storage project at Juniper Point, including the construction of two reservoirs totaling 124-acres of surface area and more than 14,000 linear feet of rockfill embankments; and

WHEREAS, the proposed pump storage development violates the Yakama Nation's inherent sovereignty and Treaty-reserved rights through direct, permanent, and adverse destruction of nine Traditional Cultural Properties of religious and ceremonial significance, and the reduction and elimination of access to gather food and medicine roots, which results in an irreplaceable loss of cultural resources and negative environmental degradation to several ephemeral waterbodies, and aquatic and terrestrial resources.

NOW, THEREFORE, BE IT RESOLVED, by the Executive Committee of the Yakama Tribal Council, acting under authority delegated by Section III-A of the Rules of Procedures, approved by Yakama Nation Tribal Council Resolution T-10-61, dated July 13, 1960, and meeting at the Governmental Headquarters of the Yakama Nation, that the Yakama Nation opposes pump storage development at *Pushpum* to protect sacred religious and ceremonial places of inherent importance to Yakama culture.

BE IT FURTHER RESOLVED, that the Yakama Nation opposes pump storage development at *Pushpum* to avoid irreparable damage and destruction to the Yakama Nation's cultural resources and Treaty-reserved root gathering rights.

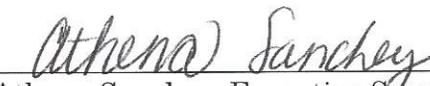
BE IT FURTHER RESOLVED, that the Yakama Nation opposes all federal or state actions that authorize, approve, or permit extractive and exploitative energy technology that threatens to, or is likely to, damage or destroy Traditional Cultural Properties in the Yakama Nation's Treaty territory, including, but not limited to, on usual and accustomed lands and open and unclaimed lands where the Yakama Nation reserved and exercises its Treaty-reserved rights.

BE IT FINALLY RESOLVED, that the Yakama Nation does not waive, alter, or otherwise diminish our Sovereign Immunity, whether expressed or implied, by virtue of this resolution for any and all administrative or legal action which may arise directly or indirectly from the same; nor does the Yakama Nation waive, alter, or otherwise diminish our rights, privileges, remedies or services guaranteed by the Treaty of 1855.

DONE AND DATED on this 24th day of May, 2021, by the undersigned members of the Executive Committee of the Yakama Tribal Council.


Delano Saluskin, Chairman
Yakama Nation Tribal Council


Virgil Lewis, Sr., Vice-Chairman
Yakama Nation Tribal Council


Athena Sanchey, Executive Secretary
Yakama Nation Tribal Council

Cc: File
Cultural Ca#071-2021-10



2023 Winter Convention Portland, Oregon

RESOLUTION #2023 – 15

“IN PROTECTION OF TRADITIONAL CULTURAL PROPERTIES – *PUSHPUM* (JUNIPER POINT, WASH.)”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (“ATNI”) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, the ATNI-member tribal governments claim inherent sovereign authority to protect Traditional Cultural Properties that have religious and ceremonial significance in their ancestral food-gathering and subsistence grounds; and

WHEREAS, the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”), an ATNI-member, opposes the development of proposed pump storage at Juniper Point, Washington, also known as *Pushpum* located in the Yakama Treaty-territory, on the basis

of permanent and irreparable destruction of Traditional Cultural Properties that hold sacred religious and ceremonial importance to the Yakama Nation; and

WHEREAS, in July 2022, the leadership of 17 Treaty-tribal governments issued a public letter in support of the Yakama Nation and urged the Washington State Governor to deny permits for proposed pumped storage development that would destroy sacred food-gathering and ceremonial sites at *Pushpum*; and

WHEREAS, environmental analysis of proposed development at *Pushpum* under the Washington State Environmental Protection Act concurs that construction and operation of the proposed pump storage project indicates significant and unavoidable adverse impacts on tribal and cultural resources; now

THEREFORE, BE IT RESOLVED, that the ATNI supports and stands with the Yakama Nation's opposition to proposed pump storage development at *Pushpum* and the permitting of development that threatens to destroy Traditional Cultural Properties; and

BE IT FURTHER RESOLVED, that the ATNI also calls on the Washington State Governor to honor the environmental conclusions from his own state Department of Ecology by denying permits for the proposed pump storage project on sacred land; and

BE IT FINALLY RESOLVED, that the ATNI call on the National Congress of American Indians to review, consider, and concur with this resolution on an emergency basis at the Executive Council Winter Session 2023 for the purpose of standing together in support of indigenous inherent sovereignty and Treaty-reserved rights against state and federal permits for development that threatens to destroy Traditional Cultural Properties at *Pushpum*.

CERTIFICATION

The foregoing resolution was adopted at the 2023 Winter Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on January 22-26, 2023 with a quorum approving.


Leonard Forsman, President


Norma Jean Louie, Secretary

NOT For Immediate Release - July 28, 2022

Tribal leaders call on Gov. Inslee to deny permits for Goldendale pumped storage project

Tribes stand together to support Yakama Nation sacred site

YAKAMA RESERVATION, TOPPENISH, Wash.— Today, 17 tribal leaders from across Washington State sent a letter to Governor Inslee urging him to reject the permits for the Goldendale Pumped Storage Project.

The Goldendale Pumped Storage Project proposed at Juniper Point, or *Pushpum*, in Goldendale, Wash. is a violation of Yakama Nation's inherent sovereignty and Treaty-reserved rights through direct and permanent destruction of an irreplaceable sacred site.

The Yakama Nation's Treaty-reserved right to exercise gathering, fishing, ceremony and passing of traditions in the area of the proposed project has existed since time immemorial. Yakama Nation opposes the development of the project to avoid irreparable damage to Yakama Nation's natural and cultural resources.

"Our medicines, foods, lands, and waters are sacred to us" said Yakama Tribal Council Chairman, Delano Saluskin. "For too long, these sacred places where we gather our foods and hold our ceremonies have been threatened by development without consultation with, or consent from, our sovereign tribes. This is unacceptable."

Yakama Nation values the support of all tribes who stand in alliance with them to protect their natural and cultural resources. "We stand united with the Yakama Nation to protect their sacred sites," said Tulalip Tribe's Chairwoman Teri Gobin. "All tribes in Washington State must stand together to protect our resources."

The full text of the letter follow:

Re: Goldendale Pumped Storage Project Violates Yakama Nation's Sovereign Rights

Dear Honorable Governor Inslee:

We Treaty Tribal Leaders stand with the Yakama Nation in their fight to protect their cultural and natural resources. The pumped storage project proposed at Juniper Point, Pushpum in Goldendale, is a violation of Yakama's Treaty rights and would destroy an irreplaceable sacred site.

Our medicines, foods, lands, and waters are sacred to us. For too long, these sacred places where we gather our foods and hold our ceremonies, have been threatened by development without consultation with, or consent from, our sovereign tribes. This is unacceptable.

Our ancestors signed Treaties with the United States, often under threat of violence and death, in exchange for our ancestral lands and sacred places. Through these treaties, we retain the rights to practice and live in our traditional ways in these places. Yet, the promises made by the government have been broken time and time again. Development and industry have threatened our ways of life for hundreds of years and continues to do so today. Our salmon populations are near extinction. Our ancient villages and ceremonial sites have been flooded. Our ways of life are under constant threat from development and climate change. We must protect our sacred places for our future generations.

We call on the state and federal governments to do better. Uphold the Treaties and respect the rights of our Sovereign Nations. Deny the permits for the Goldendale pumped storage project on Yakama Nation's sacred lands.

Leonard Forsman
Tribal Council Chairman
Suquamish Tribe

W. Ron Allen
Tribal Council Chairman
Jamestown S'klallam Tribe

Steve Edwards
Tribal Senate Chairman
Swinomish Indian Tribal Community

Teri Gobin
Board of Directors Chairwoman
Tulalip Tribes

Nino Maltos
Tribal Council Chairman
Sauk-Suiattle Indian Tribe

Timothy J. "TJ" Greene, Sr.
Tribal Council Chairman
Makah Tribe

Douglas Woodruff, Jr.
Tribal Council Chairman
Quileute Tribe

Charles "Guy" Miller
Tribal Council Chairman
Skokomish Indian Tribe

Frances G. Charles
Business Committee Chairwoman
Lower Elwha Klallam Tribe

Bill Sterud
Tribal Council Chairman
Puyallup Tribe of Indians

Kris Peters
Tribal Council Chairman
Squaxin Island Tribe

Jaison Elkins
Tribal Council Chairman
Muckleshoot Indian Tribe

Guy Capoeman
Tribal Council President
Quinault Indian Nation

William Jones Jr.
Tribal Council Chairman
Lummi Nation

Rosemary LaClair
Tribal Council Chair
Nooksack Tribe

Jeromy Sullivan
Tribal Council Chair
Port Gamble S'Klallam Tribe

Willie Frank, III
Tribal Council Chairman
Nisqually Indian Tribe

#

Contact:
Yakama Nation, Public Information Office
(509) 865-5121 Ext. 6023



December 2022

Proposed Goldendale Energy Storage Project

Tribal Resources Analysis Report

Note some confidential archaeological and ethnographic studies were shared with the Washington Department of Ecology for this analysis and are generally summarized in this report. Confidential detailed information from the studies is redacted in this report, in compliance with Revised Code of Washington 42.56.300.

Prepared by



In coordination with

Anchor QEA, LLC
1201 3rd Avenue, Suite 2600
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and

White Bluffs Consulting
189205 East 36th Avenue
Kennewick, Washington 99337

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Acronyms and Abbreviations

Applicant	Free Flow Power Project 101, LLC
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
Ecology	Washington Department of Ecology
EIS	Environmental Impact Statement
FERC	Federal Energy Regulatory Commission
MPD	Multiple Property Documentation
NRHP	National Register of Historic Places
Section 106	Federal Section 106 of the National Historic Preservation Act of 1966
SEPA	State Environmental Policy Act
TCP	Traditional Cultural Property
Warm Springs	Confederated Bands of Warm Springs Reservation of Oregon
Yakama Nation	Confederated Tribes and Bands of the Yakama Nation

Summary

This report describes the Tribal resources in the study area and impacts that would result from the proposed project. The study area is the geographic extent of potential direct and indirect impacts to Tribal resources, including both the project footprint and the adjacent area that could be affected by construction and operation of the proposed project. Figure 1 shows the proposed project elements; the geographic extent of Tribal resources that could be impacted could extend well beyond the proposed project footprint.

Tribal resources refers to the collective rights and access to traditional areas and times for gathering resources associated with a Tribe’s sovereignty since time immemorial. It also includes inherent rights or formal treaty rights associated with usual and accustomed territories. In addition, Tribal resources includes areas important to traditional cultural practices and the natural and cultural resources associated with those practices including plants, wildlife, or fish used for commercial, subsistence, and ceremonial purposes. Resources may also include archaeological or historic sites or Traditional Cultural Properties (TCPs) associated with Tribal use and sites considered sacred by Tribes. TCPs are properties associated with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions of a living community.

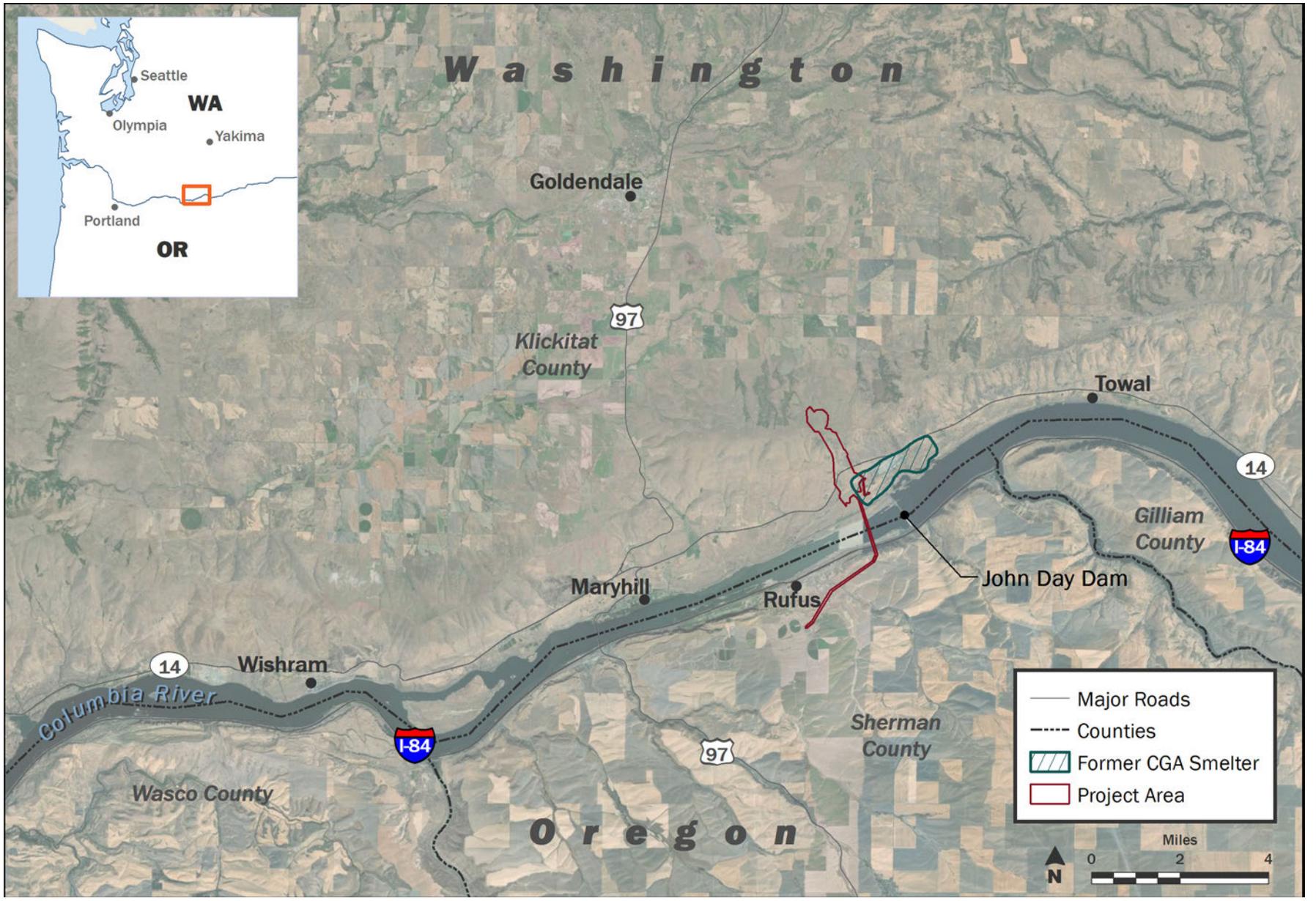
Tribal resources have been preliminarily identified through review of publicly available published literature, anthropological reports, and discussions with Tribal members. Tribal communities are the best source of information about Tribal resources and impacts to such resources, and were consulted throughout the State Environmental Policy Act (SEPA) process.

A preliminary assessment of impacts is presented in Table 1. The proposed project is likely to result in significant adverse impacts to natural resources and cultural resources that are considered Tribal resources.

Table 1
Tribal Resources Impact Summary

TYPE OF IMPACT	SIGNIFICANT ADVERSE IMPACT FINDING	SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACT
Proposed Project: Construction		
Impacts on plants and wildlife used by Tribes, or restriction of Tribal access to plants and wildlife	Yes	Yes
Impacts on archaeological or historic sites or TCPs associated with Tribal use	Yes	Yes
Proposed Project: Operations		
Impacts on plants and wildlife used by Tribes, or restriction of Tribal access to plants and wildlife	Yes	Yes
Impacts on archaeological or historic sites or TCPs associated with Tribal use	Yes	Yes
No Action Alternative		
Impacts on plants and wildlife used by Tribes, or restriction of Tribal access to plants and wildlife	No	No
Impacts on archaeological or historic sites or TCPs associated with Tribal use	No	No

Figure 1
Proposed Project Footprint



1 Introduction

Free Flow Power Project 101, LLC (the Applicant) proposes to build a pumped-water energy storage system that is capable of generating energy through the release of water from an upper reservoir down to a lower reservoir. This is referred to as the “proposed project.” This report describes Tribal resources within the study area that may be impacted for the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation), including the Kah-Milt-Pah (Rock Creek Band)¹; the Confederated Tribes of the Umatilla Indian Reservation (CTUIR); the Confederated Bands of Warm Springs Reservation of Oregon (Warm Springs); and the Nez Perce Tribe. It includes an assessment of probable significant adverse impacts associated with the proposed project and a No Action Alternative. Chapter 2 of the SEPA Environmental Impact Statement (EIS) provides a more detailed description of the proposed project and No Action Alternative.

1.1 Resource Description

Tribal resources refers to the collective rights and access to traditional areas and times for gathering resources associated with a Tribe’s sovereignty since time immemorial. They include the following:

- Inherent rights or formal treaty rights associated with usual and accustomed territories.
- Areas important to traditional cultural practices and the natural and cultural resources associated with those practices including, plants, wildlife, or fish used for commercial, subsistence, and ceremonial purposes. These include areas designated by the Tribes as sacred.
- Archaeological or historic sites or TCPs associated with Tribal use. TCPs are properties associated with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions of a living community.

Tribal resources were identified through review of publicly available published literature, anthropological reports, scoping comments, and discussions with Tribal members and staff. Tribal communities are the best source of information about Tribal resources and impacts to such resources. The Washington Department of Ecology (Ecology) coordinated with Tribes throughout the SEPA process.

Information about impacts to Tribal resources is also included in Section 4.9, Cultural and Tribal Resources, and Section 4.8, Aesthetics/Visual Quality, of the EIS; the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS; Anchor QEA 2022a) and Section 4.6 of the EIS; and the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS; Anchor QEA 2022b) and Section 4.7 of the EIS.

The term cultural resources also includes non-Native American built environment and archaeological resources that would not likely be considered Tribal cultural resources by the Tribes; these are described in Section 4.9 of the EIS but not further detailed in this report.

¹ Kah-Milt-Pah is one of the bands and Tribes in the Yakama confederation. Ecology’s government-to-government consultation process is with the Yakama Nation, but because the Kah-Milt-Pah (Rock Creek Band) submitted a separate scoping letter for the SEPA EIS, their comments are also noted by name in this report.

1.2 Regulatory Context

Table 2 lists the applicable laws, plans, and policies related to the evaluation of potential impacts to Tribes and Tribal resources within the study area.

Table 2
Applicable Laws, Plans, and Policies

REGULATION, STATUTE, GUIDELINE	DESCRIPTION
Federal	
Treaties of 1855 as signed by: <ul style="list-style-type: none"> • Confederated Tribes and Bands of the Yakama Nation (Yakima Treaty) • Nez Perce Tribe (Walla Walla Treaty) • Confederated Tribes of the Umatilla Indian Reservation (Walla Walla Treaty) • Confederated Bands of Warm Springs Reservation of Oregon (Treaty of Wasco, Columbia River, Oregon Territory) 	Each of the referenced treaties set aside reservation land and reserved fishing, gathering, and hunting rights for the signatory Tribes throughout their usual and accustomed grounds.
Section 106 of the National Historic Preservation Act, Code of Federal Regulations 36.800, and National Register Bulletin 38, Guidelines for Identifying and Documenting Traditional Cultural Properties	Section 106 requires federal agencies to consider the effects of their undertakings on historic properties. Historic properties are prehistoric or historic sites, districts, structures, or objects that are eligible for listing in the National Register of Historic Places. The National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archaeological resources.
American Indian Religious Freedom Act of 1978	The statute preserves Tribal rights to believe, express, and exercise traditional religions, including access to sites, use and possession of sacred objects, and freedom to worship through ceremonials and traditional rights.
<i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), “Boldt Decision”	In this decision, the federal district court interpreted the rights of treaty Tribes to take fish in their “usual and accustomed places in common with all citizens” to mean that treaty Tribes have a treaty-reserved right to harvest 50% of the harvestable portion of fish.
<i>Washington v. Washington State, Commercial Passenger Fishing Vessel Association</i> , 443 U.S. 658 (1979)	In this decision, the U.S. Supreme Court upheld the 1974 Boldt Decision.
State	
Revised Code of Washington 27.53 Archaeological Sites and Resources	Archaeological sites are protected and preserved, and unpermitted disturbance of sites is prohibited.
Revised Code of Washington 27.44 Indian Graves and Records	Native American burial sites, cairns, glyptic markings, and historic graves located on public and private land are to be protected. Required procedures in the event of a discovery of human remains are described.
Centennial Accord Between the Federally Recognized Indian Tribes in Washington State and the State of Washington (GOIA 1989) and its implementation plan (GOIA 1999)	The Washington Department of Ecology consults with Tribes in a government-to-government relationship to protect and manage shared natural resources.

REGULATION, STATUTE, GUIDELINE	DESCRIPTION
Washington Department of Fish and Wildlife Columbia River Basin Salmon Management (Policy C-3620)	Policy C-3620 promotes orderly fisheries, advances the conservation and recovery of wild salmon and steelhead, and maintains or enhances the economic well-being and stability of the fishing industry in the state (WDFW 2019).

2 Methodology

2.1 Study Area

The study area is the geographic extent of potential direct and indirect impacts to Tribal resources, including both the project footprint and the adjacent area that could be affected by construction and operation of the proposed project. The geographic extent of Tribal resources that could be impacted could extend well beyond the proposed project footprint.

2.2 Technical Approach

The analysis of impacts to Tribal resources differs in its approach when compared to the impact analysis for other natural resources. Natural resources are analyzed elsewhere in the EIS and associated reports, to determine if the proposed project would have significant impacts from a non-Tribal perspective, and whether or not those impacts could be mitigated.

Comments from the Tribes demonstrate that natural and cultural resources are highly interconnected. As a result of this connection, Tribes hold a deep intimate knowledge and understanding of the ecosystem, often referred to as Tribal Ecological Knowledge. U.S. Fish and Wildlife defines Tribal Ecological Knowledge as “the evolving knowledge acquired by indigenous and local peoples over hundreds or thousands of years through direct contact with the environment” (Rinkevich et al. 2011). Tribal Ecological Knowledge is a valuable source of information and will continue to be considered as impacts from the proposed project are evaluated.

The analysis for Tribal resources references the other natural resource analyses and considered the Tribes’ unique and powerful connection to and reliance on cultural and natural resources. In order to honor the Tribes’ perspective, the analysis considered all identified impacts to natural resources and cultural resources. This report includes consideration of the unique perspectives and specific impacts to the Tribes and adds cultural context when evaluating project impacts.

This analysis has identified Tribal resources as plants, wildlife, and areas important to traditional cultural practices and those associated with treaty rights related to usual and accustomed territories. EIS chapters and reports and publicly available sources were used to develop an initial list of resources.

These sources include the following:

- A Cultural Resource Survey of the Goldendale Energy Project No. 14861 (Shellenberger et al. 2019)
- Nez Perce Traditional Land Use Study for the Goldendale Pump Storage Project (Moon 2021)
- Testing and Evaluation of Sites 45KL566, 45KL567, 45KL570, 45KL744, 45KL746, and 45KL2476 for the Goldendale Energy Storage Project, Klickitat County, Washington (HRA 2021)
- Confederated Tribes of the Umatilla Indian Reservation First Foods & Life Cycles (CTUIR 2021a)
- U.S. Fish and Wildlife Service Factsheet on Traditional Ecological Knowledge for Application by Service Scientists (USFWS 2011)
- A Guide to the Indian Tribes of the Pacific Northwest (Ruby and Brown 1986)
- Handbook of North American Indians, Volume 12, Plateau (Walker 1990)

- Anthropological Study of Yakama Tribe: Traditional Resource Harvest Sites West of the Crest of the Cascades Mountains in Washington State and below the Cascades of the Columbia River (Hunn 2003)
- Confederated Tribes and Bands of the Yakama Nation, Tribal Council Resolution T-089-21, October 6, 2021.

Another source of information for this analysis was comments received during scoping for the EIS and the public comment period on the Draft EIS. Scoping is designed to establish and confirm the focus of the Draft EIS by including input from Tribes, agencies, members of the public, and stakeholders. Comments received during scoping are summarized in the *SEPA EIS Scoping Summary Report* (Anchor QEA 2021). Comments received during the public comment period on the Draft EIS are in the *EIS Comment Response Report*. All comments received were considered when preparing and revising the EIS.

According to the Yakama Nation, the proposed project is “in an area of exceptional cultural importance to the Yakama Nation” and contains irreplaceable cultural and natural resources that are incompatible with industrial development (Yakama Nation 2021). Furthermore, “due to the sacredness of this resource, this development would destroy the lives of our tribal members” (Yakama Nation 2022).

The Kah-Milt-Pah stated that “we always have concern for all wildlife since they cannot speak for themselves and they take care of us to provide us with food, clothing, and ceremonial instruments” (Kah-Milt-Pah 2021). This underscores the interconnected nature of cultural and natural resources as Tribal resources.

In their scoping comments, CTUIR (2021b) stated that impacts to Tribal cultural resources may be impossible to avoid, and also noted that Tribal cultural resources-related information is proprietary and sensitive and “needs to be identified and developed in close coordination with affected Indian Tribes.” In comments on this document, the Warm Springs stated that they support these statements by neighboring Tribes, and requested a full analysis of Tribal resources including but not limited to fish, wildlife, traditional plants, archaeological sites, and historic properties of religious and cultural significance.

The following key themes were identified in comments received during the scoping period about Tribal resources:

- Consider the Tribes’ current access to food and medicine in the area, and the access and use of the adjacent treaty fishing access site.
- Incorporate the regulatory responsibility to protect Tribal lands and preserve irreplaceable Tribal treaty resources.
- Consider the cumulative impacts to Tribal resources resulting from the proposed project and other energy infrastructure.
- Consider comments concerning Tribal and cultural resources that were submitted by the Yakama Nation, the CTUIR, Department of Natural Resources, and the Kah-Milt-Pah (Rock Creek Band of the Yakama Nation).

2.3 Impact Assessment

The analysis of impacts on Tribal resources considered the following:

- Construction and operation impacts on plant and animal species used by Tribal members, including disruption of terrestrial animals’ use and migration patterns, which could affect Tribal hunting practices

- Loss of, or modifications to, habitats of species used by Tribal members
- Indirect impacts on species and habitats used by Tribal members, including fragmentation of habitats and impediments to migration
- Loss of access to a traditional hunting, fishing, or gathering area, or to an area where other traditional practices occur
- Impacts to archaeological sites and districts
- Impacts to Traditional Cultural Properties
- Interruption of spiritual practices
- Loss of medicinal and traditional plants and foods
- Disruption and degradation of health and mental well-being of Tribal members

To understand and verify identified potential project impacts, Ecology continues to engage with affected Tribes. Discussions have included opportunities for Tribal input on applicable information sources, draft methods, and draft documents.

Separately, a federal consultation process between the Federal Energy Regulatory Commission (FERC), Washington State Department of Archaeology and Historic Preservation, and the impacted Tribes is underway in order to develop a plan to avoid, minimize, and mitigate adverse effects (HRA 2021). Ecology is not a party to this federal consultation.

Impacts to archaeological sites and TCPs are more fully analyzed in Section 4.9, Cultural and Tribal Resources, of the EIS.

Additionally, information on potential impacts that relate to Tribal resources is also included in Section 4.8, Aesthetics/Visual Quality, of the EIS; the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS) and Section 4.6 of the EIS; and the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS) and Section 4.7 of the EIS. Potential climate change impacts to wildlife and plants that are identified as Tribal resources, and fish and wildlife habitats, are addressed in Chapter 5, Climate Change, of the EIS.

3 Technical Analysis and Results

3.1 Overview

This section describes the affected environment or the conditions before any construction begins, within the Tribal resources study area (Section 3.2). This section also includes findings of probable impacts from the proposed project (Section 3.3) and No Action Alternative (Section 3.4).

3.2 Affected Environment

This section describes the types of Tribal uses and resources in the study area. The study area is within lands ceded by the Yakama Treaty of 1855 (*Treaty with the Yakima, 1855*, 12 Stat. 951. Ratified March 8, 1859. Proclaimed April 18, 1859). Additionally, the study area is, and has historically been, used by the Yakama Nation, CTUIR, Warm Springs, and Nez Perce Tribe for hunting, traditional gathering, camping, and traditional Tribal rituals, such as ceremonies and vision quests.

In their scoping comment letter, the Yakama Nation states that the project area is one of “exceptional cultural importance” to them and that to this day, Tribal members exercise ancestral harvest and ceremonial practices within the project area. They also state: “The Yakama Nation’s Treaty-reserved cultural and natural resources will be irrevocably damaged or destroyed due to the Project construction and location on culturally and environmentally sensitive areas. Project development attacks and threatens Yakama Nation’s Treaty resources and the Yakama members who rely [sic] these resources” (Yakama Nation 2021).

The Rock Creek Band (Kah-Milt-Pah) of the Yakama Nation expressed similar concerns in their scoping letter: “This project will desecrate our sacred site and food gathering sites.” They further explain that “the location of this site is known as Put’a’lish and is a sacred site to our Kah-Milt-Pah Band. From the valley toe where the land meets the N’chi’ Wana (Columbia River) to the top of the ridge Put-a-lish is very important to our people” (Ka-Milt-Pah 2021). This area has been used for many generations and time immemorial to gather First Foods and medicines along the ridge and fish below at the toe of the ridge (Kah-Milt-Pah 2022).

The CTUIR shares concerns about protecting and maintaining Tribal culture, traditions, and a way of life. They state, “because of their unique irreplaceable nature and location, the CTUIR DNR believes that impacts from the project on tribal cultural resources may be impossible to avoid” (CTUIR 2021b).

3.2.1 Cultural Resources Associated with Tribal Use

Archaeological and ethnographic studies have been conducted in the study area and have inventoried archaeological sites and TCPs (Shellenberger et al. 2019; HRA 2021; Moon 2021; FFP 2021). These studies are confidential but were shared with Ecology and are summarized in this section.

The study area was intensively used in the past, which has resulted in a dense concentration of archaeological sites. According to DAHP, 79% of the study area is within high risk or very high risk areas for the possibility of encountering archaeological sites (DAHP 2022a). [REDACTED] archaeological sites have been recorded in the study area, and the study area is also entirely within the Columbia Hills Archaeological District (District). [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The Yakama Nation has identified two specific TCPs in the study area: *Pushpum* and *Nch'ima*. Resources in the study area, including both archaeological sites and TCPs, also contribute to two Multiple Property Documentations (MPDs) documented by the Yakama Nation: the Columbia Hills MPD and the Coyote's Journey MPD. Warm Springs supports the Yakama Nation on the significance of these TCPs.

Pushpum is located within and beyond the study area. It is the location of ongoing harvests of traditional resources, as well as the associated ceremonies, rites, and traditions, which are closely tied to specific locations. This ongoing use is demonstrated in the archaeological sites in the vicinity. *Pushpum* has been determined NRHP-eligible. In their May 2021 Tribal Council Resolution, Yakama Nation emphasizes how critical this site is by saying "Pushpum, known as Juniper Point, is within the Yakama Nation's Treaty territory under Article 1 of the Treaty of 1855 and has been a site of religious, ceremonial and cultural importance to the Yakama People since time immemorial" (Yakama Nation 2022). The Rock Creek Band of the Yakama Nation refers to this same area as "Put-a-lish" (Kah-Milt-Pah 2022).

Nch'ima is an extensive fishing ground and village site located within and beyond the study area. *Nch'ima* is significantly associated with traditional cultural practices and knowledge, the history of which is demonstrated in the archaeological sites in the vicinity, and is NRHP-eligible.

During coordination on the proposed project, the Yakama Nation indicated that harvests of roots and other traditional resources are associated with many significant traditional cultural practices, including sharing with elders and provisioning feasts and other events.

The Columbia Hills MPD comprises archaeological sites, locations associated with legends, and places where traditional practices occur across the Columbia Hills region. The MPD describes these distinct resources while emphasizing their interconnectedness. The entire study area is within the MPD. The Coyote's Journey MPD comprises locations across the entire Columbia Basin that are associated with Creation (archaeological sites and other ritually and culturally significant locations).

[REDACTED]

[REDACTED]



Both MPDs are NRHP-eligible.

The CTUIR identified two TCPs: one is *Pushpum* and the other is unnamed in publicly available materials. Detailed information about the unnamed TCP is confidential, though the Tribe has indicated in materials shared with Ecology that they have used the unnamed TCP area for traditional activities since time immemorial.

Documentation prepared by the Nez Perce Tribe offers a similar evaluation of the importance of traditional gathering and ritual activities. The Tribe emphasizes that the resources in the study area are part of a much larger integrated cultural network, and impacts can extend far beyond the study area in space and time. Warm Springs supports the Nez Perce Tribe on the significance of these TCPs. Preservation of land and culture is essential to the identity of the Tribes. It provides the living space, the sacred and cultural sites, and the natural resources that sustain Tribal peoples and cultures. It provides spiritual and physical sustenance, and the means for economic self-sufficiency.

3.2.2 *Natural Resources Associated with Tribal Use*

Plant gathering is an essential subsistence and cultural activity that is documented in ethnographic literature, Tribal legend and stories, and archaeological sites. Plants were historically and are currently gathered for food, medicine, and ritual uses, as well as raw material for tools, clothing, basketry and mats, and other uses. Participation by Tribal members in those gathering activities is a part of cultural identity. Sources, noted in Section 2.2, identify plants, aquatic species, and terrestrial species associated with Tribal use. This was a common theme of scoping letters Ecology received from the Tribes. The Rock Creek Band of the Yakama Nation mentions “there are many culturally significant plants we gather on the north facing slope of this ridge site and also on top at Put-a-lish” and “the foods that are gathered here are our First Foods that we utilize for subsistence and ceremonial purposes.” They further state that “this project will desecrate our sacred site and food gathering sites.”

The Yakama Nation May 2021 Tribal Council Resolution includes “Pushpum is a place where Yakama People continue to exercise Treaty-reserved rights to gather traditional roots and medicines under Article III of the Treaty of 1855 and has been a site of sovereign food gathering since time immemorial.” In their comment letter submitted on the Draft EIS, they further explain,

The plants that survive at Push-pum uniquely provide Yakama people with important medicines and nourishment. Push-pum is known to the Yakama as “the mother of roots” and the culturally significant plants found here are endemic to this region. This is a resource that cannot be replaced because Push-pum is the natural seed bank for these plant resources. These plant resources include buckwheats, balsamroots, lomatiums, yarrow, sumac, lupin, dogbane, rose, onion, thistle, serviceberry, sagebrush, junipers, and many others. These plants and combinations of them are used by Yakama People to treat illness in the body and spirit. These plants have served for thousands of years as poultice, tea, bandages, pacifiers, drums, needles, rope, nets, and food. They are important to traditional ceremonies and religious practices. (Yakama Nation 2022)

Important plant species in the proposed project area are outlined in Table 3. This list has been compiled from the project's *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS) and publicly available sources described in Section 2.2 and may not be a complete list of plants important to Tribes.

Table 3
Plant Species Associated with Tribal Use and Present within the Goldendale Energy Storage Project Area of Potential Effect

COMMON NAME	SCIENTIFIC NAME
Arrowleaf balsamroot	<i>Balsamorhiza sagittata</i>
Arrowleaf buckwheat	<i>Erogonum compositum</i>
Barestem biscuitroot	<i>Lomatium nudicaule</i>
Biscuit root	<i>Lomatium macrocarpum</i>
Bitterroot	<i>Lewisia rediviva</i>
Black hawthorn	<i>Crataegus</i> spp. (<i>C. suksdorfii</i> or <i>C. douglasii</i>)
Bolander's linanthus	<i>Leptosiphon bolanderi</i> or <i>Linanthus bakeri</i>
Brodiaea	<i>Triteleia hyacinthina</i>
Chocolate lily	<i>Fritillaria camschatcensis</i>
Columbia Gorge broad-leaf lupine	<i>Lupinus latifolius</i>
Commonbluecup	<i>Githopsis specularioides</i>
Commonstork's-bill	<i>Erodium cicutarium</i>
Douglas' draba	<i>Cusickiella douglasii</i> or <i>Draba douglasii</i>
Fernleaf biscuitroot	<i>Lomatium dissectum</i>
Few-flowered collinsia	<i>Collinsia sparsiflora</i> var. <i>sparsiflora</i> or <i>Collinsia sparsiflora</i> var. <i>bruceae</i>
Gray's broomrape	<i>Aphyllon californicum</i> var. <i>grayanum</i> or <i>Orobanche grayana</i> or <i>Orobanche californica</i> ssp. <i>grayana</i>
Hot-rock penstemon	<i>Penstemon deustus</i> var. <i>variabilis</i>
Inch-high rush	<i>Juncus uncialis</i>
Menzies' fiddleneck	<i>Amsinckia menziesii</i>
Miner's lettuce	<i>Claytonia perfoliata</i>
Netleaf hackberry	<i>Celtis laevigata</i>
Nine-leaf biscuitroot	<i>Lomatium triturnatum</i>
Nootka rose	<i>Rosa nutkana</i>
Northern mule-ears	<i>Wyethia amplexicaillis</i>
Nuttall's larkspur	<i>Delphinium nuttallianum</i>
Nuttall's quillwort	<i>Isoetes nuttallii</i>
Obscure buttercup	<i>Ranunculus triternatus</i> or <i>Ranunculus glaberrimus</i> var. <i>reconditus</i> or <i>Ranunculus reconditus</i>
Ponderosa pine	<i>Pinus ponderosa</i>
Pungent desert parsley	<i>Lomatium papilioniferum</i> (<i>L. grayi</i>)
Rubber rabbitbrush	<i>Ericameria nauseosa</i>
Silver puffs	<i>Uropappus lindleyi</i>
Slender hawksbeard	<i>Crepis atribarba</i>
Smooth desert parsley	<i>Lomatium laevigatum</i>
Smooth goldfields	<i>Lasthenia glaberrima</i>

COMMON NAME	SCIENTIFIC NAME
Smooth sumac	<i>Rhus glabra</i>
Spreading dogbane	<i>Apocynum androsaemifolium</i>
Strict buckwheat	<i>Eriogonum strictum</i> var. <i>proliferun</i>
Suksdorf's biscuitroot	<i>Lomatium suksdorfii</i>
Tapertip onion	<i>Allium acuminatum</i>
Thyme-leaved buckwheat	<i>Eriogonum thymoides</i>
Wavyleaf thistle	<i>Cirsium undulatum</i>
Western juniper	<i>Juniperus occidentalis</i>
Western ladies-tresses	<i>Spiranthes porrifolia</i> or <i>Spiranthes romanzoffiana</i> var. <i>porrifolia</i>
Western serviceberry	<i>Amelanchier alnifolia</i>
Wormskioold's northern wormwood	<i>Artemisia campestris</i> var. <i>wormskiooldii</i> or <i>Artemisia campestris</i> ssp. <i>borealis</i> var. <i>wormskiooldii</i>
Yarrow	<i>Achillea millefolium</i>

Numerous animal species, aquatic and terrestrial, are also present in the proposed project area (Table 4) and are very important to Tribes. The list in Table 4 has been compiled from the project's *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS), *Terrestrial Species and Habitat Analysis Report* (Appendix G of the EIS), and the publicly available sources described in Section 2.2. This may not be a complete list of Tribally important species.

Several ephemeral waterbodies in the proposed project area drain to Swale Creek, a tributary to the Klickitat River, which is a tributary to the Columbia River. The Columbia River is adjacent to the lower reaches of the proposed project area. The ephemeral waterbodies could provide habitat for amphibians, and the Columbia River hosts a wide variety of migratory and resident species, as well as non-native species. Of particular importance are salmon and trout, suckers, and lamprey species.

The proposed project area also includes a variety of habitat for terrestrial species, including birds, mammals, bats, and reptiles. Important subsistence species include mule deer, elk, porcupines, various small mammals, grouse, and waterfowl. Tribes also have a very close and spiritual connection to many bird species: "All the birds have a purpose and sacredness about them in Yakama beliefs. The birds carry messages to the Creator and the presence of feathers can be seen as interpretations of great spiritual significance. Raptors have unique significance where every bone and feather has a purpose and traditional use. Yakamas use every bone, feather, beak, and talon. Eagle remains are sacred and are ceremonially gifted for both spiritual purposes and as a great honor and achievement in a person's life" (Yakama Nation 2022). Bird species—such as eagles, corvids, and other raptors—also occur in the proposed project vicinity.

Table 4
Animal Species Associated with Tribal Use and Present in or Near the Goldendale Energy Storage Project Area of Potential Effect

COMMON NAME	SCIENTIFIC NAME
Fish Species	
Bridgelip sucker	<i>Catostomus columbianus</i>
Bull trout	<i>Salvelinus confluentus</i>
Burbot	<i>Lota</i>
Chinook salmon	<i>Oncorhynchus tshawytscha</i>

COMMON NAME	SCIENTIFIC NAME
Chiselmouth	<i>Acrocheilus alutaceus</i>
Coastal resident cutthroat trout	<i>Oncorhynchus clarki</i>
Coho salmon	<i>Oncorhynchus kisutch</i>
Chum salmon (fall-run)	<i>Oncorhynchus keta</i>
Largescale sucker	<i>Catostomus macrocheilus</i>
Leopard dace	<i>Rhinichthys falcatus</i>
Longnose dace	<i>Rhinichthys cataractae</i>
Longnose sucker	<i>Catostomus</i>
Mottled sculpin	<i>Cottus bairdi</i>
Mountain sucker	<i>Catostomus platyrhynchus</i>
Mountain whitefish	<i>Prosopium williamsoni</i>
Northern pikeminnow	<i>Ptychocheilus oregonensis</i>
Pacific lamprey	<i>Entosphenus tridentata</i>
Paiute sculpin	<i>Cottus beldingi</i>
Peamouth	<i>Mylocheilus caurinus</i>
Pink salmon	<i>Oncorhynchus gorbuscha</i>
Prickly sculpin	<i>Cottus asper</i>
Rainbow trout	<i>Oncorhynchus mykiss</i>
Redside shiner	<i>Richardsonius balteatus</i>
Reticulate sculpin	<i>Cottus perplexus</i>
River lamprey	<i>Lampetra ayresi</i>
Sandroller	<i>Percopsis transmontana</i>
Sockeye salmon	<i>Oncorhynchus nerka</i>
Speckled dace	<i>Rhinichthy osculus</i>
Steelhead trout	<i>Oncorhynchus mykiss</i>
Three-spine stickleback	<i>Gasterosteus aculeatus</i>
Torrent sculpin	<i>Cottus rhotheus</i>
Western brook lamprey	<i>Lampetra richardsoni</i>
White sturgeon	<i>Acipenser transmontanus</i>
Aquatic Invertebrates	
Oregon floater, Willamette floater, winged floater, western floater, and others	<i>Anodonta</i> spp.
Western pearlshell	<i>Margaritafera falcata</i>
Western ridged mussel or Rocky Mountain ridged mussel	<i>Gonoidea angulata</i>
Terrestrial Animals	
Badger	<i>Taxidea taxus</i>
Black-tailed jackrabbit	<i>Lepus californicus</i>
Bobcat	<i>Lynx rufus</i>
Cascade red fox	<i>Vulpes cascadenis</i>
Columbian black-tailed deer	<i>Odocoileus hemionus columbianus</i>
Nuttall's cottontail rabbit	<i>Sylvilagus nuttallii</i>
Coyote	<i>Canis latrans</i>
Elk	<i>Cervus canadensis</i>

COMMON NAME	SCIENTIFIC NAME
Fisher	<i>Pekania pennanti</i>
Gray wolf	<i>Canis Lupus</i>
Mule deer	<i>Odocoileus hemionus</i>
Nuttall's cottontail	<i>Sylvilagus nuttallii</i>
Pacific marten	<i>Martes caurina</i>
Porcupine	<i>Erethizon dorsatum</i>
Raccoon	<i>Procyon lotor</i>
Red fox	<i>Vulpes</i>
White-tailed jackrabbit	<i>Lepus townsendii</i>
Wolverine	<i>Gulo luscus</i>
Birds	
American coot	<i>Fulica americana</i>
American crow	<i>Corvus brachyrhynchos</i>
American kestrel	<i>Falco sparverius</i>
American wigeon	<i>Anas americana</i>
Bald eagle	<i>Haliaeetus leucocephalus</i>
Bufflehead	<i>Bucephala albeola</i>
California quail	<i>Callipepla californica</i>
Canada goose	<i>Branta canadensis</i>
Chukar	<i>Alectoris chukar</i>
Clark's grebe	<i>Aechmophorus clarkii</i>
Common goldeneye	<i>Bucephala clangula</i>
Common raven	<i>Corvus corax</i>
Common (ring-necked) pheasant	<i>Phasianus colchicus</i>
Cooper's hawk	<i>Accipiter cooperii</i>
Ferruginous hawk	<i>Falco peregrinus</i>
Golden eagle	<i>Aquila chrysaetos</i>
Gray partridge	<i>Perdix perdix</i>
Greater sage-grouse	<i>Centrocercus urophasianus</i>
Harlequin duck	<i>Histrionicus histrionicus</i>
Hooded merganser	<i>Lophodytes cucullatus</i>
Horned grebe	<i>Podiceps auritus</i>
Mallard	<i>Anas platyrhynchos</i>
Merlin	<i>Falco columbarius</i>
Mountain quail	<i>Oreortyx pictus</i>
Mourning dove	<i>Zenaida macroura</i>
Northern goshawk	<i>Accipiter gentilis</i>
Northern harrier	<i>Circus cyaneus</i>
Northern pintail	<i>Anas acuta</i>
Osprey	<i>Pandion haliaetus</i>
Peregrine falcon	<i>Falco peregrinus</i>
Prairie falcon	<i>Falco mexicanus</i>
Red-tailed hawk	<i>Buteo jamaicensis</i>
Rough-legged hawk	<i>Buteo lagopus</i>
Sharp-shinned hawk	<i>Accipiter striatus</i>

COMMON NAME	SCIENTIFIC NAME
Swainson's hawk	<i>Buteo swainsoni</i>
Turkey vulture	<i>Cathartes aura</i>
Valley (California) quail	<i>Callipepla californica</i>
Western grebe	<i>Aechmophorus occidentalis</i>
Wood duck	<i>Aix sponsa</i>

3.3 Proposed Project

3.3.1 Impacts from Construction

Construction for the proposed project is estimated to last 5 years, from 2025 to late 2030. Activities that could impact Tribal resources include ground disturbance, restrictions to access, degradation of visual quality, noise, and interruption of the landscape and habitat. The Tribes' spiritual practices could be interrupted by construction impacts to land areas and cultural or sacred sites. In addition, access to traditional gathering areas for medicinal and traditional plants and foods would also be restricted during construction and permanently lost in the reservoir areas. The loss of Tribal connections and educational opportunities that result from restricted access to Tribal resources would disrupt and degrade Tribal members' health and mental well-being.

3.3.1.1 Direct Impacts

Cultural Resources Associated with Tribal Use

Five archaeological sites would be adversely affected by ground disturbance. These sites are NRHP-eligible for their association with traditional use and practices, and one of the sites is also significant for its scientific data potential. This means that important questions about human history can only be answered by the physical materials at the site. The sites, and the Columbia Hills Archaeological District, would be disturbed by construction, which constitutes a significant adverse impact. Ground disturbance would also occur in areas where no archaeological sites have been identified during recent surveys, but there is still a potential for previously unrecorded sites to be identified during construction.

Construction of the proposed project would occur in *Pushpum (Put-a-lish)* and *Nch'ima*, which are areas used for resource gathering and other ritual and cultural activities. Construction would also occur in the unnamed CTUIR TCP. Construction would prevent culturally significant activities from occurring, and would also impact the associated archaeological sites.

The Applicant has estimated that nearly all of four archaeological sites, and up to 20% of a fifth archaeological site, would be disturbed. DAHP has estimated that 100% of 15 sites could be disturbed (DAHP 2022b). This constitutes a significant adverse impact. There is also a potential to impact unrecorded archaeological sites that are associated with the TCPs. According to the Yakama Nation, "the archaeological and TCP sites are irreplaceable to the Yakama Nation's cultural resource inventory as a source of significant cultural and spiritual meaning for Yakama people" and construction of the project "unavoidably destroys cultural resources through earthworks and reservoir storage" (Yakama Nation 2021). During discussions with Ecology regarding the proposed project, Tribes have communicated that archaeological sites that can be seen on the surface are a teaching tool; impacts to the sites prevent this teaching. Construction related to the proposed project would also represent disrespect to the landscape.

As noted in Section 4.8 of the EIS, Aesthetics/Visual Quality, Tribes are sensitive viewers of this landscape, where disturbance of the natural landscape can impact the spirituality and well-being of the viewer, and construction would result in impacts to visual quality. There would be visual, auditory, and atmospheric effects during construction that would impact the TCPs. The change in the natural state of the landscape could interrupt Tribal cultural practices and impact the expression of Tribal spirituality. According to the Yakama Nation,

Juniper Point is associated with several Yakama TCPs that each tell stories and provide geophysical references for passing knowledge on to future generations. These teachings pertain to traditional foods and medicine, legendary events, legendary figures, and important teachings. Standing on Juniper Point, the viewshed includes other sacred sites that provide teachings and cultural orientation to the traditional cultural landscape (now Washington and Oregon). This view is expansive and focuses on the legendary aspects of the mountains and their connectivity. (Yakama Nation 2022)

Therefore, the change in viewscape would constitute a significant adverse impact to the TCPs and is also a significant adverse impact to Tribes.

Additional information can be found in in Section 4.9, Cultural and Tribal Resources, of the EIS.

Natural Resources Associated with Tribal Use

Impacts to terrestrial plants, animals, and their habitats are described in the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS).

Construction of the proposed project would result in the direct mortality of plant species in the upper and lower reservoir footprints and construction areas, potentially including smooth desert parsley and other species used by Tribes. Access to food harvesting areas may be limited during construction. Although the Applicant is expected to reseed remaining areas after construction with a mix of appropriate native plant species, there would be a loss of plant species, limited access to gathering opportunities during the 5-year construction period, and certain areas of harvest would be permanently destroyed in the reservoir areas, according to the Kah-Milt-Pah (Rock Creek Band; Kah-Milt-Pah 2021). This would be a significant adverse impact to the Tribes.

Construction of the proposed project would result in little to no impact to larger, more mobile animals such as deer, bobcat, coyote, and fox. Small mammals may be more affected, especially mice, shrews, and voles because their range is smaller and they depend more on ground burrowing. Hunted small mammal species such as rabbits and squirrels are expected to be less affected. However, construction would impact terrestrial mammals associated with Tribal use and would interrupt hunting and other cultural practices. According to the Kah-Milt-Pah, wildlife “take care of us to provide us with food, clothing and ceremonial instruments.”

Construction could result in impacts to birds if they are present or near in the construction areas. Breeding and pre-fledged birds are more likely to be directly affected by vegetation clearing, noise, and other construction activities, which could result in elimination of nesting and perching sites. These persistent disruptions would impact normal behavior of birds that are unable to leave the disturbance areas. If breeding and nesting sites are less than 0.5 mile from blasting activities, they could experience a significant adverse impact, which may impact species viability. Although mitigation is proposed by the

Applicant, even temporary movement of birds out of the project area could be a significant impact to the Tribes.

Although the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS) indicates there would be no direct impacts to aquatic habitat and species as a result of construction, Tribes have expressed concerns about how the project may impact access to fishing sites. These sites include the Rock Creek Band fish access sites at an ancient village site called *Willa-wit* and Yakama Nation access to the North Shore Treaty Fishing Access Site, which is a treaty fishing location in the Zone 6 Fishery (Slayton 2022). The Applicant has stated that there will be no impacts to access to fishing areas.

Additional information on potential impacts and mitigation measures that relate to Tribal resources is in Section 4.8, Aesthetics/Visual Quality of the EIS; as well as the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS); and *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS).

3.3.1.2 Indirect Impacts

Cultural Resources Associated with Tribal Use

As resources are not just shared within each Tribal community, but are also given to surrounding non-Native American communities or shared among Tribes, impacts to Tribal gathering areas from construction of the proposed project would also result in an indirect significant adverse impact.

Tribes have stated during discussions that impacts to Tribal members' ability to participate in, teach, learn, and share cultural practices affect the mental, spiritual, and physical health of Tribal members. Restrictions to access and removal of areas used for cultural practices would indirectly affect entire Tribal communities and multiple generations. Ecology continues to engage with Tribes to better understand project impacts.

Natural Resources Associated with Tribal Use

According to the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS), construction of the proposed project would have an indirect effect on terrestrial habitats. Construction would introduce new physical obstructions and increased human activity that would reduce habitat connectivity, by making it more difficult for some wildlife species to make daily and seasonal movements. Yakama Nation have also indicated the critical importance of the streams in the project area and further state that impacts to the streams could disrupt their hunting and gathering activities (Yakama Nation 2022). According to the Kah-Milt-Pah, wildlife "take care of us to provide us with food, clothing and ceremonial instruments" (Kah-Milt-Pah 2021). If wildlife species that are used by Tribes for cultural or spiritual practices are reduced due to construction, this would be an indirect significant adverse impact to the Tribes.

3.3.2 Impacts from Operation

Operations are assumed to be a 45-year period beginning after the proposed project is completed. Operational activities that could affect Tribal resources include those identified as impacts in the construction, as well as changes in access to natural and cultural resources and increased human activity with associated noise, light, dust, and human presence. The permanent loss of land in the reservoir locations would impact Tribes in a number of ways including the interruption of cultural and spiritual practices, and harvesting of culturally important plant species.

3.3.2.1 *Direct Impacts*

Cultural Resources Associated with Tribal Use

The 12 archaeological sites in the study area, and the Columbia Hills Archaeological District, could be impacted by the increase in activity in the study area during operation of the project. This includes increased vehicle traffic, vegetation management, or other activities causing ground disturbance, as well as the presence of people who might disturb surface artifacts. The sites, and the Columbia Hills Archaeological District, would likely be disturbed during operation of the proposed project, which constitutes a significant adverse impact. There is also a potential to impact unrecorded archaeological sites that are associated with the TCPs. Ongoing ground disturbance could occur in areas where no archaeological sites have been identified during recent surveys, but there is still a potential for previously unrecorded sites to be identified during operation.

Operation of the proposed project would also mean that the archaeological sites in the reservoir areas would be inaccessible or would have been previously destroyed by construction. This inaccessibility of remaining sites constitutes a significant adverse impact. Operation of the project would restrict access to activities associated with *Pushpum (Put-a-lish)* and *Nch'ima*. As noted above, operation of the proposed project would also impact the associated archaeological sites due to the increased human activity and ongoing interruption of culturally significant activities. This constitutes a significant adverse impact. There is also a potential to impact unrecorded archaeological sites that are associated with the TCPs. According to the Yakama Nation, “the archaeological and TCP sites are irreplaceable to the Yakama Nation’s cultural resource inventory as a source of significant cultural and spiritual meaning for Yakama people” and construction of the project “unavoidably destroys cultural resources through earthworks and reservoir storage” (Yakama Nation 2021).

Operation of the proposed project would restrict access to resource gathering and other ritual and cultural activities, especially in the reservoir areas. Per Yakama Nation Tribal Council Resolution T-089-21, there would be “direct, permanent and adverse destruction of nine TCPs of religious and ceremonial significance and the reduction and elimination of access to gather food and medicine roots, which results in an irreplaceable loss of cultural resources...” The analysis of construction impacts in Section 3.3.1.2 assumes that Tribal access to gathering areas within the project footprint would be restored after construction. If access is not restored, there would be an additional long-term significant adverse impact to Tribal resources during project operations.

Tribes are sensitive viewers of the landscape, where disturbance of the natural landscape can impact the spirituality and well-being of the viewer, and this project would result in impacts to visual quality. Because these areas are of cultural importance to the Tribes, any change in landscape view could disrupt sacred religious and ceremonial practices. This change also constitutes an impact to the TCPs and would be a significant impact to Tribal resources.

Additional information can be found in the EIS Section 4.8, Aesthetics/Visual Quality, and Section 4.9, Cultural and Tribal Resources.

Natural Resources Associated with Tribal Use

After completion of construction, some of the impacts on terrestrial habitats that resulted from construction would be ongoing, along with those associated impacts to the Tribes. Reseeding, rather than replanting, is proposed for post-construction habitat restoration. Reseeding results in a longer period of time before pre-construction habitat quality and function could be reached. This would not result in a significant adverse impact on terrestrial habitats, but would be a significant impact to the Tribes that use

the project area for harvesting plants, especially in areas where habitat access would be permanently destroyed in the reservoir locations.

According to the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS), no direct impacts of operation are anticipated on fish or aquatic habitat. However, there may be impacts to the Tribes if they are unable to access established and culturally significant fishing areas. Although the Applicant does not expect any impacts to access, it remains a concern to Tribes.

Additional information on potential natural resource impacts that relate to Tribal resources can be found in the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS) and the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS).

3.3.2.2 Indirect Impacts

Cultural Resources Associated with Tribal Use

No indirect effects of operation have been identified for cultural resources.

Natural Resources Associated with Tribal Use

According to the *Terrestrial Species and Habitats Resource Analysis Report* (Appendix G of the EIS), there would be reduced habitat function including a long-term reduction in the ability of the study area to support the same abundance and community of species that it previously supported. The increased human activity in the study area with proposed project operations would decrease habitat quality for some species. This is expected to be an impact on most habitats.

Significant adverse impacts could occur on talus and cliff habitat if it can no longer support breeding raptors because of the proximity of human development and reduced prey availability. This would result in a significant adverse impact to Tribal resources.

According to the *Aquatic Species and Habitats Resource Analysis Report* (Appendix F of the EIS), no indirect operational impacts are anticipated on aquatic habitat or species from project operations. However, there may be impacts to the Tribes if they are unable to access established and culturally significant fishing areas. Although the Applicant does not expect any impacts to access, it remains a concern to Tribes.

3.3.3 Required Permits

Multiple federal, state, and local permits would be required for the Proposed Action and are listed in the EIS Chapter 3. FERC is leading the Section 106 compliance process, including determining potential effects on NRHP-eligible historic properties.

3.3.4 Mitigation

Mitigation measures that could avoid, minimize, or reduce impacts of the proposed project on natural resources are detailed in EIS Section 4.2, Water Resources, Section 4.6, Aquatic Species and Habitats, and Section 4.7, Terrestrial Species and Habitats. These include measures to mitigate impacts to golden eagles, reduce water loss to protect aquatic species, protect water quality, restore native plant communities, manage noxious weeds, and collect data to inform the measures. Section 4.8, Aesthetics/Visual Quality, of the EIS details mitigation measures that could avoid, minimize, or reduce visual impacts of the proposed project.

Mitigation measures specific to Tribal and cultural resources were proposed by the Applicant, and are outlined in the Applicant's Draft Historic Properties Management Plan as part of the FERC license process

(FFP 2021). The Applicant submitted a list of their proposed measures as part of their comment letter submitted on the Draft EIS (Attachment 1).

Mitigation may be developed under federal Section 106 of the National Historic Preservation Act, which requires resolution of adverse effects to historic properties (Code of Federal Regulations 33.36.800.6). This is a separate, federal process that is underway but outside of the state's SEPA process.

In addition, the Applicant proposes to develop an Inadvertent Discovery Plan to avoid unforeseen impacts to archaeological sites and proposes to comply with all permit requirements related to the protection of historic, archaeological, and cultural resources.

Through scoping comments and comments on the Draft EIS submitted to Ecology (Yakama Nation 2021, 2022), conversations during technical meetings, media releases, and a Yakama Nation Tribal council resolution, Tribes have repeatedly indicated that mitigation would not reduce project impacts to the Tribes. The Yakama Nation stated in their scoping comment letter that "the proposed action will have significant adverse environmental impacts, many of which cannot be avoided or mitigated if Project implementation is permitted" (Yakama Nation 2021).

Yakama Nation scoping comments also included this statement about mitigation: "The damage to the Yakama Nation's cultural resources and the local aquatic and terrestrial resources disproportionately injures the heritage and traditional practices of Yakama people because mitigation cannot replace the destruction of ancestral sites that are still used to observe ceremonial and cultural practices." In addition, the Yakama Nation 2021 Tribal Council Resolution T-089-21 includes a statement of opposition to the project: "the proposed pump storage development violates the Yakama Nation's inherent sovereignty and Treaty-reserved rights through direct, permanent, and adverse destruction of nine Traditional Cultural Properties of religious and ceremonial significance, and the reduction and elimination of access to gather food and medicine roots, which results in an irreplaceable loss of cultural resources and negative environmental degradation to several ephemeral waterbodies, and aquatic and terrestrial resources" (Yakama Nation 2021).

Furthermore, Yakama Nation has stated that "no amount of mitigation could address the impacts of this project to our culture today, or for our future generations...Due to the sacredness of this resource, this development would destroy the lives of our Tribal members" (Yakama Nation 2022).

The CTUIR scoping comments included similar language: "There may be impacts for which no mitigation is possible..." Warm Springs comments on this document also noted that "you propose to permanently destroy unique and irreplaceable resources."

As mentioned earlier in this report, this review seeks to reflect and incorporate the Tribes perspectives of, values about, and relationships with the environment impacted by the proposed project. Tribal traditions are interwoven into the ecosystems in which Tribal members live, from hunting and gathering to sacred sites—places and activities that have spiritual and cultural meaning. The Applicant has proposed mitigation for impacts to some of the natural resources, but the Tribes have indicated that this is not sufficient. The proposed project would have unique impacts on Tribal communities and Tribal members. This report seeks to explain those impacts within the cultural context of the Tribes. Therefore, it is important to listen to the feedback provided by the Tribes on whether there is mitigation that would help to reduce project impacts. To date, there is no information available about mitigation proposed by or supported by the Tribes that would reduce impacts on Tribal and cultural resources to a level that is less than significant.

3.3.5 Significant and Unavoidable Adverse Impacts

Ecology continues to engage with Tribes to better understand project impacts. Current understanding of the construction and operation of the proposed project indicates significant and unavoidable adverse impacts on Tribal and cultural resources. These impacts include hunting and traditional gathering of wildlife and vegetation, as well as archaeological sites and TCPs used for camping and traditional Tribal rituals, such as ceremonies and vision quests. Without effective mitigation that would reduce significant impacts to Tribal and cultural resources, those impacts would be considered unavoidable. Therefore, there would be significant and unavoidable adverse impacts to cultural and Tribal resources.

3.4 No Action Alternative

Under the No Action Alternative, the proposed project facilities would not be constructed. Investigation of contamination and development of cleanup actions for the Columbia Gorge Aluminum smelter site would continue through a separate Model Toxics Control Act process, which would have its own SEPA determination. Public Utility District No. 1 of Klickitat County would continue to hold the existing water right, which may be held in trust or sold to other purchasers of water. The wind energy project and other existing energy infrastructure would continue to be operated.

Under the No Action Alternative, there would be no expected impacts to existing patterns of traditional use, or to archaeological sites. Therefore, no impacts would be expected to Tribal resources.