



Skagit County Board of Commissioners

Ron Wesen, First District
Peter Browning, Second District
Lisa Janicki, Third District

September 17, 2024

To the Energy Facility Site Evaluation Council,

Skagit County has serious concerns about the location of the proposed Goldeneye Battery Energy Storage Facility. Not only would the BESS result in the complete loss of agricultural lands, but it would also be located adjacent to Hanson Creek, a critical area that has recently seen significant invest to improve fish habitat.

Given this location Skagit County strongly objects to the position of project proponent that the proposed project is consistent with Skagit County's Comprehensive Plan and local development regulations. It is not. Furthermore, the location also leads to the conclusion that the project would have a significant impact on the environment and an Environmental Impact Statement should be required.

This proposed project is inconsistent with Skagit County's land use policies and regulations for Agricultural Natural Resource Lands.

Agricultural land preservation is explicitly sought to be achieved in Section 4 of the Skagit County's Comprehensive Plan. This has been a long-standing policy objective within the County, as is required by the GMA. *See, e.g.*, RCW 36.70A.020(8) (stating the policy to "[e]ncourage the conservation of ...productive agricultural lands, and discourage incompatible uses"); WAC 365-190-050(2) ("Once [agricultural resource lands] are designated, counties and cities planning under the act [GMA] must adopt development regulations that assure the conservation of agricultural resource lands.")

Further, Skagit County has adopted policies specified under RCW 36.70A.177(2)(a) and WAC 365-196-815(3)(b)(i) to assure the conservation of agricultural resource lands through zoning regulations that limit the density of development and restricts or prohibits nonfarm uses of agricultural land.

This has led to the current Agricultural-Natural Resource Lands zoning regulations and the requirement for *any* use subject to a special use permit to prove minimal long-term impacts on Agricultural-Natural Resource Lands. SCC 14.16.900(1)(b)(v)(F).

In short, the Skagit County Comprehensive Plan and Skagit County Code seeks to protect, conserve, and enhance agricultural resource lands to the greatest extent possible.

This project seeks approval for an explicitly non-agricultural use within the agricultural natural resource lands zone. This application is clearly inconsistent with Skagit County Code, specifically, the Agricultural-Natural Resource Lands zone, and the Special Use Permit requirements.

This project application does not demonstrate that there are no other viable properties available.

Skagit County does not consider the proponent's alternative analysis to adequately justify there are no other viable non-agricultural parcels for the proposed use.

In fact, the alternative analysis submitted by the applicant proves there are viable non-agricultural parcels of land that can accommodate the proposed use within an applicant-proposed one mile radius of the substation.

The County does not accept that challenges associated with demolition, coordination with other utility providers, cost pressures, or lack of willingness to obtain other land at a certain price point demonstrate valid reasons to consider other locations to not be viable. The County sees these challenges as an expected part of large-scale Major Utility Developments and their specific requirements.

This proposed project is inconsistent with Ag-NRL siting criteria and limitations.

Skagit County does not consider the proposal to satisfy the siting criteria of the Ag-NRL zone pursuant to SCC 14.16.400(6)(a),(b), and (c)

The proposal would adversely impact agricultural activities on much of the proposed site, would not be located within a corner of the site nor be located within a close distance to compatible structures, nor be contained within a one-acre area.

The applicant's submission does not adequately justify why the proposal is entitled to breach the one-acre developable area limit of the siting criteria. Nor does the applicants submission adequately justify why the proposal satisfies the criteria.

In the simplest reading of this code, all new non-agricultural buildings are restricted to occupy no more than a one-acre developable area irrespective of whether compatible structures exist on the land. The proposal seeks to greatly exceed this requirement with no sound justification as to why.

The Special Use Permit requirements at SCC 14.16.900(1)(b)(v) are not satisfied.

The proposal would result in a substantial loss of agricultural land that is explicitly sought to be protected through the Ag-NRL zone. Decision criterion (f) specifically recognizes this. It is clear that the proposed use would severely impact the natural resource management and productivity of the agricultural land it would reside within.

As outlined above, the application fails to satisfy the requirements of the use condition and the siting criteria of the Agricultural-Natural Resource Lands Zone.

This project would detrimentally affect sensitive habitat areas.

The project is to be located adjacent to Hansen Creek, which is an important salmon and steelhead stream. Hansen Creek supports four species of anadromous salmon and Steelhead Trout, has designated critical habitat for ESA-listed Chinook Salmon and Steelhead Trout, and is a priority tributary for restoration.

During the last several decades, millions of federal, tribal, state, and local public funds have been invested into Hanson Creek, resulting in improved habitat and ecological function through alluvial fan sediment processes, wetland restoration, floodplain reconnection, riparian planting, property acquisition and restored longitudinal connectivity. This substantial progress toward salmon recovery has been possible through partnerships among local governments, tribes, NGOs, and Puget Sound Energy.

The proponents proposed project at the current location will jeopardize the millions of public dollars already invested in the protection and enhancement of natural resources and critical areas along Hansen Creek. As proposed, the project will permanently keep riparian area around Hanson Creek and the associated wetlands in a continued degraded state, completely ignoring the intent of public policy and existing regulations, including the state Growth Management Act and Shoreline Management Act (e.g. RCW 36.70A.020) to protect and enhance these critical resources.

This project is inconsistent with floodplain regulations and the Endangered Species Act, by expanding into sensitive floodplain areas.

The Flood Analysis completed in Attachment K is inadequate, as it only assesses Hansen Creek floods. The proposed new structures and fill would be added to the Skagit River floodplain, in direct contradiction of the FEMA Puget Sound Floodplain Biological Opinion (NOAA, 2007) and the Chinook recovery goals and strategies described in the 2005 Skagit Chinook Recovery Plan to protect and restore large river and tributary floodplains.

Because the project proposes to place a significant amount of fill in the Skagit River floodplain, a more comprehensive flood analysis and habitat impact assessment must be required to determine the effect on Skagit River flood elevations and floodplain habitat (Skagit County Code, Chapter 14.34).

The proposal to use an offsite mitigation bank compensate for unavoidable impacts makes clear the project will result in the degradation to the Hansen Creek watershed and a relocation of the environmental benefits away from the public investments already made to Hanson Creek.

This project proposal has not adequately addressed environmental contamination protections.

The risk of contamination to soil and groundwater posed by fire has not been addressed. The application provides only high-level details for an avoidance and suppression strategy, but the consequences of fire and its aftermath are not discussed (Attachment N). It is critical to understand the fate of battery chemicals that may become airborne on the surrounding population and flora and fauna as well as fire suppression chemicals that may be used.

The application does not adequately describe how far downstream the impact would likely extend, but at approximately 1.5 miles away, the Skagit River appears at risk.

Presence of shallow groundwater, prevailing drainage gradients and potential dispersal of hazardous materials clearly puts Hansen Creek at high risk (Attachment L). Environmental remediation would be exceedingly damaging and it would be essentially impossible to avoid impacts to cultural resources.

Summary and Request for SEPA EIS

An Environmental Impact Statement (EIS) must be prepared for the proposed project. This project will have significant environmental impacts. It is located in a floodplain. It would also have substantial impact on natural resource lands that has not been developed. Furthermore, it is on the shores of an environmentally significant salmon bearing creek in which millions of dollars has been invested. The environmental impacts of this project cannot be simply mitigated, and where the plan is for offsite mitigation a full evaluation of the impacts of this project—including impacts to Tribal Treaty Rights and Treaty protected resources in and around the proposed project site—and any alternatives sites should be had.

Thank you for your consideration.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Peter Browning, Chair



Lisa Janicki, Commissioner



Ron Wesen, Commissioner