



March 19, 2025

Via email to EFSEC, efsec@efsec.wa.gov

Dear EFSEC Council,

We, as counsel for the City of Sedro-Woolley, raise the following issues regarding the Goldeneye BESS siting. Our comments meet the requirement that the issues be raised in writing and with specificity during the application review process and prior to the start of the adjudicative hearing. Specifically, the City opposes Goldeneye's request for expedited process, objects to the land use consistency decision made by EFSEC on February 19, 2025 and objects to the overall administrative procedure by which the applicant and EFSEC have conducted the pre-application and application process for the following reasons.

1. The public comment period was insufficient.
 - a. The Board noted on record at the 2/19 meeting that the initial public comment period in December was insufficient.
 - b. The back-to-back scheduling of the open house, informational public hearing, and land use consistency hearing on August 13, 2024, was insufficient under RCW 80.50 and contrary to legislative intent.
 - i. Notice of this single day event contained an error which further impeded public participation.
 - c. One Board member opined that the entire public comment process was insufficient.
 - d. There was insufficient notice between the December public comment period and the January public comment period, both of which occurred during the winter holiday vacation period.
2. Not all vital stakeholders were properly solicited for public comment prior to the land use consistency decision.
3. Questions raised during the public comment period and in writing prior to the land use consistency vote were not adequately addressed.
4. The way in which Goldeneye acquired the evidence upon which it relied in its legal memorandum and petition for consistency was deceptive.
 - a. Pre-application steps were taken in bad faith by the applicant under a different name in a way that violates the appearance of fairness doctrine to the extent that such evidence was relied upon.
 - b. The evidence was not made available for public review.
 - c. Deceptive practices by an applicant undermine the legislative intent behind the APA and the EFSEC process and lend themselves toward a finding that an

executive decision was made during the quasi-judicial process in a manner that was arbitrary and capricious.

5. Kurt Beckett, the new Chairman of the Board's recusal from voting on the land use consistency decision is insufficient to remedy his conflict of interest with the EFSEC's role in the Goldeneye energy siting process for the following reasons:
 - a. Beckett, in his consulting role at Strategies 360 worked at a firm which directly advised on the Goldeneye project,
 - b. Beckett directly consulted on substantially related projects and advised others similarly situated to Goldeneye to undergo the EFSEC process.
 - c. Beckett appointed the acting chair immediately prior to the vote.
 - d. Beckett remained present for the vote on land use consistency and throughout the meeting.
 - e. The appointment of an acting chair, and continued presence by Beckett is an inappropriate influence on the administrative process by an individual with a conflict of interest.
 - f. All the above violates RCW 80.50.060, the appearance of fairness doctrine and lends itself to a finding that an executive decision was made during the quasi-judicial process in a manner that was arbitrary and capricious.
6. The WDFW representative was not present at the meeting.
 - a. This lends itself toward a finding that the process was made in a manner that is administratively arbitrary and capricious, especially given the fact that a new chairman was appointed immediately prior to this meeting who had an admitted conflict of interest, and his attempted remedy was to appoint a new chair and remain present for the meeting.
 - b. Two board members voted against the finding of land use consistency, there is reasonable concern that UTC representative Stacey Brewster's vote was influenced by her pre-vote appointment as acting chair, Beckett remained present for the vote, therefore there is legitimate doubt as to whether the mandatory members had the required quorum or majority votes in favor of land use consistency.
 - c. All the above violates RCW 80.50.060, the appearance of fairness doctrine and lends itself to a finding that an executive decision was made during the quasi-judicial process in a manner that was arbitrary and capricious.
7. The issue Raised by Skagit County representative Eckroth at the 2/19 council meeting regarding the "no alternative" finding was not sufficiently addressed prior to the vote on land use consistency.
 - a. This problem is compounded by the fact that the notice and scheduling of the back-to-back open house, informational public hearing, and land use consistency hearing on August 13, 2024, was insufficient under RCW 80.50 and contrary to legislative intent.

All the above violates RCW 80.50.060, the appearance of fairness doctrine and lends itself to a finding that an executive decision was made during the quasi-judicial process in a manner that was arbitrary and capricious. The above list is non-exhaustive, and the City reserves the right to raise any further procedural or substantive concerns administratively or judicially.

Respectfully,

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