



Upper Skagit Indian Tribe
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Submitted electronically to comments@efsec.wa.gov; hard copy to follow

September 9, 2024

Energy Facility Site Evaluation Council
621 Woodland Square Loop
P.O. Box 43172
Olympia, WA 98504-3172

RE: Goldeneye Energy Storage Project

To the Energy Facility Site Evaluation Council,

Upper Skagit Indian Tribe (Tribe), a federally recognized Indian Tribe and signatory to the 1855 Treaty of Point Elliot, submits this comment letter in response to the June 2024 application for site certification by Goldfinch Energy Storage, LLC for the Goldeneye Energy Storage Project. The Tribe recognizes the need to modernize the power grid, including development of renewable and carbon-neutral modes. However, the proposed location of the project would potentially cause unique harm to the Tribe, including impacts to treaty protected resources, as well as unmitigated cultural impacts. As such, the Tribe opposes the project as described in Goldfinch's application.

The project would 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 (Skagit Watershed Council, 2022). During the last several decades, millions of public funds have been used for habitat restoration throughout the watershed, with large-scale actions between the Northern State Recreation Area and Minkler Road, 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, and Puget Sound Energy.

The proposed development, located within the Skagit River 100-year floodplain and encompassing a section of Hansen Creek, would restrict future restoration opportunities. Were the properties available for restoration purposes, it would be possible to build upon the actions completed upstream of Minkler Road. Future restoration could include floodplain reconnection,

riparian planting, and replacement of the Minkler Road Bridge. The proposed location of the Goldeneye project would limit the feasibility and scope of such future actions.

The Goldeneye project would harm resources and critical areas along Hansen Creek. As proposed, the project would lock the existing riparian zone in a degraded state, which ignores the intent of existing regulatory mechanisms, including the state Growth Management Act and Shoreline Management Act (e.g. RCW 36.70A.020). Additionally, new structures and fill would be added to the Skagit River floodplain, in contradiction to the requirements of the FEMA Puget Sound Floodplain Biological Opinion (NOAA, 2007) and the strategy described in the 2005 Skagit Chinook Recovery Plan to protect and restore large river and tributary floodplains. The Goldeneye project goes the wrong direction by expanding development in sensitive floodplain areas. The Flood Analysis completed in Attachment K is inadequate, as it assesses Hansen Creek floods. The project would place fill in the Skagit River floodplain, hence a flood analysis and habitat impact assessment are required to determine the effect on Skagit River flood elevations and floodplain habitat (Skagit County Code, Chapter 14.34). Meanwhile, the proposal to use mitigation bank credits to compensate for unavoidable impacts would result in off-site mitigation and overall degradation to the Hansen Creek watershed.

The risk of contamination to soil and groundwater posed by fire is not described. The application provides high level details for the avoidance and suppression strategy, but the consequences of fire are not discussed (Attachment N). It is necessary to understand the fate of battery chemicals and any 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. The Tribe has experienced first-hand the degree of ground disturbance and resource damage in the wake of industrial accidents (the Olympic Pipeline gasoline spill in December 2023 provides a recent example). The application should explain the likelihood of contamination and the potential extent and degree of resource damage.

The Tribe shares concerns of Skagit County regarding how the project would conflict with the Comprehensive Plan and long-term strategies to restrict development on key resource lands (see press release from Skagit County Commissioners dated August 28, 2024). Skagit tribes and local governments are engaged in dialogues to balance interests and achieve shared values on the landscape. In the Skagit River floodplain this means finding ways for agriculture and salmon recovery to coexist and thrive. The land development described in the Goldeneye application would interfere with these efforts by altering resource-rich land in a key part of the watershed. These decisions are best left to the local governments and Tribes that know these issues intimately.

Construction of the Goldeneye project would cause unavoidable damage to Tribal cultural and natural resources. The Tribe opposes the project and urges the Energy Facility Site Evaluation

Council to recommend to the Governor's office that Goldfinch's application be rejected. If you have questions or desire follow up, please contact the Tribe's Policy Representative, Scott Schuyler, (360) 854-7009, scotts@upperskagit.com.

Sincerely,



Doreen Maloney
General Manager

Cc:

Ron Wesen, Commissioner, Skagit County

Lisa Janicki, Commissioner, Skagit County

Peter Browning, Commissioner, Skagit County

JT Austin, Assist. Director of Policy & Planning, Washington Governor's Office of Indian Affairs

Julia Johnson, Mayor, City of Sedro Woolly

Jennifer Washington, Chairwoman, Upper Skagit Indian Tribe

Scott Schuyler, Policy Representative, Upper Skagit Indian Tribe