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May 7, 2024

*Via Mail and Email*

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RE: Proposed Sky Valley Sportsman's Park

Dear Council Members and Mr. Hartzell,

This letter regards the proposed Sky Valley Sportsman's Park. I write to you on behalf of local landowners who are also very concerned participants in the Sultan Basin Coalition for Sensible Growth.

The County's proposal involves converting State-managed public forest land to a \$47 million, 640-acre, privately funded and run park that would feature shooting, RV camping, events, and tournament activities. While it may provide some benefits to gun and archery enthusiasts, those benefits would come at significant cost to the local community and broader public. The proposal would impose frequent gunfire and traffic on the surrounding community; permanently convert open lands which can currently be used for forestry, hunting, foraging, and recreation to a highly developed land use; and risk waste of County resources if the proposed partnership with a private vendor does not constitute a "public park purpose" under applicable law.

While County staff have suggested that the facility may discourage and reduce illegal shooting on other public lands in the area, we are not aware of any evidence to support that assertion. To the contrary, a gun park may have no effect on illegal shooting, or it could attract

more potential shooting to the area, some of which will disperse to surrounding sites where there is no cost or meaningful regulation.

The proposal raises significant legal concerns and risks. There have been public meetings in which residents have raised many legitimate and significant issues. While the outreach is appreciated, the County has provided few substantive answers regarding timing and content of environmental review, impacts on the surrounding community, and the financial plan. In general, there have been assurances that these issues will be addressed at some later date. But in order for such evaluation to be meaningful, it must occur before the County sinks more time and resources and creates public expectations.

I write to explain the community concerns and request that the County take the following steps prior to taking further actions using public resources and land for a gun park: 1) Prepare an environmental impact statement to fully disclose and consider the impacts of the proposal and consider reasonable alternatives; 2) Conduct meaningful consultation with potentially affected Tribes; 3) Fully disclose the contemplated financial structure of the proposal, and explain to the public why it would constitute a “public park purpose” that is in accordance with the County and State outdoor recreation plans.

Please provide this letter to your attorney and ask her or him to contact me to discuss.

**Background:**

Snohomish County has requested the reconveyance of 640 acres of land from the Washington Department of Natural Resources (DNR) to be developed into a multi-purpose sportsman’s park for recreational shooting and firearms training. Features of the facility would include shotgun, rifle, pistol and archery buildings, ranges, and fields, as well as amenities such as an education center, a caretaker residence, and an RV camping area. The estimated cost of the proposed endeavor is over \$47 million in 2021 dollars (likely more than \$55 million today). According to the County’s website, “management and operation of a shooting and archery facility is not a core competency of the Snohomish County Parks & Recreation Division. Therefore, the county shall be soliciting a management and operating partner via the request for proposal (RFP) process.” The vendor would operate the sportsman’s park in a yet to be developed agreement with the County.

In statements to media, Tom Teigen, director of Snohomish County Conservation and Natural Resources, has stated that the County hopes that the proposal will be entirely privately funded.<sup>1</sup> If a private entity funds \$50 million or more in development costs, it seems safe to assume that entity will have a significant ownership interest in infrastructure on public land and charge substantial fees for use of the facility. It would be a private gun range operated on public land.

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<sup>1</sup> See <https://www.heraldnet.com/news/county-pitches-640-acre-shooting-range-near-sultan-to-skeptical-neighbors/>

The facility would be used year-round for recreational shooting and firearms training. It is anticipated that there would be heavy daily use, and several times a year a competition would take place at the shooting range with up to approximately 900 daily guests.

The proposed gun facility would permanently convert land currently managed by the Department of Natural Resources for forestry to a major commercial development. The proposal envisions significant clearing and grading, extensive construction, access to drinking water and ability to process wastewater, and development of impervious surfaces for parking.<sup>2</sup> The forests, which were recently logged, would not be replanted or regrown. Because there is conversion to non-forestry use, a six-year development moratorium applies. *See* SCC 30.43F.220.

The proposal does not appear to include providing road or traffic improvements for Sultan Basin Road, which already features heavy recreational traffic. If such improvements are deemed necessary, it could significantly increase the cost of the facility or impose costs on the County.

#### **Environmental Concerns and State Environmental Policy Act Compliance:**

The State Environmental Policy Act (SEPA) requires full environmental review prior to taking any further steps toward development of a gun range. SEPA requires full disclosure and analysis of environmental effects, including auditory impacts and traffic impacts to the surrounding community, “at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.” WAC 197-11-055(1). Under *King Cnty. v. Washington State Boundary Rev. Bd. for King Cnty.*, 122 Wn.2d 648, 860 P.2d 1024 (1993) and progeny, “[o]ne of SEPA's purposes is to provide consideration of environmental factors **at the earliest possible stage** to allow decisions to be based on complete disclosure of environmental consequences... When government decisions may have such snowballing effect, **decisionmakers need to be apprised of the environmental consequences before the project picks up momentum, not after.**” *Id.* at 663 (emphasis added).

We have not seen any environmental review of the proposal. There appear likely to be significant adverse impacts to the community, wildlife, and water resources from a variety of impacts, including gunfire noise, traffic, impervious surfaces and runoff, and increased need for County emergency and other services.

For the prior proposal, there were marbled murrelets and cavity nesting ducks identified nearby. Gunfire is likely to disturb those birds as well as any other nesting birds nearby, which raises potential Endangered Species Act, Migratory Bird Treaty Act, and Bald and Golden Eagle Act permitting requirements. Gunfire also degrades quality of life in the surrounding community. Gunfire is loud, jarring, and for some individuals such as military veterans, associated with trauma. It significantly alters the experience of a landscape and community for miles in all directions. As a result, weapon noise necessitates careful site location and consideration and

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<sup>2</sup> <https://snohomishcountywa.gov/DocumentCenter/View/86881/05-26-21-MP-Cost-Estimate?bidId=>

employment of mitigation measures.<sup>3</sup> The County should commission and conduct a thorough analysis of likely sound impacts to surrounding communities as part of environmental review.

The need for early review is particularly apparent here—our understanding is that in the County’s previous attempt to create a gun range, it acquired lands only to later find out that the land contained wetlands and was inappropriate for the proposed use. Early, thorough environmental review helps provide informed, transparent government decisions and helps to avoid such wasted efforts.

We are aware that in 2021, an Environmental Noise Impact Report was conducted at the behest of design and building contractor for Sky Valley Sportsman’s Park, Bruce Dees & Associates, LLC.<sup>4</sup> However, this study consists of a preliminary report and has significant limitations. It does not consider the actual gun range use, because a full proposal has not yet been developed. It focuses on compliance with Snohomish County Code, which is an important consideration, but does not meet the requirements of SEPA, which requires full disclosure and analysis of impacts in addition to potential code compliance. The Washington State Supreme Court has repeatedly “recognized the legislature intended that SEPA *complement* other legal frameworks.” *Columbia Riverkeeper v. Port of Vancouver USA*, 188 Wash. 2d 80, 95, 392 P.3d 1025, 1032 (2017) (emphasis in original) (citing *Dept. of Nat. Res. v. Thurston County*, 92 Wash.2d 656, 664, 601 P.2d 494 (1979) (“As we have repeatedly pointed out, SEPA is an overlay of law which supplements existing statutory authority.”); *Save our Rural Env’t*, 99 Wash.2d at 371, 662 P.2d 816). An adequate report must disclose and analyze the impacts to the surrounding community, not just code compliance. These are different analyses in part because the code includes an exemption for some aspects of gun ranges, and because it focuses on average decibel levels over time. Episodic gunfire distributed over time may technically comply with the County Code, but still cause significant adverse environmental effects.

The report is further flawed in that it makes conservative assumptions about the type of weapons used and the frequency of firing and focuses entirely on one street while ignoring nearby neighborhoods.

Notwithstanding those limitations, the study reveals serious cause for concern. It demonstrates that as a baseline, the area is very quiet. It concludes that the impulse discharge of firearms will likely be heard at adjacent residential areas. The discharge noise from these firearms would exceed the night-time limits outlined in the Snohomish Noise Code and that during large competitions, and the daytime limits outlined in the Code would be exceeded periodically.

Traffic and County services are also major concerns. As part of preparation of an EIS, the

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<sup>3</sup> See Alfred Waseim. “A Review on Noise Mitigation Methods on Shooting Ranges”, Environmental Department, Danish Defense. Available at: <https://www.sto.nato.int/publications/STO%20Meeting%20Proceedings/STO-MP-AVT-335/MP-AVT-335-01.pdf>

<sup>4</sup> Mary Hofbeck and Tracie Ferguson. “SkyValley Shooting Range Environmental Noise Impact Report – SEPA – DRAFT”, Stantec, May 28, 2021. <https://snohomishcountywa.gov/DocumentCenter/View/86876/2021-05-28-SkyValleyNoiseStudy?bidId=>.

County should also conduct a rigorous traffic study. The County's FAQ document states that "it is anticipated to be an attractive venue for hosting regional competitions and bringing visitors to the area." A new shooting range with campgrounds, RV parking, and weekend competitions will greatly increase traffic on Sultan Basin Road to and from the range. That road is already heavily used, and additional trips are likely to impose significant new emissions, delays, and noise. Visitors will also require services, such as road maintenance and repair and emergency and police response, with costs imposed on the County.

### **Tribal Consultation Concerns:**

We do not represent a Tribal interest in this matter and do not attempt to speak on behalf of any Tribe or its members.

However, based on knowledge of a similar situation that transpired near Wallace Falls State Park with a proposed reconveyance and based on our respect for sovereign Tribal governments, we recommend that the County promptly consult with affected Tribes. Early and meaningful consultation is part of the County's "Tribal Coordination Element" in the draft Comprehensive Plan and should be a priority in this situation.

The County should be aware that conversion of undeveloped public land to the proposed high intensity, commercial recreation area may denigrate cultural resources, degrade water quality, and implicate the exercise of Treaty reserved hunting and gathering rights. Early consultation with affected Tribes and careful consideration of their input is very important.

### **Reconveyance Concerns:**

Under RCW 79.22.300, "whenever the board of county commissioners of any county shall determine that state forestlands, that were acquired from such county by the state pursuant to RCW 79.22.040 and that are under the administration of the department, are needed by the county for public park use in accordance with the county and the state outdoor recreation plans, the board of county commissioners may file an application with the board for the transfer of such state forestlands." If reconveyance occurs, such lands may only be held by the County "for so long as the state forestlands are developed, maintained, and used for the proposed public park purpose." *Id.*

It is unclear from the County's public materials whether reconveyance has occurred already or whether an application has been submitted that awaits Board of Natural Resources approval. We request clarity on this point. If reconveyance has not yet occurred, we urge completion of the EIS by the County prior to such transfer of title, to assure compliance with SEPA's timing requirements (discussed above) and to avoid wasting County resources on a proposal that may be unworkable.

We have additional concern that the County's proposal and its heavy reliance on a private vendor and user fees may not meet the requirements of RCW 79.22.300. The County's proposal appears to not be for public park purposes, but rather to establish a fee-based shooting facility.

While case law on reconveyance is limited, the Washington State Supreme Court has rejected condemnation for a public park purpose because of the underlying plan to serve private business. Condemnation authority is broader than reconveyance authority and subject to constitutional and statutory authorities, but some rough analogy is useful. In *In re Petition of City of Seattle (Westlake I)*, 96 Wn.2d 616, 627–28, 638 P.2d 549 (1981), the court held that “where the purpose of a proposed acquisition is to acquire property and devote only a portion of it to truly public uses, the remainder to be rented or sold for private use, the project does not constitute public use.” The Court later upheld a revised proposal that only condemned land for a park, because “there is a total absence of mixing of public and private uses.” *Petition of City of Seattle*, 104 Wn.2d 621, 625, 707 P.2d 1348, 1350 (1985) (*Westlake II*).

Using the rationale of *Westlake I and II* as an example, the County’s proposal appears to not be for a public park purpose, but rather to facilitate a fee-based development. The County appears to envision significant private funding for a range of facilities, with a private operator asked to provide tens of millions of dollars of development costs and then seeking to recoup those costs, presumably at a profit. This approach poses risks of violation of the reconveyance statute, and potential relinquishment of the lands and facilities to the State.

We acknowledge that the funding mechanism is unclear, and we may be making incorrect assumptions. We suggest that the County more fully develop and disclose how it envisions funding development of the proposal, how it intends to work with a private operator, what the fee schedule would be, and how this constitutes a public park.<sup>5</sup>

The structure of the proposal also may conflict with the County and state outdoor recreation plans. The Snohomish County Park and Recreation Element of the Comprehensive Plan discusses reliance on donations from private foundations and partnering with private marketing firms but does not include private financing and operation of public parks. The 2023 Washington State Recreation and Conservation Plan provides an outline for public investments in outdoor recreation and public land conservation. Under “Firearms and Archery Range Recreation” the plan does discuss funding opportunities for projects that acquire, develop, and renovate firearm and archery ranges and practice facilities. However, this envisions grant funding and license fee funding to provide public access, not a fee-based, privately operated facility.

As part of its public documents, we request that the County explain how its proposal meets the County and State outdoor recreation plans.

Thank you for your consideration of these comments and concerns. Please contact me via email or phone at your soonest convenience.

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<sup>5</sup> While the County has referenced the Evergreen Speedway as an example of a public private partnership, that land was not obtained through reconveyance.


Snohomish County Council and Thomas Hartzell

May 7, 2024

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Sincerely,

ZIONTZ CHESTNUT

A handwritten signature in blue ink, appearing to read "Wyatt Golding", with a stylized, flowing script.

Wyatt Golding