



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

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May 7, 2012

Colonel John Eisenhower
Commander, Portland District
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, OR 972008-2946

RE: Public Notice for Permit Application, Coyote Island Terminals, LLC. U.S. Army Corps of Engineers No: NWP-2012-56

Dear Colonel Eisenhower:

Since your arrival to the Portland district, I have truly appreciated the partnership and opportunities for collaboration between the U.S. Army Corps of Engineers (Corps) and the Columbia River Inter-Tribal Fish Commission (CRITFC) in the region's efforts to restore salmon and protect our member tribes' treaty fishing rights. The purpose of this letter is to provide CRITFC's comments regarding three project proposals to construct coal export terminals in the Columbia River Basin that threaten the forward progression of these efforts. Specifically, this letter includes our formal comments for one of the projects; the permit application for the Morrow Pacific Project.

CRITFC files these comments on behalf of its member tribes¹ and are in addition to the comments filed by the Yakama Nation and the Confederated Tribes of the Umatilla Indian Reservation, which are hereby incorporated by reference. The CRITFC tribes are very concerned about the Morrow Pacific Project because it will directly and negatively intrude on the tribes' exercise of their treaty fishing rights. The sparse information we currently have raises more questions than answers; it would be premature for the Corps to approve this permit application at this time. There are many other processes that need to occur before any approval is granted, and CRITFC recommends that the Corps suspend action on this permit application at this time.

Since time immemorial, the culture and livelihood of the Columbia River Basin tribes have been closely tied with the river. In the last century of modern development, this connection has been repeatedly broken. In 1977, the tribes resolved to restore fish to the

¹The four member tribes are: the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Nez Perce Tribe, and the Confederated Tribes and Bands of the Yakama Nation. These tribes possess treaty rights to take fish that pass their usual and accustomed fishing places.

river and formed CRITFC to support and collaborate in their efforts to protect, promote, and enhance the anadromous fish resources consistent with their treaties. In the last decade, fish have been returning to the river in ever-increasing numbers and the tribes have been able to restore some of their traditional fisheries, but the balance is still fragile. Projects such as the Morrow Pacific Project will undoubtedly put more pressure on the fisheries and are a major step backward from the forward momentum of current efforts. If other projects proposed for the Columbia River, such as the “Longview Project” (proposed by Millennium Bulk Logistics) and the “St. Helens Project” (proposed by Kinder Morgan) are developed; the pressures on the Basin fish will be substantial. These projects will affect the tribes, and therefore, on behalf of our member tribes and in addition to the formal requests already made, CRITFC requests that the Corps to conduct formal government-to-government consultation on the effects of the Morrow Pacific Project as well as the effects of the other projects.

Environmental Justice and Public Interest

This project raises substantial environmental justice issues; the environmental and other costs will be significant, but the burden of the costs resulting from the projects will not be borne by those who will profit the most. The benefits of these proposals accrue to a only a few, that is, huge profits for large foreign and national coal companies coupled with the creation of few local jobs, whereas the larger burden and costs will be borne first by the tribal treaty fishers, their treaty fisheries, and all the small communities that line the Columbia River Gorge. The Treaty Tribes of the Columbia River Basin are tightly linked to the river, and throughout this century, they, and the salmon, have carried development on their backs. Over the past thirty years, the tribes have worked tirelessly to put fish back in the river with many successes. Approving the Morrow Pacific proposal – and any of the other coal export proposals – would be a significant step backwards for all those efforts.

The evaluation of a River & Harbors Act § 10 permit application must take into account the impacts to the public interest and will “reflect the national concern for both protection and utilization of important resources.” Furthermore, the agency must weigh any benefits from the proposal against reasonably foreseeable detriments. Below we have listed several reasonably foreseeable impacts to our tribes and to the environment from the Morrow Pacific Project. It is clear from this initial list that the public interest would not in any way be served by approving this proposal; not in the short term and definitely not in the long term. In order to discuss these issues on a broad scale and in a transparent, open process, we request that the Corps hold public hearings on this application.

Environmental Review

As the Corps proceeds to the environmental review step in this process, on behalf of the tribes, we encourage the agency to prescribe a broad scope of review of the Morrow Pacific Project to include cumulative effects of both the construction of the dock at Port of Morrow as well as its connecting port at Port Westward. The current documents,

including the applicant's Biological Assessment, do not include very much information on the extent of work needed at the Port Westward site. Port Westward is within the Lower Columbia River Estuary and is near some particularly sensitive critical habitat for several salmonid stocks, including several listed as threatened or endangered under the Endangered Species Act (ESA). Restoration of habitat in the estuary is a key component to many of the anadromous fish processes in the Basin overseen by the National Marine Fisheries Service, or NOAA Fisheries.

CRITFC strongly recommends that the Corps initiate a programmatic environmental review to broadly analyze the other projects in the Basin, i.e., the Longview and the St. Helens projects. While each of these proposals will present unique circumstances, in the aggregate they create similar issues that will have profound detrimental effects to the tribes, the communities and the environment of the Columbia River.

Project proposals within the Northwest region, such as those proposed for Cherry Point, Grays Harbor Washington, and Coos Bay, Oregon, will also have synergistic effects on the Columbia River from increased train traffic to climate change effects.

Regulatory Review

Coal creates a myriad of ill effects on the environment in its removal, transport, and consumption. Of these, the transport and eventual consumption of this coal will create lasting and long-term effects on the Columbia River. Coal's characteristics and values vary according to where it is mined. Coal that is expected to be transported through the Columbia River will originate in the Powder River Basin, and is considered friable and volatile, e.g., easily broken down and easy to catch fire. While the proponent has argued that most of the coal dust "shakes out" within the first miles from its source, the reality is over the course of the long haul the coal will slowly break down into smaller pieces, creating more dust potential. Coupled with the gusty and intense Columbia River Gorge winds, coal dust is not some theoretical possibility, but a reality that tribal fishers have personally experienced with coal trains currently traversing the Gorge. Simply put, the current levels of coal dust are already unacceptable to tribal members living and working along the Columbia River and the railroad tracks that are immediately adjacent thereto. Increasing these impacts would be intolerable.

The Morrow Pacific Project attempts to address this issue by proposing fully enclosed storage and barging. However, the coal trains leading to the port are open. In addition, it is likely that coal dust will escape during the transfer process from the Port of Morrow site to the barge as well as the transfer between the barge and the panamax vessels at Port Westward. As noted in the letter from the U.S. EPA to the Corps (April 5, 2012), there is a potential for adverse effects in air quality from the airborne coal dust as well as the diesel used by the barges and ships.

Coal dust will also enter the river and effect water quality at both the Port of Morrow and Port Westward. While the biological impacts are not well-studied, coal's inherent

properties and the potential for fish ingestion is cause for concern. Since there are many questions and uncertainties, targeted analysis is needed before any permit is issued. We also encourage the State of Oregon to conduct a Clean Water Act section 401 water quality certification process for this project to examine the effects of the project on water quality.

The project will require extensive work in and over water, including building over 200 piles and adding 15,000 square feet of dock. Because of these additions to the Port, we recommend that the Corps require the applicant to apply for a Clean Water Act section 404 permit. While there are other docks at the site, this construction will bring new and expanded use to an area of navigable waters that will affect the flow of the river and will add new fill to the area.

This area is also within Traditional Cultural Property (TCP) designated land and is likely to have significant cultural resources. In addition, and as the application notes, there are ESA-listed aquatic species that migrate near and around the terminal. While the "Joint Permit Application Form" acknowledges these and other issues, it is clear that nothing has been addressed or reviewed in any detail, and none of CRITFC's member tribes have been consulted on any of these very important issues.

Treaty Fishing and Fishery Resources

In 1855, the CRITFC tribes signed treaties with the United States, peacefully ceding title to millions of acres of land in the Basin while reserving their rights to continue fishing at their usual and accustomed fishing places. The rights to access these sites have been fought for and preserved through the court system, and as a result, the tribes' treaty-protected right of access to usual and accustomed fishing grounds is firmly established as a matter of law.² After the construction of The Dalles Dam, and the subsequent flooding of Celilo Falls, the tribes and states agreed that the tribes would have exclusive access to commercial fishing in an area called "Zone 6", a section of the river extending from Bonneville to McNary dams. Tribal fishers conduct year-round subsistence, ceremonial and commercial fishing in that zone with fishing gear types regulated by the tribes but including hoopnets fished from platforms built by tribal members along the river and gillnets anchored to the shore or river bottom.

Shipping traffic has created many safety issues with gillnet fishers, and dock construction along the river has displaced fishing sites within Zone 6. The Port of Morrow is no different. Tribal members from the CRITFC tribes have fishers who lay their nets and make their livelihood within the Port of Morrow. There are numerous other sites within close vicinity up- and down-river from the Port as well. These are tribal people exercising

² The Supreme Court, and other federal courts, confirmed these rights in a number of cases. *See, e.g.,* *Sohappy v. Smith*, 302 F.Supp. 899 (D.Or. 1969), *aff'd*, *United States v. Oregon*, 529 F.2d 570 (9th Cir. 1976); *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658 (1979); *United States v. Winans*, 198 U.S. 371 (1905); *Confederated Tribes of the Umatilla Indian Reservation v. Alexander*, 440 F.Supp. 553 (D.Or. 1977).

their tribal treaty rights and projects such as the Morrow Pacific Project will directly and negatively interfere with the exercise of that right.

In addition to directly displacing fishing sites, the project brings concerns of increasing barge traffic by a magnitude of twenty-four barge trips each week. Barge traffic can interfere with fishing as well as be the leading cause of derelict nets, otherwise known as “ghost nets” in which nets are clipped and set adrift. These are very dangerous to aquatic creatures if left uncontrolled.

The Port of Morrow portion of the project is quite extensive and may harm the critical habitat that is designated near both parts of the project, i.e., Port Westward and the Port of Morrow. Before approving this permit application, the Corps needs to conduct significant environmental review, consult with the effected tribes, and initiate consultation with the resource agencies, NOAA Fisheries and U.S. Fish & Wildlife. Only after extensive review, analysis, and study, would it be appropriate to consider the permit application.

Climate Change and the Bigger Picture

Resource managers cannot make management decisions today without analyzing the potential for changes in the Earth’s climate on the resources they are managing. There is no question that coal is a big problem on many levels and for many reasons with relation to climate change. Coal is the leading contributor to atmospheric carbon dioxide and will ultimately cause major effects to the Pacific Northwest. The environmental review needs to consider these potential effects and account for them.

Burning coal also emits significant amounts of mercury and fine particulates, which are known to travel across the Pacific via the “jet stream” from Asia and are deposited in Oregon, Washington, and California. Most of the industrial mercury in the Pacific Northwest comes from these global sources. In 2004, scientists from Oregon State University observed with instruments mounted atop Mount Bachelor's Summit Express ski lift an enormous Asian plume laced with mercury and ozone. The fine-particle concentration of this plume that had transited the Pacific Ocean was about 20 micrograms per cubic meter, compared with the federal air quality standard of an average 65 micrograms during a 24 -hour period. Oregon is already struggling to manage current levels of mercury pollution.

The coal proposed to be shipped through the Port of Morrow and the other proposed Northwest sites would add to this air pollution burden. The proposed development at the Port of Morrow and how it is evaluated by the reviewing agencies will ultimately be a reflection of the seriousness of United States government policy and commitments to reduce greenhouse gases and manage toxic pollutants. We believe that additional levels of air and water pollution associated with the project are not acceptable.

Conclusion

We appreciate your consideration of our comments and are available to answer any questions you have about our concerns. We also look forward to working with you on this project and expanding the analysis if possible. If you have any questions, please feel free to contact me or Julie Carter at 503-238-0667.

Sincerely,

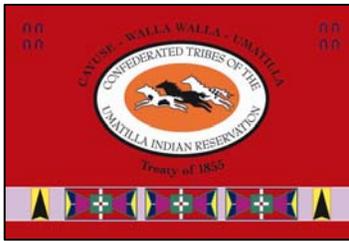
A handwritten signature in blue ink that reads "Babtist P. Lumley". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke at the end.

Babtist Paul Lumley
Executive Director

Cc: Governor John Kitzhaber, State of Oregon
Governor Christine Gregoire, State of Washington
Lisa Jackson, Administrator, U.S. Environmental Protection Agency
Dennis McLerran, Administrator, Region 10, U.S. Environmental Protection Agency
Steve Gagnon, U.S. Army Corps of Engineers
J.R. Inglis, Tribal Liaison, Portland District, U.S. Army Corps of Engineers
Paul Cloutier, Tribal Liaison, Portland District, U.S. Army Corps of Engineers

Confederated Tribes *of the*
Umatilla Indian Reservation

Department of Natural Resources
Administration



46411 Timine Way
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Phone 541-276-3165 Fax: 541-276-3095

March 28, 2012

Steve Gagnon
Regulatory Project Manager
U.S. Army Corps of Engineers
Portland District
PO Box 2946
Portland, OR 97208

Submitted electronically to: Steven.K.Gagnon@usace.army.mil

Dear Mr. Gagnon:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources (DNR) appreciates the opportunity to comment on application NWP-2012-52. The CTUIR DNR has concerns that this project may impact Tribal treaty fisheries, nearby Tribal properties as well as traditional use areas, habitat and cultural resources along the rail transport corridors. Further, the CTUIR has concerns regarding the cumulative impacts of this project and others proposed in the area.

After careful consideration of the significant Tribal interests within our ceded, special use, and Tribally-owned lands, we recommend that the Corps of Engineers (Corps) undertake an Environmental Impact Statement (EIS). The EIS should include adequate information for the Corps and the CTUIR to make an informed judgment of the impacts to treaty rights, traditional use areas and other interests. We formally request consultation on a government-to-government basis concerning the impacts of this permit.

Due to the short timeframe for comments, DNR has prepared this letter documenting preliminary concerns. We look forward to working on this project with the Corps as the project develops and the National Environmental Policy Act (NEPA) documentation is prepared.

Fishing Site Impacts

The CTUIR holds treaty protected fishing rights at all usual and accustomed stations. These places include the Columbia River corridor and many of its tributaries. The proposed dock site is a usual and accustomed fishing station, but the overall project would also impact fishing stations downstream due to the increase in project related barge and train traffic.

The CTUIR worked with the Corps on the Willow Creek Barge Dock, NWP-2006-160. The revised Environmental Assessment, issued April 4, 2008, includes useful information regarding

the fishing issues presented by this application. The CTUIR intends to work with our Tribal fishermen to document their use of this area including timing and frequency.

The proposal also involves increasing the lockages on the Columbia River in Zone 6 between Bonneville and McNary dams. This increase would be between 550 and 1257 per year. However, it is unclear that there is an upper limit of barge lockages under the permit. Will there be a defined upper limit on the number of barge trips per year? Fishermen have reported that recently barges are entering areas where previously there was no barge traffic. This may be due to barge congestion or other factors. The Corps should quantify barge traffic on the Columbia and identify the potential impacts from increasing traffic at the dams. We note that 10 years ago there were roughly 1000 more lockages a year at the John Day dam. However, over the last 10 years fish runs have increased as have the number of fishermen and nets on the river. Documentation of barge/net interference over time would aid analysis of potential impacts.

Additionally, in 2008, the National Oceanic and Atmospheric Administration conducted a section 7 Endangered Species Act review of barge transport of baled municipal waste from Hawaii by way of barges up the Columbia River. This review was inadequate in many ways, not the least of which was the failure of NOAA to consult with the CTUIR. However, the review did analyze the impacts of the entire route of shipment of municipal waste from Hawaii to landfills in the northwest including ocean species impacts. Since the barges will be going to Asia, it is logical that NOAA be consulted regarding ocean impacts. Further, while the NOAA assessment determined there would be no impact to fisheries by the barges, that project included only 100 barges per year transporting garbage. This project has the potential for more than ten times that many barges. Analysis should also include potential barge accidents.

Cumulative Impacts

The shipment of hundreds of barges of coal down the Columbia River, coupled with other proposed projects such as the barging of municipal waste from Hawaii and the ZeaChem plant immediately adjacent to this project, necessitates analysis of the cumulative increase in barge traffic and the associated impacts. This impact will not just be on fishing sites or aquatic species, but traffic congestion on the river and the dam lockage infrastructure. The EIS would benefit from a discussion of the carrying capacity of the river for shipment of goods and materials.

Cultural Resources

In your February 27, 2012 email regarding this undertaking, you state, "The Corps believes this project will have No Effect to cultural resources based upon our review of available information. We reviewed Branch files and records, the latest published version(s) of the National Register, lists of properties determined eligible, and other appropriate sources of information in making our determination." The CTUIR Cultural Resources Protection Program (CRPP) believes that finding is premature and incorrect.

CTUIR DNR Letter to Corps of Engineers
Re: NWP-2012-56, Port of Morrow Coal Barge Dock
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Branch files should include site records for site 35MW13, which is both inundated by the John Day Reservoir and along the shoreline. This site has been recommended eligible for inclusion in the National Register of Historic Places. The proposed undertaking will certainly affect the site, and that effect will likely be adverse.

Branch files should also include a document by Teara Farrow and Thomas Morning Owl entitled *Addendum to the Identification of TCPs along Bonneville, The Dalles, and John Day Reservoirs*. This document was prepared for and submitted to the Corps Portland District in 2001. It identifies the Port of Morrow area as being located within Traditional Cultural Property 3. On what basis has your staff determined that the proposed undertaking will not affect this historic property?

Your email also describes the permit area as extending “from the Port of Morrow to Port Westward in light of increases in barge traffic due to the project.” As you know neither the CTUIR nor the Advisory Council on Historic Preservation recognize Appendix C or the term “Permit Area” as being in compliance with National Historic Preservation Act (NHPA). To adequately address the permit application the CRPP will need a map of the area of potential effects (APE; including how far inland it extends) and a summary description of the potential effects the proposed undertaking will have on historic properties. This information will help us determine whether the proposed APE is appropriate. Please note that there are several parcels downstream on the Columbia River from the Port of Morrow which are held in trust for several tribes. Those parcels are overseen by Tribal Historic Preservation Offices (THPOs) rather than the State Historic Preservation Office (SHPO). Please make sure that you initiate consultation with the THPOs as well as the SHPOs for this undertaking.

In addition, as discussed below, the APE for this undertaking should include the rail transit, which passes adjacent to additional trust land and through additional traditional use areas. Information pertaining to changes in rail usage is necessary to assess the effects the proposed undertaking will have on those properties.

To conclude, the CRPP disagrees with your finding of effect for this undertaking and we require additional information regarding the APE. We look forward to further consultation to resolve these issues.

Air Quality

The CTUIR understands that much of the conveyance system for coal is going to be enclosed, limiting the release of coal dust. However, to what degree can/will the Corps mandate that the facility will not produce coal dust? Will there be air quality monitoring of all loading/offloading/transloading activities on the river? Will air releases of coal dust be reported? The CTUIR DNR requests a study documenting the impacts of coal dust release be conducted and the NEPA documentation identify release thresholds requiring environmental review. It is the hope of the CTUIR that there be as many protections as possible to prevent the release of

CTUIR DNR Letter to Corps of Engineers
Re: NWP-2012-56, Port of Morrow Coal Barge Dock
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toxics into the river, including coal and coal dust. Additionally, information regarding air emissions of barge and rail traffic should be discussed.

Tribal Property

As noted above, the Area of Potential Effect/Permit Area impact analysis will be inclusive of the area between Port of Morrow and Port Westward, where the coal will be transloaded to the ocean-going barge. The CTUIR DNR recommends that the minimum area of the impact analysis should include both the transloading/barging activities as well as the associated rail transportation corridor traffic.

We are concerned about the associated rail transport impacts to Tribal properties, and traditional use areas. The CTUIR owns property near the applicant's proposed site. The property, referred to as Wanaket, has the Burlington Northern rail line along its southern boundary. The property came into CTUIR ownership as one measure to specifically to mitigate for impacts to CTUIR treaty rights caused by the Corps and Bonneville Power Administration's hydropower impacts and operations. The CTUIR actively manages Wanaket for the preservation and enhancement of wildlife and related habitat purposes. Increased train travel will impact...?

Government-to Government Consultation

The CTUIR requests consultation on a government-to-government basis with the Corps on this permit. The Corps should provide adequate information to the CTUIR to make an informed analysis regarding its concerns and interests, as well including the CTUIR in the development of the NHPA and NEPA analysis of this permit.

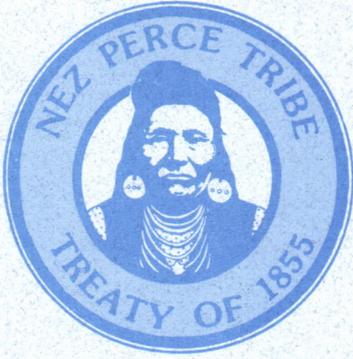
Our designated staff member for coordination issues is our DNR Intergovernmental Affairs staff member, Audie Huber -- audiehuber@ctuir.org or (541) 429-7228.

Sincerely,



Eric Quaeempts, Director
Department of Natural Resources

Cc: Chris Page, Corps Regulatory Archaeologist
Gail Celmer, Corps Division Archaeologist
Dennis Griffin, Oregon SHPO
John Pouley, Oregon SHPO



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

By Electronic (Steven.K.Gagnon@usace.army.mil) Mail

May 3, 2012

Steve Gagnon
Regulatory Project Manager
U.S. Army Corps of Engineers
Portland District
PO Box 2946
Portland, OR 97208

Re: Nez Perce Tribe's comments on the March 6, 2012 Public Notice for Permit Application NWP-2012-56

Dear Mr. Gagnon:

The Nez Perce Tribe appreciates the opportunity to comment on the above-captioned Permit Application. The Tribe is concerned that this project may negatively affect Tribal treaty rights, ESA-listed fish and lamprey and their habitat, Tribal traditional use areas along the coal transportation corridor, tribal cultural resources, and Tribal member health arising from coal dust and diesel pollution. For the reasons below, the Tribe requests that the Corps prepare an Environmental Impact Statement under NEPA as part of its review of the project. The Tribe also requests government-to-government consultation with the Corps on this project consistent with Executive Order 13175, President Obama's November 2009 Memorandum on Consultation and Coordination with Tribal governments, and the Corps' implementing regulations.

Since time immemorial members of the Nez Perce Tribe have used and occupied the lands and waters of north-central Idaho, southwest Washington, northeast Oregon, and portions of western Montana for subsistence, ceremonial, commercial and religious purposes. In Article 3 of the 1855 Treaty with the United States, the Nez Perce Tribe reserved, and the United States secured, the right to take fish and at all usual and accustomed fishing places, and to hunt, gather and pasture on open and unclaimed lands. Treaty of June 9, 1855, with the Nez Perce Tribe, 12 Stat. 957 (1859). The waters within the Tribe's aboriginal territory continue to be used by the Nez Perce. Tribal members exercise their treaty-reserved rights, as well as observe ceremonial, cultural and religious practices within the Columbia River Basin, including usual and accustomed fishing places located within or adjacent to the project area on the Columbia River.

I. Project Description

According to the Public Notice, Coyote Island Terminals, LLC, and John Thomas, Ambre Energy North America are seeking a Corps Section 10 Rivers and Harbors Act permit to construct a new transloading facility for bringing coal in from Montana and Wyoming by rail and transferring it to barges on the Columbia River at the Port of Morrow. The purpose of the project is to “[s]hip coal mined from Wyoming and Montana overseas to Asia.” The coal would be shipped down the Columbia to Port Westward and loaded onto ocean-going vessels to be shipped to Asia. Initially, approximately 3.85 million tons of coal would be shipped through the facility to Asia each year. At maximum capacity, the facility would be able to handle 8.8 million tons. That would translate to approximately 5 trains to Port of Morrow, 5.5 loaded barge tows from Port of Morrow to Port Westward, and one ship to Asia per week initially, increasing to 11 trains, 12 loaded barge tows, and three ships per week to Asia at full build out.

II. Comments

A. Impacts to Tribal treaty rights

The Tribe is concerned that this project will negatively affect tribal treaty rights. The Tribe reserves treaty-fishing rights at all usual and accustomed fishing places, including those places along the Columbia and Snake Rivers and their tributaries. As noted above, the permit application contemplates a significant increase in barge and rail traffic. The Tribe believes that the increase in barge traffic has the potential to directly interfere with tribal treaty fisheries. For example, drifting has become a major component of the commercial fishing in Zone 6 (between Bonneville and McNary Dams). Driftnetting downstream of the Port of Morrow would likely be affected by the increased barge traffic. In addition, the increased rail traffic may affect Tribal member access to usual and accustomed fishing places and other traditional use areas as well as interfere with Tribal member use of those places through increased noise disturbances, coal dust, and diesel pollution.

B. Impacts to ESA-listed fish and lamprey

According to the permit application, preliminary determinations indicate that the described activity may affect an endangered or threatened species or its critical habitat. There are several ESA-listed fish in the project corridor including Lower Columbia River Chinook Salmon ESU, Upper Willamette River Chinook Salmon ESU, Snake River Fall Chinook ESU, Columbia River chum salmon ESU, middle Columbia River steelhead DPS, and lower Columbia River steelhead DPS. These species are of critical importance to subsistence and culture of the Tribe.

In addition, lamprey, although currently are not a listed species, are also located in the project corridor.

C. Impacts to Tribal member health

Given the large amount of coal that is contemplated to be transported by barge and rail in connection with the project, the Tribe is very concerned of the project’s potential impacts to Tribal member health. Coal dust and diesel emissions are known to cause respiratory disease, particularly affecting sensitive populations such as children and the elderly. In addition, the coal dust that settles on the water can have adverse environmental consequences to the river corridor.

Coal dust can affect natural biological processes and can potentially affect fish and other biota that reside in the rivers.

D. Indirect/Cumulative Impacts

Agencies conducting NEPA review must also consider the indirect effects of the proposed project. Indirect effects are those effects “caused by the [agency] action [that] are later in time or farther removed in distance, but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). Such effects “include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” *Id.*

Cumulative impacts are “the impact[s] on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future can actions regardless of what agency...or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. 40 C.F.R. § 1508.27(b)(7).

The Corps needs to analyze the indirect and cumulative effects associated with the increased barge and rail traffic the project will create. The Corps should analyze whether and how much dredging needs to occur on the river corridor to accommodate the increased traffic and how this dredging may affect the environment. In addition, the agency should assess the potential effect of accidents on the river caused by the increase in barge traffic. Finally, the Corps needs to analyze the cumulative effect of this project relative to the other coal export or similar projects that are proposed in the region.

E. Environmental Impact Statement

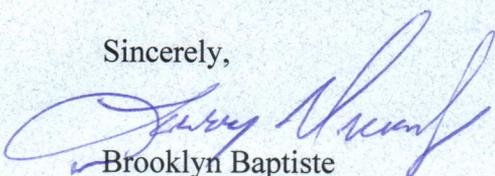
Given the potential impacts to tribal treaty rights, ESA-listed species, Tribal member health, and the indirect and cumulative effects that may result in Columbia River basin and the region, the Tribe requests that the Corps perform a full Environmental Impact Statement under NEPA. All of these issues cannot be properly assessed through an environmental assessment.

F. Conclusion

For the reasons above, the Tribe requests the Corps evaluate the project with an EIS so that a full exploration of the impacts of this controversial project can be thoroughly vetted. As part of this review, the Tribe looks forward to consulting with the Corps on a staff-to-staff and governmental basis before any formal action is taken on the proposal.

Please contact Mike Lopez, Nez Perce Tribal staff attorney, at (208) 843-7355 with any questions.

Sincerely,



Brooklyn Baptiste
Chairman



Region 10 RTOC

Regional Tribal Operations Committee
"Tribes-RTOC-EPA: Working Together"

Port Graham Village Council, P.O. Box 5510 Port Graham, AK 99603
ph 907-284-2227 fax 907-284-2222 www.rtoctregion10.org

May 15, 2012

Steve Gagnon
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, OR 97208-2946

Kate Kelly, Director
Office of Ecosystems, Tribal and Public Affairs
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

SENT VIA EMAIL

RE: Comments on Project No. NWP-2012-56 (Coal Terminal)

Dear Mr. Gagnon and Ms. Kelley:

This letter is sent on behalf of the Tribal Caucus members of EPA Region 10's Tribal Operations Committee ("RTOC"). This letter is not sent on behalf of EPA Region 10 or any employees of EPA, but solely tribal government representatives of the RTOC.

The intent of this letter is to express support for the April 5, 2012 letter submitted by EPA to the Corps urging that it thoroughly review the potential impacts of exporting large amounts of coal from Wyoming and Montana to Asia. As discussed by EPA, a project at Port of Morrow in Oregon has "the potential to significantly impact human health and the environment." The RTOC strongly agrees that the Corps should utilize the NEPA process to address overall impacts, including impacts to fisheries, cultural resources, the exercise of treaty-reserved rights, increases in greenhouse gas emissions, rail traffic, and mining activity on public lands. .

Given the magnitude of the coal export proposals associated with coal extraction in the Powder River Basin and the significant environmental and human health risks associated with these activities, the RTOC urges that the Corps join with other appropriate federal agencies and immediately begin the process of evaluating the cumulative impacts of coal extraction, shipping, export, and utilization in Asian power plants on human health and the environment through a comprehensive, programmatic Environmental Impact

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May 15, 2012

Statement. This EIS must be completed prior to any decisions are made to permit shipping terminals or additional extraction.

In short, we believe that the Corps should consider the full scope of the impacts of coal to the environment.

The RTOC appreciates your consideration of these comments.

Sincerely,

/s/

Violet Yeaton
Region 10 RTOC
Tribal Caucus Co-chair

Cc: RTOC



Confederated Tribes and Bands
of the Yakama Nation

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May 3, 2012

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Re: Yakama Nation Comments NWP-2012-56 Coyote Island Terminal Coal Facility

Dear Sirs:

I am the Chairman of the Tribal Council for the Confederated Tribes and Bands of the Yakama Nation ("Yakama Nation" or "Nation"). The Nation is a federally recognized sovereign Indian tribe. The Yakama Nation reserved several rights under a treaty it signed with the Federal Government of the United States of America ("Treaty of 1855"), ratified by the United States Congress in 1859 (12 Stat. 951). Among various rights the Yakamas reserved to themselves and their progeny is the right to take fish in all usual and accustomed places, including the Columbia River. The Yakamas also secured the right to exclusive use and enjoyment of their Reservation. Implied within this right is the right to live free from environmental damages caused by nuisances, even those nuisances originating or transpiring outside the boundaries of the Yakamas' Reservation, such as the transportation of coal through the Nation's ancestral lands. The Coyote Island Terminal, and the regional plan of which it is unquestionably a part, implicates these rights and compels our Nation to submit this letter on behalf of our people, our ancestors who came before us, and those who've yet to come and have no voice to advocate for their rights.

This letter serves two purposes. First it is Yakama Nation's initial comments regarding the proposal for the Coyote Island Terminal, which is the first swell in the proposed regional tidal wave of coal transportation and exportation. Beyond the Coyote Island Terminal proposal we note that there are at least four additional coal export facilities planned for construction in Washington and Oregon. Therefore, through these comments we establish the basis for your agency to require a regional Programmatic Environmental Impact Statement ("PEIS") pursuant to the National Environmental Policy Act ("NEPA"). And we formally request a PEIS in this instance. A process to develop a PEIS would dispense with a piecemeal approach to review of



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the regional plan the Coyote Island Terminal represents in favor of comprehensive and honest analyses. We find that a PEIS in this instance is a baseline for any valid analysis of the environmental and cultural impacts the proposed regional inundation of coal will have on the Yakama People, on all the residents of the northwestern states of our country, and the environment we all hold in trust for the benefit of generations to come.

With this prologue in mind, you'll find some of the apparent negative impacts associated with the Coyote Island Terminal application and the five other proposed coal export facilities in Washington and Oregon detailed in these comments. As we set forth below, the Coyote Island Terminal and its inextricable role in the regional plan to fashion the northwest into a coal transport and export hub will have lasting, detrimental impacts on the region's fisheries, its air quality, global climate change, and the Yakama Nation's cultural resources. And finally, both the letter and the spirit of the law require a PEIS to analyze these serious regional impacts, and mitigate those impacts.¹

INTRODUCTION

Since we saw the first waves of outsiders settling here more than 150 years ago, their corporate enterprises and governments, their governmental policies, and the people that execute those policies have systematically ravaged the Yakama People's ancestral lands, waters, and air. They tell us these destructive plans are part of the march of progress. But their plans for progress have left a wake of destruction that has nearly eradicated our indigenous culture — a culture that teaches reverence for the environment and seeks to live in harmony with the world around it rather than exploit our resources as a parasite would see its host. These devastating waves have not only laid waste to our environment, they've swept away the resources upon which the Yakama People have relied for millennia. The next wave of so-called progress threatening my people is the coordinated plan to incrementally but totally transform our ancestral lands and the entire northwestern U.S. into a hub for the global exportation of coal.

As a specific historic example, we note the silence of Celilo Falls. This silence is a constant reminder of the destructive pattern the waves of progress sweeping through this region inflicted on the Columbia River Gorge ("CRG") and its native people. Fifty-five years ago, we watched as the closing of the floodgates at The Dalles Dam not only silenced Celilo Falls indefinitely, but also destroyed an area sacred to the Yakama People. Put simply, the eradication of Celilo Falls destroyed our Tribes' heartland. While the deliberate destruction of Celilo Falls and its surrounding villages provides an enduring symbol of the onslaught my people have suffered in the name of progress, Columbia River dams, like the Dalles Dam, had the immediate and

¹ By requesting a PEIS, the Yakama Nation in no way waives its right to oppose the Coyote Island Terminal and any of the other plans to increase coal through the Yakama Nation's ancestral lands. In fact, the Yakama Nation categorically opposes the Coyote Island Terminal and would prefer the government prevent further degradation of the Columbia River and the Gorge region through which it runs.



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ongoing real-world effect of significantly eroding the Yakamas' right to take fish from the Columbia River and its tributaries. These consequences have rippled beyond the Columbia River, leaving the Nation deprived of its lifeblood; it's been forced to watch its culture slowly pass from existence as our youth now lack the opportunities to carry our customs and traditions forward. In sum, the Nation has been devastated by the waves of progress outsiders told us we must embrace.

Now we're told that what's best for us and our way of life is to embrace a staggering increase of coal transportation through the Yakamas' ancestral lands along the Columbia River. Like the dams of yesterday, the present plans to transform our region into a coal hub are championed as an essential element for progress. But the definition of "progress" cannot be limited to pecuniary progress without regard for the long-term damages those financial pursuits will cause. We must all do our part to ensure that real progress is made during our limited time on this earth, both economic and in many other more meaningful regards. For example, we have a duty to protect the environment not only because the law compels us to; we must protect our lands, our waters, and our air because our children and generations to follow will rely on them for sustenance, health, and security. We ask only that you do your duty and work with us to ensure that the waves we see on the horizon do not catch us unprepared and do not perpetuate the pattern of destruction the indigenous stewards of this region have endured for more than a century.

A. The Scope And Bases For The Yakama Nation's PEIS Request

A PEIS is a comprehensive review of a series of projects with impacts that are significantly interrelated; either programmatically, geographically, or environmentally. NEPA requires agencies to use this comprehensive method to review independent actions that have "cumulative" or "similar" impacts on an interrelated environment.² We urge your agency to carefully review federal environmental laws and what they have to say; not only regarding cumulative impacts, but also what the law mandates regarding the comprehensive analyses required for regional, multifaceted plans of development involving several projects — projects proponents may seek to have reviewed piecemeal for obvious, and I would argue short-sighted reasons. Particularly instructive is the language our nation's Supreme Court handed down three and a half decades ago in *Kleppe v. Sierra Club*.³ While the Supreme Court ultimately decided in that case that the record before it at that point did not warrant a PEIS, it did agree that a PEIS would be necessary when several coal-related proposals will have significant impacts on a given region:

“ . . . when several proposals for coal-related actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.”⁴

² See 40 C.F.R § 1508.25.

³ 427 U.S. 390 (1976)(internal citations and quotations omitted).

⁴ *Id.* at 410.



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The Supreme Court relied on two basic conclusions to find that no PEIS was required in the *Kleppe* case, neither of which are applicable here. First, the Supreme Court concluded that the various projects at issue in *Kleppe* were not part of a “proposal for regionwide action.”⁵ But here, the Port of Morrow Application (“Application”) is part of a larger “regionwide” plan for to transport coal through, and export coal from Oregon and Washington’s lands and waterways. Second, the Supreme Court upheld the agency’s determination in *Kleppe* that the coal plans for the region at issue there were not sufficiently “programmatically, geographically, and environmentally related” to require a PEIS because it found the agency’s determination was not arbitrary. In other words, the Supreme Court decided that the analysis of programmatic, geographic, and environmental interrelation “is a task assigned to the special competency of the appropriate agencies.” And when the record in that case reflected a reasoned and competent approach by the agency, the Supreme Court would not to disturb the agency’s expertly guided decision because that decision was not based on random or unreasoned whim. This second basis for the Supreme Court’s decision in the *Kleppe* case — the deference the courts give to an agency’s expertly guided and reasoned analysis — is especially critical here as your agency reviews this specific application and contemplates our request for a PEIS. As the *Kleppe* decision makes clear, your agency’s judgment is given deference. But with that deference comes grave responsibility. As a lead federal agency, the U.S. Army Corps of Engineers (“Corps”) is charged with utilizing its “special competency” to make an informed determination on whether the Application here is part of a regional plan that is sufficiently programmatically, geographically, and environmentally interrelated to warrant a PEIS. Even on the limited facts available to our staff, which have the various special competencies necessary for a complete environmental review, we find that there really is no reasonable debate on the matter of interrelatedness and the absolute necessity for a PEIS. The Port of Morrow is but the first of many planned coal-related projects that form a regional plan regarding coal transportation and exportation.

Presently, your agency is reviewing permits for several coal processing terminals in both Washington and Oregon. These multiple proposals represent an undeniably interrelated plan to turn our region into a hub for coal export. Permitting these proposals to move forward without a comprehensive environmental review through the completion of a PEIS may lead to the foundation of a global coal hub’s infrastructure in our region; this could be a crack in the proverbial dam that will spread and cause a catastrophic flood of additional coal-related development projects, forever transforming this region for the worse. Each current project raises the specter of unique and seriously damaging environmental impacts in and around the areas proposed for development of coal terminals. But when you consider the various projects as a regional plan, the collective adverse environmental impacts come into focus, as explained in detail below. As an illustrative example, the completion of all proposals is estimated to add rail traffic through our region necessary to carry roughly 150 million tons of coal. The PEIS must consider the collective impacts of such a breathtaking increase in train traffic through our lands,

⁵ *Id.* at 414-15.



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among the myriad other significant impacts that will result from the interrelated plans for coal in our region.

The specific scope and prescribed contents of a PEIS should be determined through a full scoping process that includes public hearings around the region, in addition to government-to-government consultation between your agency and the elected officials of the Yakama Nation among other interested and affected indigenous peoples in and around the region. But as a baseline, the PEIS requested should analyze and mitigate impacts our region will sustain from the various projects' proposals to transport coal from the mountainous regions east of us, through Oregon, Washington, and on to Asia. The PEIS should also analyze and mitigate impacts resulting from the construction and operation of the export facilities within this region. And, beyond the region, the PEIS should consider the impacts that we all will suffer from burning the exported coal in Asia. It is critical that this PEIS is completed prior to any individual permit being issued at the local, state, or federal level.

Further, the Yakama Nation expects this PEIS will not be a substitute for project-specific EIS's that should follow the completion of a PEIS analyzing the regional plan's cumulative effects. In other words, the PEIS should supplement future EIS's if the regional plans move forward, and the PEIS should not serve as an excuse to forego future environmental analysis specific to one project or another. Moreover, until the cumulative impacts of all planned coal-related projects in the region have been identified and analyzed, and until the Federal Government consults with the Yakama Nation on a government-to-government level, no agency should make any decisions that would allow the commencement of any coal-related project. In other words, no agency should permit any application to advance this regional coal plan until the PEIS is complete, the specific EIS's are complete, and all interested parties have an opportunity to examine the regional coal plan holistically.

B. Fisheries

As indicated, the Treaty of 1855 reserved to the Nation the right to fish in perpetuity at all usual and accustomed places as they were known at the time of the Treaty signing. Though this right has been significantly diminished through the destruction of Celilo Falls and other "development" in the area, in the legal arena, this powerful right has been affirmed and re-invigorated through extensive litigation beginning with the *U.S. v. Winans* case in 1911 and culminating with *United States v Oregon*, which is still active. Today, the Yakama People continue to exercise their Treaty-reserved fishing rights on the Columbia River and its tributaries within the Nation's Ceded Lands and its usual and accustomed use areas. The site of the proposed action described in the Application is located completely within an area of active commercial gillnet fishing by members of the Yakama Nation.

Members of the Yakama Nation fish for subsistence and their livelihoods on the Columbia River using set gillnets that typically are anchored at one end to the river bank and to an anchored buoy up to 400 feet offshore in an orientation perpendicular to the flow of the river. Adult salmon and steelhead migrating upriver encounter the nets and become entangled in the gillnet webbing.



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Fishers lift the nets 2-3 times per day from small, outboard-powered boats to harvest the fish from the webbing. Because the nets generally are most effective during hours of darkness, fishers typically visit the nets at least once — and often more frequently — during the night when fish are abundant. Several hundred tribal members utilize this method of fishing constantly during the fishing season. In aggregate, they may deploy over 1,000 such nets on the Columbia between Bonneville and McNary dams in the fishery administrative area known as Zone 6. Weekly fishing periods are established by tribal regulation depending on the availability of harvestable fish from mid-May to early October and February 1 to late March.

1. Impacts to Tribal Fishing Sites

The proposed coal export facilities throughout the CRG, including the coal loading dock identified as the Coyote Island Terminal, would have significant direct and indirect detrimental impacts to tribal fisheries in the project area. The construction and operation of the proposed terminal at the Port of Morrow will very likely destroy four tribal gillnet sites that Yakama members currently use to exercise their tribal fishing rights.⁶ These particular threatened fishing sites are high quality and critically important to the tribal members who fish there. Construction of the proposed dock will at least interfere with — and very likely preclude — gillnet fishing at this location. From the Nation's experience with other docks and mooring dolphins, maneuvering barges into and out of the proposed dock will, again, at least interfere with, and perhaps preclude, fishing at sites adjacent to the proposed dock itself. It is important to note that these sites are not held or owned by individual tribal fishermen in the sense of title ownership. Rather, the Treaty-protected sites are held in trust by the Yakama Nation government for use by its enrolled members. The Nation authorizes tribal members to fish at certain sites on the Columbia through a site registration process administered by the Nation's Fisheries Program. Because the fishery is regulated in a site-oriented fashion, fishers authorized to fish at certain locations are not at liberty to simply move their fishing operation to another location on the river. The loss of fishing sites resulting from construction of the proposed dock would have the effect of disenfranchising the fishers authorized to fish at this location and would measurably diminish the number of fishing sites available to members of the Yakama Nation to exercise their Treaty-reserved right to fish at this usual and accustomed place. Put another way, construction of this project may directly violate the Treaty of 1855. Your agency must consider the potential treaty-violating effects of the Application.

2. Safety of Tribal Fisherman

Similarly, increased barge traffic through Zone 6 resulting from this project will impact the safety of tribal fishers exercising their Treaty-reserved fishing rights. Table 3.5 in the Biological Assessment (BA) for this project indicates that project-related barge traffic would nearly double the current volume of barge traffic on the Columbia River. Each additional barge, particularly those in transit during hours of darkness and/or foul weather, represents an increased safety risk

⁶ This is qualified, because there is insufficient information to determine precisely how many fishing sites Ambre's project will destroy.



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to fishers harvesting fish from their nets, operating small boats often times at night and in foul weather. Despite the fact that towboats are required to display lights indicating they are warped to one or more barges, the barges themselves are poorly lit and may obscure the lights of the towboat from the vantage point of a small boat. As tribal fishers may be hampered by foul weather gear, operating at night in otherwise dangerous conditions, and with barge lights obscured or confused by background lighting from Interstate 84 and fixed shore structures, increased barge traffic in the project area will considerably increase the safety risk to tribal fishers. The Application lacks any assessment of this increased hazard to tribal fishers and is thereby deficient. The Corps should not issue a permit without a PEIS addressing this matter comprehensively, and a project-specific EIS that considers safety hazards to tribal fishers.

Coal transportation by rail also poses a potential risk to human health and safety. Currently, there is a real risk of tribal fisherman being harmed or killed by trains traveling through the CRG. This risk would increase significantly with the addition of up to 60 coal trains moving through the Columbia Basin each day. Further, the coal residue that will be accumulating along the rail lines in the CRG poses yet another risk to human health that has not been evaluated in this application. Despite the Applicant's efforts to suppress the production of dust during transport by using surfactants and closed containers, coal will inevitably escape onto the railbed and eventually degrade to dust. Coal dust is a well-documented cause of disease in humans that sometimes results in death. Without adequate identification and analyses of these project-specific and general hazards posed by coal-related projects in the region, the Corps should not permit this Application to move forward.

3. Impacts to Water Quality & Aquatic Species

The BA prepared by Anderson Perry (April 2012) acknowledges that the project would have likely adverse effects on multiple endangered species, though it does not discuss how great those impacts would be or what would be done to mitigate for them. The potential significant increase of inadvertent coal spillage in the Columbia Basin could adversely affect Yakama Nation tribal resources including our tribal fisheries. Toxic effects are both acute and chronic to the Columbia Basins' aquatic food web and culturally important aquatic foods including salmon, sturgeon, and lamprey. Coal is associated with significant environmental problems including acidification of watersheds and metal contamination. Applicant's BA offers alleged assurances that Montana coal is considerably "cleaner" than other kinds but provides no list of contaminants present in the coal to be transported. Moreover, the chemical composition and biological effects of the surfactant sprayed on coal to reduce dust are not disclosed. The lack of this key information precludes a full analysis of potential biological impacts to water quality and associated aquatic biota in the likely event that coal enters the waters of the Columbia Basin. It is likely that this project will result in the contamination of the Columbia River as chunks of coal and coal dust inadvertently fall or spill into the waters of the Columbia Basin from trains traveling through the CRG. In fact, Burlington Northern Santa Fe has stated that up to 500 lbs. of coal per car is lost during rail transportation. Coal would also likely spill into the Columbia Basin during overwater barge loading, barge accidents, or train derailment. All of these types of accidents have been documented at least once and in some cases multiple times in the CRG within the past two



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decades. The probability of future accidents and associated likely effects will significantly increase if this Application is approved, and they should be evaluated separately in a PEIS and for each project-specific review.

4. *Impacts to Habitat*

Along with the toxic properties of coal there are habitat threats associated with the construction of new coal facilities. Construction of the coal-loading facilities will impact habitat for species listed under the Endangered Species Act ("ESA") and will create possible habitat for native and nonnative predators. Destruction of habitat and negative impacts to ESA-listed species must be evaluated and fully considered. While the BA for this project describes in detail the range and nature of potential project impacts to Critical Habitat for ESA-listed species, it also acknowledges that it does not attempt to quantify the biological effects of such impacts on listed species. Absent specific quantitative assessments of project impacts, it is unclear how NMFS can issue a legally sufficient Biological Opinion that includes conservation measures and alternatives to mitigate project impacts. Without a viable BiOp, the Corps should not permit this Application.

In the single instance where quantitative data on biological effects are provided, the BA describes the potential for increased stranding of juvenile salmonids washed ashore in the wake of passing ocean-going vessels that would be associated with the proposed project. Unfortunately, neither the BA nor the cited original paper from which the data are drawn provide enough information to assess the cumulative effects of numerous such strandings over a broad geographic area. But the information given suggests that the effects could be significant and uniformly negative. The magnitude of this impact to listed salmonids and other aquatic resources critically important to the Yakama Nation should be analyzed before any BiOp or permit is issued for the project.

The Corps should consider whether and how this project is compatible with the ongoing regional effort to restore the Columbia Basin for fish and wildlife resources. Despite the BA's assertion of negligible or no project impacts to ESA-listed and other aquatic resources, the project represents an incremental, uniformly negative environmental stressor on an aquatic ecosystem that is already overstressed by existing human development. Allowing this project to move forward would fly in the face of the enormous regional investment in the recovery of our precious natural resources, especially the investment we've made in the salmon and steelhead that are iconic to the Pacific Northwest.

C. Air Quality

The Yakama Nation, federal agencies, and others have worked extensively over the past decade to identify, analyze, and address air quality concerns in the CRG. Through research and monitoring we have found the CRG to have some of the highest levels of air pollution and acid



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rain in the Northwest.⁷ Local coal-fired plants and China's massive coal burning industry have been identified as major sources of this harmful pollution in the CRG.⁸

Toxic pollutants like mercury from burning coal, and other fossil fuels from the diesel-powered locomotives and marine vessels within the CRG, continue to impact the Yakama People and their cultural, historic, and Treaty-reserved resources. Not only is this harmful pollution damaging our sacred and irreplaceable pictographs and petroglyphs, it continues to impact and threaten our People and the resources that we depend on as these contaminants move through the air, water, and soil.⁹

Though not occurring soon enough, the planned closures of the last two remaining coal-fired plants in Oregon and Washington — PGE Boardman and TransAlta — are enormous victories for the region and demonstrates the region's commitment to protecting human health and the environment. Given that we as a region rejected coal-fired plants, we must ask why then would we now allow and facilitate the export of up to 160 million tons of coal to be burned in China each year, only to have its harmful contaminants migrate back to pollute our region? The weekly increase of an additional 11 trains, 12 loaded barge tows from Port of Morrow to Port of Westward, and 3 Panamax ships moving through the Columbia River Basin to Asia from the proposed Coyote Islands Terminal alone, will greatly aggravate the detrimental air emissions and toxic pollutants in the CRG. The cumulative impacts from all 6 proposed coal export terminals would be catastrophic. Given the significant impacts that air pollutants from burning fossil fuels has on our People, cultural heritage and Treaty-reserved resources, it is imperative that the PEIS and project-specific EIS's quantify and analyze the effects of air emissions and associated acid deposition from the transport and burning of coal caused by the Coyote Island Terminal proposal and all others being considered in Oregon and Washington. Additionally, the Yakama Nation expects that transient coal dust from the transport and storage of coal at the transloading facilities will be quantified and its effects on human health and the environment will be fully analyzed.

D. Climate Change

Given all that we know about climate change – its causes and consequences – it is unconscionable to think that we as a country would accept building new infrastructure to export and facilitate the burning of up to 160 million tons of coal each year through ports in Washington and Oregon. This massive proposal is in direct conflict with the federal government's policies

⁷ R. S. Sletten, "The Effects of Air Pollution on Rock Images in the Columbia River Gorge: A Sacred Breath Project of the Yakama Nation" (2011).

⁸ See, Jaffee, D. A. & Reidmiller, D.R., "Now you see it, now you don't: Impact of temporary closures of a coal-fired power plant on air quality in the Columbia River Gorge National Scenic Area." *Atmos. Chem. Phys.* 9, 7997-8005 (2009); Jaffee, D.A. & Strode S., "Fate and Transport of Atmospheric Mercury from Asia." *Journal of Environmental Chemistry* 5(2), 121-126 (2008).

⁹ R. S. Sletten, *The Effects of Air Pollution on Rock Images in the Columbia River Gorge: A Sacred Breath Project of the Yakama Nation* (2011); U.S. Environmental Protection Agency, *Columbia River Basin: State of the River Report for Toxics* (2009).



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and commitment to reduce greenhouse gas emissions and to address and respond to climate change. Beyond policies, we as humans have a moral obligation to make every effort to stop the causes of climate change — such as burning coal — that has already had very real, profound impacts across the globe and especially upon indigenous people.

Climate change jeopardizes the Yakama Nation's traditional ways of life, especially the climate-change impacts upon water — both the quantity and quality — which, in turn, affects changes in flora and fauna in the region. Warming water temperatures associated with climate change have been shown to increase the levels of toxins in water bodies, thus increasing the amount of toxins that are taken up into fish and affecting human health. Research has shown specifically that the accumulation of methylized mercury in our fish and wildlife is linked to rising water temperatures in the Columbia Basin. This is only one example, among many, showing how climate change negatively impacts our people.

The transport and burning of 8.8 million tons of coal per year, as associated with the Coyote Island Terminal transloading facility alone, would have significant greenhouse gas emissions, thus contributing to and exacerbating climate change. The Yakama Nation expects that greenhouse gas emissions and climate change impacts associated with coal export through the Northwest will be quantified and analyzed, both independent of and in combination with all coal export facilities being proposed in Oregon and Washington. These analyses must consider all emissions from rail and barge shipments from Montana and Wyoming to Asia, operations at port terminals, as well as the burning of this coal in Asia.

E. Cultural Resources

Many known culturally sensitive sites are located along the rail routes and within close proximity to the proposed transloading facilities in both Washington and Oregon for the proposed coal transportation/exportation projects. The Yakama Nation is concerned that rail construction, increased barge traffic, and construction of the proposed transloading facilities will impact known archaeological sites, previously undocumented archaeological sites, and Traditional Cultural Properties.

The proposed Coyote Island Terminal is located within an area of extreme cultural sensitivity to the Yakama Nation. Prior to inundation by the dams, the Blalock Islands (including Coyote Island) were a river crossing and ancestral fishing area. Numerous burial sites, legendary sites, and village locations are known within close proximity to the proposed construction. The Coyote Island Terminal is within ¼ mile to the Coyote Island Burial Site, recorded as archaeological sites 45BN77. Though this site has been inundated by the backwaters of John Day Dam, potential impacts remain through construction, sedimentation changes during construction, construction-related dredging and filling, increased barge traffic over time, reservoir management changes required to accommodate increased shipping, and shipping accidents/spills. Further, many cultural sites similar to the Coyote Island Burial Site exist within close proximity and may be impacted by the proposed project.



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The information provided regarding this Application is not sufficient to allow for examination of cumulative effects and impacts of this project on cultural resources over time. We request further information regarding the proposed life of the project, and information regarding the degree of dredge/fill operations for the construction area as well as dredge/fill of the shipping channel over time. Resources, though currently inundated, remain a high concern. Dredging/filling, will greatly impact cultural resources, fish habitat, ancestral fishing sites, Zone 6 Treaty Fishing Sites, and fishing sites throughout the upper and lower Columbia River in use today. We further request information regarding increased infrastructure requirements for overland transportation of coal to the Coyote Island Terminal; as such expansion will further impact these valued resources.

CONCLUSION

The Corps has a duty to ensure appropriate environmental analysis is completed on this Application before it moves forward in any respect. The Nation has considered both the environmental information and legal standards applicable here, and it is clear that a PEIS is warranted in this situation. We urge the Corps not just to take a "hard look" at this Application and its role in the broader plan for transforming our region into a coal hub. We request that you take your trust responsibility to the Yakama Nation seriously, and consider this Application in light of the decades upon decades of destructive waves that have decimated our culture, our people, and our land, water, and air, all advanced in the name of progress. As part of that trust responsibility, your agency has a duty under NEPA to demand a PEIS and a separate project-specific EIS that includes specific analyses of impacts this Application will have on the Yakama Nation. Additionally, your trust responsibility — in addition to federal regulations, policies, and various Presidential executive orders — requires the Corps to consult with the elected officials of the Yakama Nation on a government-to-government level. Thus, as a next step, please contact the Deputy Director of the Yakama Nation Department of Natural Resources to set up a meeting for the government-to-government consultation.

Sincerely,

Harry Smiskin
Yakama Tribal Council Chairman
Confederated Tribes and Bands of the Yakama Nation



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cc:

Governor Chris Gregoire, Washington State
Governor John Kitzhaber, Oregon State

Secretary Ken Salazar, U.S. Department of the Interior
Secretary Ray LaHood, U.S. Department of Transportation

Senator Patty Murray, U.S. Senate
Senator Ron Wyden, U.S. Senate
Senator Maria Cantwell, U.S. Senate
Senator Jeff Merkley, U.S. Senate

Congressman Norm Dicks, U.S. Congress
Congressman Peter DeFazio, U.S. Congress
Congressman Jim McDermott, U.S. Congress
Congressman Doc Hastings, U.S. Congress
Congressman Kurt Schrader, U.S. Congress
Congressman Adam Smith, U.S. Congress
Congressman Earl Blumenauer, U.S. Congress
Congressman Greg Walden, U.S. Congress
Congressman Rick Larsen, U.S. Congress
Congresswoman Cathy McMorris Rodgers, U.S. Congress
Congressman David Reichert, U.S. Congress
Congresswoman Jaime Herrera Beutler, U.S. Congress
Congresswoman Suzanne Bonamici, U.S. Congress

Lisa Jackson, U.S. Environmental Protection Agency
Dennis McClerran, U.S. Environmental Protection Agency
Steve Gagnon, U.S. Army Corps of Engineers
Samuel Rauch III, National Marine Fisheries Service
Will Stelle, National Marine Fisheries Service
Daniel Ashe, U.S. Fish & Wildlife Service
Robyn Thorson, U.S. Fish & Wildlife Service
Tom Tidwell, U.S. Forest Service
Kent Connaughton, U.S. Forest Service
Daniel Elliot III, Surface Transportation Board
Nancy Sutley, Council on Environmental Quality



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(Sent to all Legislators)

The Burlington Chamber of Commerce is concerned by SSA Marine's plans to transform the Cherry Point terminal in northwest Washington into one of the largest coal export facilities in North America, to export 54 million tons of coal from Wyoming/Montana to Asia per year. The plans require up to eighteen additional trains daily, each up to 1.6 miles long, hauling uncovered coal cars through downtown Burlington and Skagit County, threatening significantly adverse impacts to our community.

Burlington is a unique growing city with a lovely natural environment and unique rural economy. Burlington and Skagit County are attractive to the million-plus visitors to the region each year because of the Skagit River and convenient access to prime farmlands, the Cascade Mountains, national and state parks and forests, historic places in Skagit County listed in the National Register, and the San Juan Islands in the Puget Sound.

Burlington has a well-maintained downtown adjacent to the rail line with new businesses being added on a regular basis. The unique characteristics of Burlington make it essential that federal and state officials conduct a detailed review of significant economic, cultural, health, safety, aesthetic, and quality of life impacts from adding up to 28.8 miles of coal trains daily through Burlington, including:

- traffic delays at each Burlington "at-grade" rail crossing, preventing access to local businesses and cultural events;
- loss of revenues and jobs for existing businesses cut off from their customers, service routes, and deliveries;
- loss of tourism and customers due to blocked access to and from I-5 and other thoroughfares, including loss of revenue to area businesses and damage to Burlington's quality of life reputation;

- degraded commuter transportation to work sites and schools;
- impaired emergency response to residents and businesses, and blocked emergency access to medical care from downtown Burlington and elsewhere;
- health and quality of life impacts from diesel exhaust, fugitive coal dust, and noise;
- lowering of commercial and residential property values and resultant loss of tax revenues;
- loss of new businesses and new commercial and residential development and associated construction jobs; and
- loss of substantial federal and state investments in passenger rail service.

We understand that review of the Cherry Point Gateway terminal proposal will likely include preparation of an environmental impact statement (EIS) by state and federal agencies. We urge that the EIS process include a rigorous and detailed analysis that accurately evaluates all direct, indirect, and cumulative adverse impacts to Burlington and Skagit County businesses, including traffic delays. While the applicant's public relations campaign promises to add hundreds of jobs at the terminal, it is silent about the net loss of jobs along the train route, so the potential loss of jobs and revenues in Burlington and Skagit County deserves the utmost consideration.

The EIS review process should also include rigorous alternative site analyses of all available deep port sites in Washington, with an evaluation of direct, indirect, and cumulative impacts, including other proposals associated with rail lines. The alternatives analysis should compare the adverse effects of each site based upon detailed study of the kind of impacts we have identified in this letter.

We recognize that Burlington is by no means the only city along the route to this proposed coal terminal that treasures its quality of life, so we earnestly request a full and complete scope of state and federal review that includes economic, health, and environmental factors, along the entire rail corridor from Spokane to Cherry Point. Only then can the true societal costs of the proposed Cherry Point Gateway terminal be assessed.

Sincerely,

Linda Fergusson
President/CEO
Burlington Chamber of Commerce



Port of Skagit

September 13, 2011

The Honorable Christine O. Gregoire
Governor of the State of Washington
Legislative Building
P. O. Box 40002
Olympia, WA 98504-0002

Re: Proposed Gateway Pacific Terminal Project

Dear Governor Gregoire,

The Port of Skagit has received information presented to the Skagit Council of Governments in late July regarding the proposed Gateway Pacific Terminal Project and our comments have been requested.

As a port we generally support projects such as this which have economic importance regionally and nationally. Also as a port, we do not consider it our role to become involved in the debate over many of the other non-economic issues (both pro and con) this project might entail. Our purpose is local economic development leading to the creation of good family wage jobs in our community. Let there be no doubt, the Gateway project as currently proposed will have a very significant negative impact on our local economy.

Specifically, a great deal of the job creating economic activity in our community is dependent upon ready east/west traffic movement of cars and trucks. There are some eight "at grade" rail crossings that currently block local business related traffic when trains pass through. Even the most cursory review of the Gateway proposal shows that the additional trains required to supply the new terminal with coal will further obstruct traffic, and have a negative impact on economic development in our community leading to a net loss of jobs. This problem could be at least partially solved by the construction of overpasses at certain key locations.

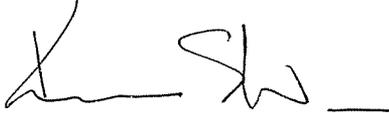
The Port of Skagit's support for this project is dependent upon solutions for at least the traffic issue being carefully studied, with the required funds to solve the problem

September 13, 2011
The Honorable Christine O. Gregoire
Page two

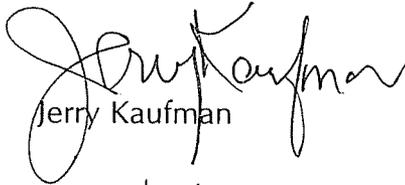
being incorporated into the budget of the Gateway project itself, rather than taken from Port of Skagit taxpayers.

The notion of "he who benefits pays" is considered fundamentally fair in America, and we believe it is fully applicable to the Gateway project's effect on our community.

Yours truly,

A handwritten signature in black ink, appearing to read "Kevin Ware", with a horizontal line extending to the right.

Kevin Ware

A handwritten signature in black ink, appearing to read "Jerry Kaufman", with a horizontal line extending to the right.

Jerry Kaufman

A handwritten signature in black ink, appearing to read "Bill Shuler", with a horizontal line extending to the right.

Bill Shuler

RESOLUTION 8-2012

A RESOLUTION OF THE PORT OF SKAMANIA COUNTY

Expressing Concern about Potential Adverse Impacts of Increased Rail Traffic from Coal Trains Passing through the Port of Skamania County and Requesting the Appropriate Authority Reviewing the EIS to Identify the Impacts to the Port of Skamania County

WHEREAS, the Burlington Northern Santa Fe (BNSF) Railway maintains and operates an at-grade railroad track crossing at Russell Street that limits access to Cascade Avenue on the waterfront in the City of Stevenson, Washington; and

WHEREAS, the Port of Skamania owns, operates and leases over 100,000 square feet of Industrial and commercially zoned buildings, a commercial cruise ship pier, a public boat ramp, three public beaches, six acres of public parks, over a half mile of waterfront trails located along Cascade Avenue in the City of Stevenson; and

WHEREAS, these Port owned assets support over 160 jobs and hundreds of daily delivery trucks, recreationists and tourists, all of which have to cross BNSF's Russell Street at-grade crossing; and

WHEREAS, the proposal to expand terminals in Cowlitz County to export coal will significantly increase the number of coal trains passing through the City of Stevenson; and

WHEREAS, there is an additional expectation that there will be a significant increase in general freight traffic on the BNSF track; and

WHEREAS, the substantial increase in train traffic, and specifically coal train traffic, will result in closure of at-grade crossings with greater frequency and longer periods that will create traffic congestion and could negatively impact emergency service response times to the Port's assets; and

WHEREAS, the expanded number of trains would result in an increase in train travel noise and frequency of horn blowing; and

WHEREAS, Stevenson has a side-track capable of hosting a full-length waiting train, and additional train traffic will result in more waiting trains and emissions from idling, plus more blown coal dust from the stopped trains. Moreover, trains starting from stop result in longer at-grade closure times, and

WHEREAS, until BNSF upgrades engines to the new lower emission standards, diesel emissions will remain an identified health risk; and

WHEREAS, the public has a concern that there may be health risks from coal dust and other particulates blown from open cars but the Port has no way to evaluate these potential impacts; and

WHEREAS, the Port relies on trucks/vehicles servicing and patronizing the industrial, commercial and recreational areas for its economic base and increased train traffic and associated noise could negatively impact the Port's ability to attract commerce to the area;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT OF SKAMANIA COUNTY AS FOLLOWS:

I We urge the appropriate authorities to require an environmental impact statement that identifies and measures the impacts on our community from the significant increase in coal train traffic and that the Port be included as a party of record.

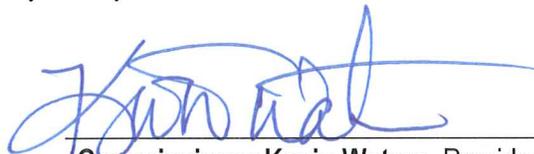
II We request that the impact statements include impacts on trucks/vehicles traffic (servicing and patronizing the industrial, commercial and recreational areas) from increased closure of at-grade crossings, inability to deliver emergency services due to extended crossing closures, and health and safety impacts related to coal dust and other particulates being blown from open cars, and increases in diesel emissions.

III We urge the appropriate authorities to hold at least one of the environmental impact statement hearings at a location in Skamania County.

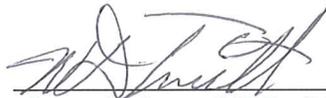
IV We urge that the US Corps of Engineers include freight traffic and the Port as a "Party of Record" in their review of the Gateway Pacific Terminal Project, Cowlitz County, Washington.

PASSED IN SESSION THIS 22nd day of May 2012.

APPROVED BY:



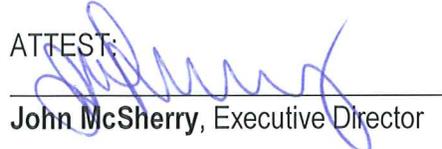
Commissioner Kevin Waters, President (District 3)



Commissioner WD Truitt, Vice-President (District 2)

Commissioner Tony Bolstad, Secretary (District 1)

ATTEST:



John McSherry, Executive Director

August 7, 2012

Brig. Gen. John McMahon, Commander and Division Engineer
U.S. Army Corps of Engineers Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Col. John Eisenhauer
Commander, Portland District
U.S. Army Corps of Engineers
P.O. box 2946
Portland, OR 97208-2946

Col. Bruce Estok
Commander, Seattle District
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

Re: EIS on Coal Export from the West Coast

Gentlemen:

I am writing on behalf of the Board of Health of Gallatin County, Montana. We hereby request that the Army Corps of Engineers (ACE) prepare an area-wide (“programmatic”) Environmental Impact Statement concerning coal transport from the Powder River Basin of Wyoming and Montana, through the Northwest to the potential new export facilities on the coast of Washington and Oregon. We understand that ACE already plans to examine the impacts of new ports; our request is to broaden the scope of the process to examine the entire transport corridors from the mines to the ports.

Should the increased coal export come about, the communities of Bozeman, Belgrade and Manhattan in Gallatin County through which trains pass will experience doubled (at least) train traffic. Several potential health and safety impacts to these communities have been brought to our attention. The Board does not have enough information to conclude that these impacts will be negligible, hence our request to examine them. We understand the particular issues to be examined will be identified during the scoping stage of the EIS. The Board’s questions can be summarized for scoping as follows:

- How much coal dust is likely to blow off open coal cars in our towns, what are its characteristics and to what extent would it compromise the pulmonary and cardiovascular health of our citizens? Could buildup of coal dust within track ballast increase derailments along the transport corridors? While the loss of coal dust diminishes with distance from the mine mouth, at what point does it cease to be problematic? The potential emission and accumulation of coal dust in our communities raises concern.
- What other proximate air pollutants should be anticipated from, for example, locomotive exhaust emissions and auto traffic idling at blocked crossings? What would their effects be? Belgrade and Bozeman are both very close to becoming non-compliant with existing air quality standards. EPA’s recent adoption of a more stringent standard for particulate air pollution

pushes us even closer to non-compliance. The proposed increase in coal-train traffic will increase diesel exhaust emissions from moving trains, and auto exhaust emissions from blocked traffic. The Bozeman Rail Yard, where trains are attached to helper engines for their transit over the Bozeman Pass, will experience greatly increased activity. What will be the air-quality impact on the residents adjacent to that facility?

- Residents of Bozeman and Belgrade have expressed concern about a potential doubling (or more) in the number of delays experienced by emergency vehicles. Each unit coal train is between 1.1 and 1.5 miles in length, so these trains simultaneously close all three at-grade crossings in Bozeman, and, in Belgrade, all four at-grade crossings. This effectively blocks access to large parts of the cities and adjoining suburbs. A related issue was recently raised during community health working sessions by residents of Belgrade, who pointed out that their town is effectively “cut in two” by transportation corridors (rail and interstate highway). How would the passage of 3000+ rail cars per day through central Belgrade affect the quality of life there? The Board has no idea how to go about assessing this impact, but it’s clearly an important characteristic of the human community.
- A number of residents have expressed concern about noise pollution from trains in Gallatin County at the current level of traffic. The Board understands that frequent loud noise is not just an annoyance, but can be a health hazard. What kinds of health impacts from increased noise should we anticipate from the coal-export project? What can be done to mitigate these impacts?

We understand that preparation of a PEIS usually does not involve the collection of new data, but should there prove to be inadequate information to answer any of these questions, we ask that ACE consider generating new data. The questions for other communities along the coal-transport corridors are likely to be similar to those of Gallatin County. For this reason, we ask for a comprehensive, cumulative and connected analysis.

Please view the Gallatin City-County Board of Health and the Health Department as willing partners in any analysis activities, whether involving new or existing information. Our concern is to understand the magnitude and nature of project impacts, so that our communities can make plans and collaborate with the railroad to implement mitigation measures. Given how little we know now, we consider this the prudent and responsible course for a Board of Health.

You can contact me or Health Officer Matt Kelley at any time regarding our concerns and this letter. Thank you for your consideration.

Sincerely,



Gretchen Rupp, P.E.
Chair, Gallatin City-County Board of Health

Cc: city commissions/councils of Belgrade, Bozeman and Manhattan, Montana
Senator Max Baucus
Senator Jon Tester
Representative Dennis Rehberg

King County Academy of Family Physicians

Board president, Charles Mayer

February, 2012

**Proposal to request support by Washington Association of Family Physicians
to oppose coal export in Washington State February, 2012**

WHEREAS Carrix/SSA Marine, in partnership with Goldman Sachs, plans to develop one of the largest coal export facilities on the continent at Cherry Point in NW Washington for shipment to China of coal mined in Montana; and

WHEREAS BNSF, a railroad owned by Berkshire Hathaway, would shuttle coal via 18 coal trains daily (9 loaded and 9 returning) across Montana and Wyoming into Spokane, down the Columbia River Gorge then up the coast through Longview, Tacoma, Seattle, Edmonds, Everett, Mt. Vernon, Bellingham and Ferndale, with each train measuring 1.5 miles long with 4-5 diesel engines apiece; and

WHEREAS the shipment of coal has clear environmental and economic implications, including significant potential health concerns for Washington citizens living along the rail corridor due to increased noise pollution and exposure to coal dust and diesel particulate as well as general health concerns from potential increased mercury levels in our surrounding waters; and

WHEREAS exposure to diesel particulate has been linked to increased cardiopulmonary morbidity and mortality and all-cause mortality, including impaired pulmonary development in adolescents, measurable increases in pulmonary inflammation, general increase in lung disease in children including increased severity and frequency of asthma attacks with increased emergency room visits and hospital admissions; increased rates of myocardial infarction in adults; and increased risk of cancer; and

WHEREAS coal cars are typically open top rail cars without covers and lose between 500 pounds to one ton of coal dust en route with coal dust being associated with chronic bronchitis, emphysema, pulmonary fibrosis (pneumoconiosis) and environmental contamination through the leaching of toxic heavy metals; and

WHEREAS noise exposure has been linked to increased cardiovascular disease including increased blood pressure, arrhythmia, stroke, and ischemic heart disease; cognitive impairment in children; sleep disturbance and resultant fatigue, hypertension, arrhythmias and increased rate of

accidents and injuries; and exacerbation of mental health disorders such as depression, stress and anxiety, and psychosis; and

WHEREAS some communities along the corridor have large populations on the opposite side of railway tracks from hospitals, raising the concern that frequent long trains at rail crossings will mean delayed access to emergency departments and potentially increases in emergency medical response times;

WE RESOLVE to send a comment letter to the Department of Ecology, Army Corp of Engineers and the Whatcom County Council during the Environmental Impact Statement comment period requesting a comprehensive Health Impact Assessment along the entire Washington rail corridor.

More information can be found at Info@Coaltrainfacts.org and via the attached letter from Whatcom Docs with referenced appendices.

Position Statement on Coal Exports from Concerned Oregon Physicians to Governor Kitzhaber

Multinational coal companies propose to send coal mined in the Powder River Basin by rail and barge through the Pacific Northwest to be loaded onto large ships and exported to Asia. If current proposals are approved, that could result in more than 150 million tons of coal shipped each year. An average of 26 loaded coal trains, each one-mile long (or longer) with over 100 cars propelled by four diesel engines, could pass through Oregon and/or Washington every day. This will result in the release of significant amounts of airborne pollutants and related disease from diesel engines and coal dust. The increased train traffic will also cause significant delays at many rail crossings, increased risk of vehicle and pedestrian injuries along the tracks, and increased noise pollution. As a group of Oregon physicians, we are deeply concerned about the health and safety impacts these proposals.

A group of Washington physicians has carefully reviewed data published in peer-reviewed medical journals which show that:

Diesel particulate matter is associated with: (See *Appendix A, Appendix C*)

- impaired pulmonary development in adolescents;
- increased cardiopulmonary mortality and all-cause mortality;
- measurable pulmonary inflammation;
- increased severity and frequency of asthma attacks, ER visits, and hospital admissions in children;
- increased rates of myocardial infarction (heart attack) in adults; and
- increased risk of ischemic stroke.

Coal dust is associated with: (See *Appendix B*)

- chronic bronchitis;
- emphysema;
- pulmonary fibrosis (pneumoconiosis); and
- environmental contamination through the leaching of toxic heavy metals.

Noise exposure causes: (See *Appendix D*)

- cardiovascular disease, including increased blood pressure, arrhythmia,
- stroke, and ischemic heart disease;
- cognitive impairment in children;
- sleep disturbance and resultant fatigue, hypertension, arrhythmia, and increased rate of accidents and injuries; and

- exacerbation of mental health disorders such as depression, stress and anxiety, and psychosis.

Frequent long trains at rail crossings will mean: (See *Appendix E*)

- delayed emergency medical service response times; and
- increased accidents, traumatic injury and death.

More recent research published in major medical journals augments prior concerns including, but not limited to: (See *Appendix F*)

- increased risk of lung cancer.

Additionally, several recent studies have shown that powerful spring trade **winds can carry Asian pollution into the atmosphere above North America.** Some of the imported pollution descends to the surface, where it affects ground-level concentrations of ozone, mercury, sulfur compounds and soot. Ground-level ozone can cause severe respiratory problems, including asthma, in susceptible individuals.

A 2008 study (see *Appendix G*) found that Asian emissions of mercury contribute 18% of springtime mercury concentrations at Mount Bachelor. Snowpack runoff ends up in our rivers and lakes where the mercury contaminates the fish we eat. Pregnant women and children are particularly vulnerable to the toxic effects of mercury. Mercury is a potent neurotoxin that can damage developing brains in fetuses and children.

The effects of air pollution are not hypothetical, but real and measurable. Many of the reviewed studies show significant health effects of exposure to everyday airborne pollutant levels that are below national U.S. Environment Protection Agency (EPA) guidelines. The data show a linear effect with no specific “safe threshold.”

The conclusion that airborne pollutants pose a significant and measurable health risk was also reached by the American Lung Association, in their review, “State of the Air 2011,” and by the American Heart Association, in their 2011 review, “Particulate Matter Air Pollution and Cardiovascular Disease.”

As physicians, we believe the risks to human health from massive coal shipments across our state, down the Columbia River, and through our communities are significant. We are particularly concerned with the health of our most vulnerable populations: prenatal, early childhood, the elderly and those with pre-existing conditions. We must identify likely exposures for affected workers and individuals all along the line, from the mines to the trains, to the barges, and to the ports of the Northwest. We want to prevent new sources of morbidity and mortality. We seek your help in doing so.

Specifically, we request that you call for and examine both a comprehensive Health Impact Assessment (to include cumulative effects) and a programmatic

Environmental Impact Statement before any coal export facility, infrastructure or related transport is approved by any Oregon state agency.

With respect,

A. Sonia Buist, M.D., Ph.D.

Jonathan Betlinski, M.D.

Harriet Cooke, M.D., M.P.H.

Thomas G. Cooney, M.D.

Nancy Crumpacker, M.D.

Rhett Cummings, M.D.

Maggie Bennington-Davis, M.D.

Mary Ellen Coulter, M.D.

Linda De Sitter, M.D.

Maxine Dexter, M.D.

Martin Donohoe, M.D.

Lucy M. Douglass, M.D.

Patrick Dunn, M.D.

Catherine Ellison, M.D.

Frank Erickson, M.D.

George Feldman, M.D.

Virginia Feldman, M.D.

Larry G. Fickenscher, M.D.

Nick Gideonse, M.D.

Bradford J. Glavan, M.D.

Marshall Goldberg, M.D., M.P.H.

Charles Grossman, M.D.

Keith Harcourt, M.D.

Andrew Harris, M.D.

William K. Harris, M.D.

Arthur D. Hayward, M.D.

Ron Heintz, M.D.

William S. Herz, M.D.

John Howieson, M.D.

Linda Humphrey, M.D.

Lyn Jacobs, M.D.

Lawrence Jacobson, M.D.

Paul Kaplan, M.D.

Susan Katz, M.D.

Steve Kohl, M.D.

Jay D. Kravitz, M.D., M.P.H.

Rod Krehbiel, M.D.

Michael Lefor, M.D.

Louis Libby, M.D.

Holger Link, M.D.

Rebecca MacGregor, M.D.

Janet Madill, M.D.

Jack McAnulty, M.D.

Robert A. McFarlane, M.D.

Susan Mikkelson, M.D.

Mizuho Mimoto, M.D.

Marwan Mouammar, M.D.

John Muench, M.D., M.P.H.

Richard A. Mularski, M.D.

Phil Newman, M.D.

Paul Norman, M.D.

William Nunley, M.D., M.P.H.

Philip Paden, M.D.

James R. Patterson, M.D.

John Pearson, M.D.

Carolyn Polansky, M.D.

David A. Pollack, M.D.

Jenny Pompilio M.D., M.P.H.

Martin Raitiere, M.D.

Bonnie Reagan, M.D.

Peter Reagan, M.D.

Jonathan A. Rettman, M.D.

Vincent P. Reyes, M.D.

Robert H. Richardson, M.D.

Constance Rosson, M.D.

David Ruud, M.D.

Irene Saikevych, M.D.

Thomas Schaumberg, M.D.

Christine Schjelderup-Free, M.D.

James P. Scott, M.D.

John F. Schilke, M.D.

Jerry M. Slepach, M.D.

Praseeda R. Sridharan, M.D.

Karen Steingart, M.D., M.P.H.

Tom Stibolt, M.D.

Frances Storrs, M.D.

Renee Stronglamill, M.D.

Richard U'Ren, M.D.

Thomas T. Ward, M.D.

Lanier Williams, M.D.

William H. Wilson, M.D.

C. Todd Woolley, M.D.

Douglas Walta, M.D.

Philip Wu, M.D.

Maureen Becker, N.D., L.Ac.

Audrey Bergsma, N.D.

Alicia Bigelow, N.D.

Meghan Brinson, N.D.

Patrick Chapman, N.D.

Joe Coletto, N.D., L.Ac.

John Collins, N.D.

Stephanie Kaplan, N.D.

Jeanette Lyons, N.D.

Patricia Murphy, N.D., L.Ac.

Patricia J. Meyer, N.D.

David Naimon, N.D.

Bonnie Neilnu, N.D.

Peggy Rollo, N.D., L.Ac.

Alison Schulz, N.D.

Rene Schwartz, N.D.

Igor Schwartzman, N.D.

Robert Sklovsky, Pharm.D., N.D.

Drew Scott, N.D.

Mary Scott, N.D., L.Ac

Lisa Shaver, N.D.

Eric F. Stephens, DAOM, L.Ac.

Patricia Timberlake, L.C.S.W., N.D.

Laura Torgerson, N.D.

Key References:

- [*American Heart Association statement*](#)
- [*American Lung Association statement*](#)
- [*Puget Sound Clear Air Agency document*](#)

Appendices:

[*Download Appendix A: Pulmonary Impacts of Airborne Pollutants \(including diesel particulate matter\) \(PDF, 152 KB\)*](#)

[*Download Appendix B: Health Impacts of Coal Dust \(PDF, 94 KB\)*](#)

[*Download Appendix C: Cardiovascular Impacts of Airborne Pollutants \(including particulate matter\) \(PDF, 86 KB\)*](#)

[*Download Appendix D: Health Impacts of Noise Pollution \(PDF, 94 KB\)*](#)

[*Download Appendix E: Anticipated Impacts of Frequent Long Trains on Emergency Medical Service Response Times and Risk of Injuries at Crossings \(PDF, 82 KB\)*](#)

[*Download Appendix F: March 12, 2012 Letter from Whatcom, Skagit and King County Physicians \(PDF, 304 KB\)*](#)

[*Download Appendix G: "Trans-Pacific Transport of Mercury" \(PDF\)*](#)

Thursday, May 24, 2012

Approved Letter Bolt

Ted Sturdevant
Director, Washington Department of Ecology
PO Box 47600
Olympia, WA 98504

9-1

Dear Mr. Sturdevant:

As Chair of the Board of Health of the Spokane Regional Health District, I am writing to express the Board's concerns about the potential adverse impacts associated with the proposed Gateway Pacific Terminal at Cherry Point and associated projects that would increase rail traffic transporting coal through Spokane County. These projects have produced a high level of public interest and concern in Spokane County; therefore, we request, that as part of the State Environmental Policy Act (SEPA), the co-lead agencies evaluate the potential health and environmental impacts that would be associated with increased rail traffic traveling through Spokane County.

As you know, Spokane County is the major rail crossroad on the Inland Northwest and would be the entry point for all coal coming into Washington from Montana and Wyoming. We have concerns related to an increase in rail traffic traversing Spokane County, including concerns about public safety and the impacts on the quality of life. Our specific concerns are impacts to the following:

Public Health:

- increased exposure to diesel particulate emissions
- Noise pollution
- Coal dust
- Other air pollutants

Public Safety:

- Potential delays in emergency medical transport
- Delays in other transportation options

o bike + pedestrian

Community:

- Delays in vehicular traffic
- Disruption of general commerce that relies on local travel

As you know, the SEPA requires identification and study of significant impacts: direct, indirect, and cumulative. Also, SEPA requires consideration of impacts caused by a proposal regardless of where those impacts may occur. We understand the co-lead agencies have determined that the proposed Gateway Pacific Terminal and the associated rail expansion will require an Environmental Impact Statement (EIS). We believe that there are statewide concerns that should be disclosed and addressed in the EIS.

Therefore, we request that the environmental review include an analysis of increased rail transportation to determine the effects on many of the environmental elements specific in SEPA, such as those listed above. We recognize that any rail impact analysis, including geographic scope, will be determined through the public scoping process, which is the first step in SEPA.

In summary, we request that the co-lead agencies identify and evaluate all potential impacts to Spokane County's public health, safety, economy, traffic, and air quality as part of the EIS with at least one of the public hearings, as part of the scoping process, be held in Spokane County.

Sincerely,

Amber Waldref
Chair, Spokane Regional Health District Board of Health

Power Past Coal: A Letter From Religious Leaders

Make your voice heard - sign onto this letter from religious leaders to Commissioner Goldmark today to let him know that people of faith are saying **no** to coal exports in Washington.

Peter Goldmark
Commissioner of Public Lands
1111 Washington Street SE
Olympia, WA 98504

Dear Commissioner Goldmark:

As religious leaders representing a diversity of denominations across the State of Washington, **we are writing to oppose coal export from Washington ports.**

Although we come from different faith traditions, we all hold sacred the belief that God created the world and it is good. In your role as Washington State's Commissioner of Public Lands, you make decisions every day that impact the health of our children, the vibrancy of Washington's economy, and the future of God's creation here and across the Pacific. We urge you to say no to coal exports from our state.



Religious communities know that we must transition away from the mining, burning, and exporting of coal since it breaks the covenant with our Creator. Coal is a public health threat through all stages of its production and use because it poisons our air and water. As pastoral leaders, we can not stand by quietly as the health of people and God's creation is compromised.

Shipping Montana and Wyoming strip-mined coal through Northwest ports encourages the building of new coal plants across Asia that would lock in decades of toxic pollution and carbon emissions. This smog from the Far East would blow right back across the Pacific to Washington to acidify our ocean, poison our fish, and contribute further to warming our planet.

Closer to home, exporting coal from our state would impose huge risks and costs on our communities. Mile and a half-long trains would block our streets and large amounts of toxic coal dust would accumulate along rail routes and at coal ports. It is a bad choice for the health and well-being of the towns involved, and a terrible legacy for future generations. We need to say no.

There are also good economic reasons to oppose coal export from Washington's deep water ports. Better jobs can be created from the taxpayer dollars that would be needed to build rail overpasses and

other infrastructure for the coal trains. Continued investment in renewable energy will create more jobs, more wealth, and the healthy and productive future we want for our families. Committing our shorelines, rail lines, and port communities to coal export is a dead end economic strategy, which will foreclose more robust and sustainable economic development. We can and must do better.

Shipping coal through Washington communities to be burned in Asia goes against values of care for creation, stewardship, and justice. We cannot sell our greatest assets, harm our poorest brothers and sisters, and imperil the future of our children for the benefit of a few huge coal companies. The moral and spiritual cost of coal export is too high.

In your hands, Commissioner Goldmark, is the choice between investing in clean energy and a stable economy or enabling a dirty and dangerous fuel source that threatens our communities and enriches very few. **We urge you to say no to coal export from Washington ports. Thank you.**

Sincerely,

Your E-Mail Address (Required)

First Name (Required)

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Congregation/Organization (Required)

Address (Required)

City (Required)

State (Required)

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Please enter your zip or postal code

Phone

Comments

Submit

Photo credit: Paul Anderson

If you have any questions, please contact Jessie Dye via e-mail: jessie@earthministry.org.

Resolution No. 31379

The City of Seattle – Legislative Department

Resolution sponsored by: [Signature]

A RESOLUTION stating The City of Seattle's opposition to transporting coal across Washington State and through Seattle due to negative health impacts and negative impacts to the Earth's climate.

Committee Action:

Date	Recommendation	Vote
3/22/12	NO YEA	(2-0) MOB, FB

Related Legislation File: _____

Date Introduced and Referred: 5.2.12	To: (committee): Energy + Environment
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: May 29, 2012	Date Presented to Mayor: May 30, 2012
Date Signed by Mayor: 6.1.12	Date Returned to City Clerk: 6.6.12
Published by Title Only <input checked="" type="checkbox"/>	Date Returned Without Concurrence:
Published in Full Text	

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
May 29, 2012	Adopted	9-0

RESOLUTION 31379

1
2
3 A RESOLUTION stating The City of Seattle's opposition to transporting coal across
4 Washington State and through Seattle due to negative health impacts and negative
5 impacts to the Earth's climate.

6 WHEREAS, mounting evidence demonstrates the negative health impacts of coal mining,
7 processing, transport and combustion; and

8 WHEREAS, air quality studies show living near major transportation routes and industrial areas
9 correlates with higher rates of respiratory and other illnesses; and

10 WHEREAS, studies show mining and burning coal releases harmful greenhouse gases into the
11 atmosphere, accelerating climate deterioration, and the mining of coal can result in
12 erosion and toxic waste; and

13 WHEREAS, Washington State recognizes the negative economic, public health, and
14 environmental impacts of climate change on this state (80.80 RCW; Executive Order No.
15 0905); and

16 WHEREAS, Washington State and other states are taking steps toward reducing American
17 dependence on coal-fired power, including the 2011 passage of the TransAlta Energy
18 Transition Bill, making possible the retirement of the state's last coal-fired power plant
19 by 2025; and

20 WHEREAS, The City of Seattle previously passed Resolutions 30316 and 31312 supporting
21 efforts to curb global warming, adopting greenhouse gas emission reduction goals for
22 The City of Seattle, and calling for continuing and new actions toward achieving those
23 goals; and

24 WHEREAS, coal is commonly transported via open-top rail cars that allow the spread of coal
25 dust and chunks of coal; and

26 WHEREAS, it is anticipated that new coal export terminals in Western Washington will result in
27 an increase in coal train traffic of at least 9 additional trains per day through Seattle,
28 Edmonds, Mukilteo, Everett, Bellingham, and other cities along rail corridors; and

WHEREAS, Washington State has been a national leader in creating clean-energy jobs and
innovating, developing, demonstrating, and marketing clean energy technologies and
practices that promote sustainable global economic development, and coal export
promotes damaging and unsustainable energy development practices; NOW,
THEREFORE,



1 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**
2 **MAYOR CONCURRING, THAT:**

3
4 **Section 1.** The City of Seattle opposes the establishment of coal export terminals in
5 Washington State and supports economic growth that does not jeopardize Washington State's
6 commitment to fight the serious impacts of climate change.

7 **Section 2.** The City of Seattle intends to address any impacts to public health, safety,
8 property, and surface and groundwater caused by the transport of coal through Seattle by actively
9 enforcing generally applicable local public health, safety, building, electrical, nuisance, and fire
10 codes and by actively enforcing applicable federal environmental statutes delegated to The City
11 of Seattle.

12 **Section 3.** The City of Seattle will request that the railroad make public any plans for
13 new or expanded rail facilities or significant rail traffic volume increases within Seattle city
14 limits.

15 **Section 4.** The City of Seattle will request that the railroad provide representatives to
16 meet periodically with local citizen groups and local government officials from Seattle to seek
17 mutually acceptable ways to address local concerns.

18 **Section 5.** The City of Seattle will request that the railroad mitigate any public safety
19 hazards created by the transport of coal through Seattle.

20 **Section 6.** The City of Seattle will request that the railroad monitor the loading of coal at
21 the mines and at any transfer points as part of the contract(s) with the coal companies to assure
22 best loading practices and to reduce the amount of coal and coal dust coming out of rail cars in
23 route.

24 **Section 7.** For any coal loading facilities located within Seattle, The City of Seattle will:

- 25 a) require all locally applicable permits and approvals be obtained for the operation of
26 such a facility,



- b) fully enforce public nuisance and municipal land use restrictions,
- c) require any piles of coal stored on the property to be fully covered, and
- d) require that the facility use a covered loading process to reduce health and safety impacts.

Section 8. The City of Seattle will request that the railroad draft road improvement plans for intersections that would be impacted by rail traffic increases, and require the railroad to cover the cost of those upgrades as part of the mitigation for increase in rail traffic.

Adopted by the City Council the 29th day of May, 2012, and signed by me in open session in authentication of its adoption this 29th day of May, 2012.



President _____ of the City Council

THE MAYOR CONCURRING:



Michael McGinn, Mayor

Filed by me this 6^r day of June, 2012.



Monica Martinez Simmons, City Clerk

(Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Meg Moorehead 684-8929	

Legislation Title:

A RESOLUTION stating The City of Seattle's opposition to transporting coal across Washington State and through Seattle due to negative health impacts and negative impacts to the Earth's climate.

Summary of the Legislation:

A proposal has been made to transport coal by rail from Montana and Wyoming through Washington State (including Seattle) to Cherry Point North of Bellingham for shipping to Asia. This resolution expresses the City of Seattle's concerns about coal trains and opposition to coal export terminals in Washington State. It also states that to the extent possible Seattle will use its local regulatory authority to mitigate coal train impacts in the city. And, the resolution requests that the railroad work with the City on any plans for new rail facilities or train traffic increases, outreach to local citizens and officials, mitigation of safety hazards, road improvements needed to accommodate increased rail traffic and monitoring of rail car loading practices.

Background:

A proposal has been made to transport coal by rail from Montana and Wyoming through Washington State (including Seattle) to Cherry Point North of Bellingham for shipping to Asia. The proposal would substantially increase coal train traffic through Seattle with potential impacts to public health and safety, road traffic, property and the environment. American coal sold in Asia also would support continued use of coal-fired power plants that contribute to greenhouse gases and global climate change. This resolution expresses Seattle's concerns about coal trains, opposition to coal export terminals in Washington State, and the City's intent to use its local regulatory authority to address impacts if the coal transport proposal goes forward.

Please check one of the following:

 X **This legislation does not have any financial implications.**

No additional City government appropriations or revenues are anticipated from this resolution at this time. If the coal train traffic ultimately increases as proposed, fees for City permits and approvals would be collected to cover any related City regulatory expenses. The railroad company would be requested to fund any needed road crossing improvements.



STATE OF WASHINGTON – KING COUNTY

--SS.

285265
CITY OF SEATTLE, CLERKS OFFICE

No. 31373, 31379

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

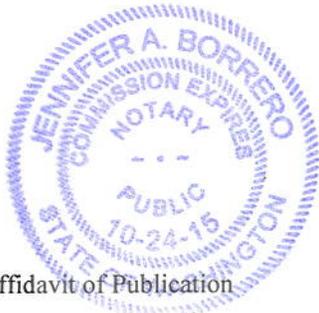
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY RESOLUTION

was published on

06/14/12

The amount of the fee charged for the foregoing publication is the sum of \$ 41.85, which amount has been paid in full.



Affidavit of Publication

James C. [Signature]

Subscribed and sworn to before me on
06/14/12 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle Title Only Resolution

The full text of the following legislation, passed by the City Council on May 29, 2012, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

RESOLUTION NO. 31373

A RESOLUTION approving a new Incident Annex to the City Disaster Readiness and Response Plan.

RESOLUTION NO. 31379

A RESOLUTION stating The City of Seattle's opposition to transporting coal across Washington State and through Seattle due to negative health impacts and negative impacts to the Earth's climate.

Date of publication in the Seattle Daily Journal of Commerce, June 14, 2012.
6/14(285265)

Resolution Number 7701

A resolution of the Missoula City Council to request that the U.S. Army Corps of Engineers prepare a comprehensive Programmatic Environmental Impact Statement (PEIS) on the cumulative impacts of new coal export terminals in Washington and Oregon and hold public hearings in Missoula, Montana and other communities that will be significantly impacted from coal that will be transported by train from the Powder River Basin in Montana and Wyoming to terminals along the Pacific Coast.

Whereas, currently, there are four coal-export terminal projects pending before the Corps: the Gateway Pacific Terminals (“GTP”) site at Cherry Point, Washington; the Millennium Bulk Logistics (“MBL”) site at Longview, Washington; the Oregon Gateway Terminal at the Port of Coos Bay, Oregon; and the Coyote Island Terminal site at the Port Morrow, Oregon. Additional permit applications are anticipated for a Kinder Morgan project at the Port of St. Helens, Oregon, and the RailAmerica proposal at the Port of Grays Harbor, Washington. Additionally, existing export terminals at port facilities in British Columbia are already receiving coal shipments and are considering expansions of their own; and

Whereas, taken together, the announced capacity of the planned U.S. projects is approximately 150 million tons of coal per year (compiled by Northern Plains Resource Council through press releases on each proposal). Operating at full capacity, these plans would mean approximately 60 coal trains – each about a mile and half long – moving through the Pacific Northwest, every day, year round. Many of these trains will pass through Missoula, Montana, and will potentially result in a significant adverse effect on our community that should be considered in any environmental review of these proposals.

Whereas, to ensure each individual permitting action accounts for the significant cumulative impacts of and mitigation for multiple proposed northwest coal export terminals, we believe that the Corps of Engineers must first prepare a PEIS that carefully analyzes the combined impacts of multiple, similar coal export terminal proposals.

Whereas, such analysis is allowed for, and most likely required, under the National Environmental Policy Act (NEPA). Under Section 1508.25(a)(1) and (2) of the Council of Environmental Quality's NEPA regulations, this environmental review must collect, analyze, and consider connected and cumulative actions for any federally supported project. Further, “cumulative” and “similar” actions should be discussed within a single environmental impact statement, necessitating the development of a PEIS.

Whereas, The railroad tracks and rail yard cut through a significant portion of the City of Missoula. In particular, the crossing at Greenough and Madison could cut off the Lower Rattlesnake neighborhood from vehicle by pedestrian travel, not to mention emergency services, item trains and increased traffic will result in additional emissions of air pollutants including greenhouse gases.

Whereas, any environmental analysis of these proposals must consider the negative effects that burning the large volumes of coal would have on the climate. Domestic demand for coal in the Powder River Basin has been rapidly declining. As a result, this coal will be shipped overseas to Asia, where it will permanently shape the developing energy markets there. With access to our cheap coal, countries in Asia will be induced to build new coal-fired power plants instead of transitioning to cleaner energy sources. This will lock in reliance on coal as a source of energy for the life of these power plans (thirty plus years), with an astronomically negative effect on climate change.

Now therefore be it resolved that the Missoula City Council requests that environmental reviews of these proposals consider the effects on the City of Missoula and other impacted communities.

Be it further resolved that we urge the U.S. Army Corps of Engineers to conduct a comprehensive programmatic EIS that includes an analysis of all of the indirect and cumulative environmental impacts, including the impacts on Montana communities, from all proposed coal ports in the Pacific Northwest.

Be it further resolved that we request that U.S. Army Corps of Engineers hold a public hearing in Missoula, Montana.

Passed and adopted this 21st day of May, 2012.

Attest:

Approved:

/s/ Martha L. Rehbein
Martha L. Rehbein, CMC
City Clerk

/s/ John Engen
John Engen
Mayor

(Seal)



City Council Agenda Bill

19810

Bill Number

Subject: City Council Environmental Impact Statement scoping request regarding the Gateway Pacific Terminal project related to local impacts from climate change

Summary Statement: See attached memo

Previous Council Action: Joint letter with Mayor Linville, December 10, 2012

Fiscal Impact: n/a

Funding Source:

Attachments: 01-08-13 Memo to Council
Draft Memo to EIS Officials

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Committee Briefing Council Direction Requested	14-Jan-2013	Vote to Approve	Jack Weiss	5 min

Council Committee:

Committee of the Whole
Seth Fleetwood, Chair

Agenda Bill Contact:
J. Lynne Walker

Reviewed By	Initials	Date
S. Fleetwood, President		
Legal	<i>PML</i>	<i>1-8-13</i>
Mayor	<i>KL</i>	<i>1-8-13</i>

Committee Actions:

Council Action:



BELLINGHAM CITY COUNCIL

210 Lottie Street, Bellingham, Washington 98225
Telephone (360) 778-8200 Fax (360)778-8101
Email: ccmil@cob.org Website: www.cob.org

MEMORANDUM

TO: Council Members

FROM: Jack Weiss, Michael Lilliquist & Gene Knutson

DATE: January 8, 2013

RE: Gateway Pacific Terminal Project Scoping letter related to climate change

On December 10, 2012, the City Council voted to support a joint letter with the Mayor providing scoping comments for the Environmental Impact Statement process associated with the proposed Gateway Pacific Terminal project at Cherry Point. During the deliberation at that meeting, the Council expressed a desire to submit a supplemental letter to highlight to the reviewing agencies the potential impacts of mining, shipping, and burning of the terminal's proposed primary commodity, coal, on local, regional, and global climate change. Anticipated local impacts include changes in snowpack levels impacting Bellingham's drinking water supply, river system ecology and agricultural needs. Other anticipated impacts include changes in drought-stressed forest ecology, increase temperatures affecting algal blooms in Lake Whatcom, and coastal erosion caused by accelerated sea level changes. These and other scoping comments will be presented to the Council for adoption to a supplement letter.

Date: January 14, 2012
To: CH2MHill
1100 112th Avenue NE Suite 400
Bellevue, WA 98004
From: Bellingham City Council
Re: Bellingham City Council Scoping Comments on the Gateway Pacific
Terminal/Custer Spur EIS

Dear Sir or Madam:

This letter expresses the Bellingham City Council's concern about the foreseeable and unavoidable adverse off-site impacts from the Gateway Pacific Terminal project resulting from mining, shipping, and burning of coal, the terminal's primary (and only confirmed) commodity. The City Council requests that the scope of the Environmental Impact Statement ("EIS") include an analysis of impacts related to climate disruption, increased level of toxic metals in water bodies, and increased acidification of water bodies. These potential impacts are further detailed below. These scoping comments are provided pursuant to both the Washington State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA). These scoping comments are submitted to you on behalf of the Bellingham City Council and are in addition to the comments included in previous and separate comment letters submitted on behalf of the City of Bellingham.

A. General Comments Regarding Climate Disruption

Disruption of global climate as a result of on-going greenhouse gas emissions from carbon-based fuel consumption has predictable and measurable effects on northwest Washington and Whatcom County. The mining, shipping, and especially the burning of coal are some of the largest contributing causes of these global climate changes, generating an estimated 1/5 of worldwide greenhouse gas emissions and rising.¹ Moreover, the EPA has recognized CO₂, the primary greenhouse gas released in coal burning, as a pollutant subject to regulation.

Because the proposed Gateway Pacific Terminal is under agreement to become the largest coal shipping facility in North America – up to 48 million metric tons of coal per year – the foreseeable impact of this coal consumption on global climate change, and therefore upon Whatcom County, needs to be determined prior to any decision to grant or deny development permits. These foreseeable impacts are significant and go against the City's plans and efforts to reduce our contributions to climate change,² as well as

¹ Center for Climate and Energy Solutions, <http://www.c2es.org/science-impacts/basics/factsheets/coal-facts>

² City of Bellingham, Greenhouse Gas Inventory and Climate Protection Action Plan, May 2007, available at <http://www.cob.org/services/environment/climate/program.aspx>

undermine the City's official commitment of a legacy of a "Healthy Environmental Legacy."³ These impacts also undermine Washington State's greenhouse gas reduction standards and targets.⁴

Furthermore, we believe these foreseeable impacts resulting from coal shipment and consumption should be assessed in conjunction with the several other proposed coal shipping facilities in Washington State, to determine the cumulative impacts that will be felt at the local level within Bellingham and Whatcom County and the entire region. We also believe the scope should include the carbon footprint of the mining and shipping operations, in addition to the direct impacts of coal consumption itself.

Global climate disruption from coal mining, shipping, and consumption takes many forms, most of which stem from underlying increases in average temperatures. In the Pacific Northwest, the increase over the last half century already averages 1.5°F degrees, and predictions suggest a further increase of 3 to 10°F over the next century if fossil fuel consumption continues along current trends.⁵ *The many effects of this temperature change need to be included in any EIS evaluation.*

B. Specific Comments Regarding the Adverse Impacts from Climate Disruption

The range of likely local adverse impacts from fossil-fuel induced temperature increases includes:

1. Loss and population disruptions of plant species, affecting individual plant growth and reproduction, including commercial food crops, berries, and tree crops – all of which are important for Whatcom County
 - ♦ Examination of this impact should consider the loss and disruption of pollinating insect species and symbiotic root fungi, as well as changes in pest species.
 - ♦ Impact analysis should also determine possible decreases in productivity and/or increases in irrigation needs of food crops such as blueberries, strawberries, raspberries, and feed crops for dairy livestock that are the centerpieces of Whatcom County agriculture.
2. Disruption, loss, and seasonal shifts in precipitation – increase winter rain and decrease in winter snows, resulting in greater winter peak river flow and flooding; decreased Cascade Mountain snow pack and therefore decreased spring snow melt, resulting in lower and earlier in-stream flows in the Nooksack and other local rivers, and more frequent summer drought conditions in Whatcom County.

³ City of Bellingham, Legacies and Strategic Commitments, available at <http://www.cob.org/documents/council/legacies-commitments.pdf>

⁴ See Revised Code of Washington, § 70.235.070(1)(a).

⁵ See *Journal of Climate*, 18(21), 4545-4561; and *Journal of Climate*, 19(23), 6209-6220.

3. Lower in-stream flow, and higher average water temperature, harming river-dwelling fish species as well as anadromous fish species; decreased fish reproduction, growth, and survival due to temperature stress; decreased numbers of salmonid fish entering saltwater and the effects on commercial and tribal fishing, and the health of salmon-dependent predators such as the endangered coastal Orca whale.
4. Lower in-stream flow, impacting agricultural irrigation and commercial agriculture's viability, as well as impacting river-dependent residential water consumption for Whatcom County residents, such as in Lynden.
 - ◆ Assessment of this impact should include the availability and use of Nooksack River water to control coal dust at the GPT site, in the context of the limited availability of river water for agricultural irrigation and residential consumption.
5. Changes in rainfall, snow pack, and spring run-off that may impact local ground water and aquifer replenishment, impacting ground-water and well-based water consumption for local agricultural and residential use – both of which are already constrained in Whatcom County by an overcommitted water supply.
6. Lower in-stream flow, eliminating the ability for the City of Bellingham to exercise its water-diversion rights from the Middle Fork of the Nooksack River, into Lake Whatcom, to serve as a municipal drinking water source. Assessment of this impact should include the increased risk that the City will be unable to use this diversion for months out of the year, which could jeopardize drinking water availability for 90,000 customers of the City of Bellingham water utility.
7. Effect of climate changes on Lake Whatcom near-surface water temperature, which creates a summertime risk for harmful algae blooms. Lake Whatcom is an "impaired water body" under section 303(d) of the Clean Water Act for excessive phosphorus,⁶ which is directly related to water temperature and algae blooms.
 - ◆ Assessment of this impact should evaluate increased likelihood and frequency of summertime algae growth, which necessitates expensive pretreatment of the lake water for human consumption, and which creates oxygen dead zones that harm resident fish populations.
8. Changes in forest productivity and ecology, due to changes in weather patterns and seasonality.
 - ◆ Assessment of this impact should include evaluation of changes in forest fire risk, magnitude, and seasonality; and changes in pest species populations.
9. Sea level changes from global warming, resulting in coastal erosion and loss of land and its impacts on Bellingham's municipal services, particularly storm water drainage and sewage systems. In particular, City of Bellingham's sewage treatment plant is located on the shoreline very near sea level, and relies upon gravity-fed

⁶ Washington State Department of Ecology, see <https://fortress.wa.gov/ecy/publications/publications/0810068.pdf>

delivery of untreated sewage, as well as pump-delivery of the treated water to the adjacent Bellingham Bay.

C. Comments Related to Other Impacts on Water Bodies

In addition to the temperature and climate-related impacts discussed above, we are also concerned about other adverse impacts generated by the mining, shipping, and burning of coal. These include other types of emissions and effects that result from coal burning. In particular, these foreseeable adverse impacts include:

1. Increased exposure to toxic metals, such as mercury, via atmospheric release. A 2005 study by the United State Geological Survey concluded that atmospheric transportation from fossil fuel burning in Asia is a primary source of new mercury in Lake Whatcom and other Washington waterways. Assessment of this impact should evaluate the likely increase in the atmospheric deposition of mercury into Lake Whatcom, and the consequent increase in mercury levels in lake water, lake soils, and aquatic species, including sport fish that may be consumed by humans.
2. Increased ocean and lake acidification, as a consequence of the atmospheric release of coal combustion products as well as CO₂ itself.

D. Conclusion

While climate change impacts are driven by human activities across the world, we are concerned about local contributions to these impacts. In particular, given the magnitude of the proposed project and the millions of tons of coal involved, we believe that local impacts from climate change are very likely to be increased due to the Gateway Pacific Terminal proposal, and we therefore feel it is essential to study these foreseeable adverse impacts as part of the EIS process. The City of Bellingham requests that these impacts be included in the scope of the EIS for the GPT permit process.

Sincerely,

XXX



City Council Agenda Bill

19809

Bill Number

Subject: Second Environmental Impact Statement Scoping Request

Summary Statement: The City of Bellingham is providing a second set of scoping comments for the environmental review process for the proposed Gateway Pacific Terminal. These comments are more technical in nature from the previous scoping comments letter, approved at the December 10, 2012 Council meeting, which focused on the Legacies and Strategic Commitments of the City. Scoping comments will be accepted until January 21, 2013.

Previous Council Action: 12/10/12 Approval of previous scoping letter; Resolution 2012-22

Fiscal Impact: Undetermined

Funding Source:

Attachments: Second Scoping Comments letter

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Committee Briefing Information Only	14-Jan-2013	Information Only	Mayor Kelli Linville Steve Sundin, Planning	5

Council Committee:

Committee of the Whole
Seth Fleetwood, Chair

Agenda Bill Contact:
Brian Heinrich, x8117

Reviewed By	Initials	Date
Legal	AKR	1-8-13
Mayor	KL	1-8-13

Committee Actions:

Council Action:

January 14, 2013

GPT/Custer Spur EIS
c/o CH2M HILL
1100 112th Avenue NE Suite 400
Bellevue, WA 98004

RE: City of Bellingham's Second Set of Scoping Comments on the Gateway Pacific Terminal

Dear Sir or Madam:

This letter is the City of Bellingham's second set of scoping comments on the Gateway Pacific Terminal (GPT) proposal. These scoping comments are provided pursuant to both the Washington State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA). The scoping comments are submitted to you on behalf of the City of Bellingham ("City").

On July 23, 2012 the Bellingham City Council adopted Resolution 2012-22 ("Resolution"), which highlighted the need for additional Burlington Northern Santa Fe ("BNSF") railroad infrastructure within the City in order for the GPT project to function as proposed at full build-out in 2026. The Resolution also specified how this infrastructure would negatively affect the City's ability to achieve its adopted Legacies and Strategic Commitments. The Resolution provided the foundation for the City's December 12, 2012 scoping letter that identified resources and planning efforts within the City and its Urban Growth Area that would be negatively impacted by the GPT proposal. The Resolution and December 12th letter are attached.

The City is now providing the following specific scoping comments for consideration and inclusion in the Final Scoping Document. Pursuant to SEPA these scoping comments intend to:

1. Identify City resources and planning efforts that may be negatively affected by the proposal;
 2. Provide a description of significant unavoidable adverse impacts;
 3. Recommend a reasonable range of alternatives; and
 4. Recommend mitigation measures to avoid, minimize and mitigate effects of the proposal
-
1. **City resources and planning efforts may be negatively affected by the GPT and the associated increase in the number of dry-bulk commodity trains (including coal) as well as their length, frequency, duration and weight:**
 - Negative impacts to funded and completed at grade improvements. Within the last eight years the City has implemented upgrades at two existing at grade crossings costing

hundreds of thousands of dollars. These improvements occurred at the intersections of Roeder Avenue and F Street and Wharf and Pine Streets.

Therefore, please require the applicants to analyze the suitability of the completed improvements in relation to the increase in the number, length, frequency, duration and weight resulting from up to 18 additional dry-bulk commodity trains (including coal) that are expected to pass through these at grade crossings per day.

- Potential unsuitability of crossings if project completed. Additional at grade crossings and water-body crossings exist within the City have not been upgraded and may not be suitable for the increase in the number, length, frequency, duration and weight resulting from up to 18 additional dry-bulk commodity trains (including coal). These at grade crossings are located at: Harris Avenue, 6th Street providing access to the Fairhaven Public Boat Launch, Bayview Drive, Pine and Wharf Streets, Cornwall Avenue, Central Avenue, C and F Streets. Crossings over Bellingham Bay are: Chuckanut Bay Causeway, lagoon crossings at Madrona Point, Edgemoor, Post Point, Padden Creek Estuary, Roeder Avenue Bridge.

Therefore, please require the applicants to analyze the suitability of these crossings in relation to the increase in the number, length, frequency, duration and weight resulting from up to 18 additional dry-bulk commodity trains (including coal) that are expected to pass through these at grade crossings per day.

- Negative impacts to planned City projects. Negative impacts to several projects specified on the City's adopted six-year Transportation Improvement Program (TIP) for 2013-2018 (project numbers indicated below indicate number on TIP) have not been designed nor analyzed to interface with up to 18 additional freight train trips per day at the time of full build-out of the GPT. The expected impacts are not solely a result of the number of trains but also their length, frequency, duration and weight. These projects are seriously undermined and threatened by this additional and unplanned increase in impacts. Specifically, these projects are:

Project #11: Boulevard Park to Cornwall Avenue Overwater Pedestrian Walkway. The increase in number, frequency, volume and length of dry-bulk commodity (including coal) trains serving the GPT will negatively impact both the general public's ability to access the walkway itself by vehicle at the Boulevard Park entrance on Bayview Drive, as well as the demand for use of the walkway due to increase in noise and air quality impacts. The City expects that the project will cost a total of approximately eight million dollars. Approximately \$660,000 has been spent to date.

Therefore, please require the applicant to analyze the negative impacts to this project in terms of air quality, odor, aesthetics, recreation, scenic resources and transportation systems pursuant to WAC 197-11-444.

Project #12 (12a - 12c): Waterfront District Multimodal Improvements. The planned connections from downtown and existing streets to the Waterfront District may also be significantly impacted by the increase in dry-bulk commodity trains as specified above. (The proposed Waterfront District Sub-Area Plan is scheduled for legislative review this spring.) While contemplation of *relocating* the BNSF tracks

was included as part of the Sub-Area Plan the number, length, frequency, duration and weight of the proposed trains associated with the GPT were not.

These multimodal connections interface with the BNSF railway at the intersections of Roeder, Central and Granary Avenues (12a; Granary - Bloedel) and Cornwall Avenue and Log Pond Drive (12b; Bloedel to Cornwall). Project 12c is a new arterial loop that does not interface with the BNSF railroad infrastructure, but is designed and intends to facilitate, improved function for projects 12a and 12b. Additional crossings at Cornwall Avenue and Oak Street, if BNSF track is NOT relocated, and Commercial Street, via a new bridge into the Waterfront District, would also be negatively impacted.

Therefore, please require the applicant to analyze the impacts to these planned improvements pursuant to WAC 197-11-444, specifically focusing on the six elements relating to transportation.

Project #17: Chestnut-Bay Bridge Rehabilitation. This project is intended to upgrade the existing bridge which is currently weight limited. However, this rehabilitation project does not include additional rehabilitation and structural improvements that may be necessary due to a significant increase in the number, more frequent, heavier and longer freight train trips.

Therefore, please require the applicant to analyze the structural integrity of this bridge in relation to the increase in the number, length, frequency, duration and weight of dry-bulk commodity trains (including coal) and the structural capability of the bridge to handle the new significant impact.

- The Greenhouse Gas Inventory and Climate Protection Action Plan, adopted by the City in May, 2007. In May of 2007 the City adopted the Greenhouse Gas Inventory and Climate Protection Action Plan. This plan focuses on City operations and how greenhouse gas emissions can be reduced. Phase I includes an inventory of our emissions and Phase II includes the action plan. The increase in number, length, frequency, duration and weight of up to 18 additional dry-bulk commodity trains negatively affects Action Plan Item #15 which is to "reduce idling time." City vehicles which must idle while waiting for trains to pass at- grade crossings actually increases idling times.

Please analyze the impacts to achieving this element of our Climate Action Plan as a result of increased gate down times at six at grade crossing locations; Harris Avenue, Bayview Drive, Wharf and Pine Streets, Cornwall Avenue, Central and Roeder Avenues and F Street and Roeder Avenue.

2. **Significant unavoidable adverse impacts to the City as a result of a significant increase in the number, length, frequency, duration and weight of dry-bulk commodity freight trains (including coal) travelling through the City and its Urban Growth Area include:**

- Harm and threat to the lives, safety and welfare of City citizens as well as the environment in which they live, resulting from freight train derailments, collisions and spills. Derailments, collisions and spills can destroy the areas in which they occur. Areas beyond the immediate site are also threatened from these events as is the case with tracks over or adjacent to Bellingham Bay and its pocket estuaries. A derailment, collision and/or spill or any combination of these events would result in immeasurable harm and significant impacts to aquatic ecosystems and to the air we breathe.

Furthermore, derailments, collisions and spills can damage or compromise vital existing infrastructure such as underground gas lines, City sewer and water mains and electricity substations. Cascade Natural Gas ("CNG") has transmission and distribution lines that run parallel to and intersect sections of BNSF infrastructure. A 16-inch CNG main begins at the BNSF crossing at Cornwall Avenue and travels along a potential corridor of to-be-relocated track along the base of the bluff. This 16-inch main transitions to a 12-inch main and runs from between Commercial and Bay Streets to Army Street and again from C Street to Bellwether Way along and parallel to the BNSF mainline track. Encogen and Puget Sound Energy have significant electricity and other supporting infrastructure near the existing mainline track. Destruction or disruption to any of these vital services resulting from a derailment, collision or spill would cause significant unavoidable adverse impacts to life, safety and welfare of the general public.

The City has water and sewer mains and trunk lines that cross underneath BNSF infrastructure in several locations and run parallel to in others. Sewer main pipe sizes range from 24 inches up to 60 inches in diameter. Water mains range from 8 inches up to as much as 30 inches in diameter. Collisions or derailments in locations where these mains exist would cause significant unavoidable impacts to the City's ability to provide vital water and sewer services to its citizens and numerous commercial and industrial establishments.

These significant impacts are in addition to those that would manifest themselves if a derailment, collision or spill occurred on mainline tracks that are abutting or traveling over Bellingham Bay and/or its pocket estuaries.

- Congestion, stacking/queuing, frequency and duration of multiple freight trains that are obstructed or 'backed up' by slides, debris, flooding and other unforeseen events at locations south of Bellingham and specifically between Bow and the Custer Spur. It is extremely difficult to predict when mud and debris slides across tracks will occur which would cause trains to be delayed and stacked until the blockage is cleared or cause a derailment, collision and/or spill. AMTRAK customers frequently get on and off Greyhound busses forced into service during the winter months at the Fairhaven Station in place of passenger trains when these slides, debris flows or flooding 'events' occur. The City expects this trend to continue, particularly in light of the effects of climate change and the resultant increase in precipitation in the City's general geographic area. In addition to derailments, collisions and spills, the City also expects the unavoidable significant impact and likelihood of multiple freight trains traveling through Bellingham in succession with minimal delays between them to result in (1) serious threats to emergency service providers; (2) congestion at waterfront intersections; (3) delays in movement of non-rail goods and services utilizing designated truck routes and arterials; and (4) increased noise and impacts to air quality.
- Destruction of marine near-shore environments and other critical areas such as pocket estuaries and landslide hazard areas resulting from the development of new railroad infrastructure such as a new railroad siding in order to accommodate up to 18 additional dry-bulk commodity trains (including coal) per day on the Bellingham Subdivision Mainline. Various studies have concluded that there is an existing bottleneck or "chokepoint" on the Bellingham Subdivision Mainline between Bow and the Custer Spur. These studies also conclude that one likely location for a new siding to handle an increase in freight train traffic (in order to maintain existing freight and passenger train capacity and efficiency) would be

parallel to and water-ward of the existing mainline between, roughly, Harris Avenue and the foot of Cornwall Avenue within Bellingham City limits. Such a siding would not only destroy existing marine near-shore environments, but would also undermine and nullify planned necessary shoreline restoration efforts at Padden Creek Estuary, Boulevard Park, the historic Cornwall Avenue Landfill and portions of the Whatcom Waterway.

3. Please consider and analyze as specified the following reasonable alternatives to the proposed project as part of the Environmental Impact Statement process:

- The No Action alternative.
- Development of only the west loop as well as loading and berthing / wharf infrastructure for up to one cape size vessel.
- Development of the original proposal permitted via SHS92-20 and MDP92-3 provided that the items specified within the 1999 settlement agreement have been completed to the satisfaction of the DOE, WDFW and the Washington Environmental Council.
- As an alternative to negatively impacting the nine at grade crossings (vehicle and multi-modal) within the City please consider the following combinations of at grade closures and construction of new grade separated crossings; at grade closures of Pine / Wharf Streets, Central Avenue and/or C Street in tandem with construction of new grade separated crossings: Commercial Street Bridge (down to Waterfront District) and a new Cornwall Avenue Bridge at the time the BNSF tracks are relocated to the east at the base of the bluff.
- As an alternative to negatively impacting existing available capacity on the Bellingham Subdivision Mainline for freight and passenger service please consider the development of a new railroad siding in a minimum of two locations between Mount Vernon and the Custer Spur.
- The capability of the existing BNSF rail line running parallel to Highway 9 from north of Mount Vernon north to Sumas in terms of capacity, structural integrity and overall suitability for potentially accepting some increases in freight train traffic. Potentially, the train traffic on this corridor could be limited to freight destined for Canada in order to free up the Bellingham Subdivision Mainline for GPT generated trains. The City recognizes that residents and businesses on this rural alignment as well as those within Whatcom County's smaller cities may be adverse to this type of analysis and that any necessary or required upgrades and improvements may also have associated negative impacts.

4. Please consider requiring the following mitigation measures on the subject proposal:

- Covering coal in each rail car with appropriate material or structure that minimizes dust and particulate from leaving the car while underway as well as from leaching of rainwater.
- Enclosing entire coal handling area with weather protective structure(s) or building(s) to minimize dust and particulate from coal stockpile areas being broadcast to abutting properties and onto onsite wetlands and the marine environment.
- Developing and installing wind-walls around the entire coal handling area to minimize dust and particulate from coal stockpile areas being broadcast to abutting properties and onto onsite wetland and the marine environment. The terminal is in the direct and unobstructed path of the prevailing winds, which are from the southwest, as well as those common winter winds originating in the Fraser River Valley.
- Establishing railroad "quiet zones" within Bellingham's city limits.
- Installing sound walls at selected locations within Bellingham's city limits and/or along.

- Specify the mitigation/handling requirements imposed by BNSF for the transport of coal.
- Specify the mitigation / handling / protocol / response requirements imposed by BNSF in the event of a derailment, collision or spill of any freight train.
- Please specify the mitigation / response measures that are employed in the event of a marine vessel spill, collision or other accident that is associated with importing or exporting any commodity from the GPT.
- Please establish air quality thresholds for coal dust at a minimum of two locations at the upland terminal handling area, at the wharf and a minimum of three locations within Bellingham's city limits and require quarterly air quality reports at these locations.

Pursuant to NEPA the following scoping comments are intended to:

1. Request that additional information be provided;
2. Affect the applicant's Purpose and Need Statement; and
3. Request an indirect effects analysis under NEPA.

1. **The City requests that the data, reports, analyses, studies or methodologies that were conducted by BNSF and/or SSA Marine or any of their subcontractors, in which it was concluded that all the new infrastructure at the Custer Spur is necessary in order to "safely and sufficiently handle the potential volume and length of trains without impacting operations on the Cherry Point Subdivision Mainline or the Bellingham Subdivision Mainline" be made available to the Co-Lead Agencies prior to their establishment of a range of reasonable alternatives.** The City is unaware of how improvements made on the Custer Spur would alleviate known "chokepoints" on the Bellingham Subdivision Mainline between Bow and the Custer Spur.

2. Purpose and Need Statement.

The Purpose and Need Statement ("PNS") is not 'finalized' until scoping is concluded. As you are aware, the Purpose and Need Statement is utilized by the United States Army Corps of Engineers (COE) to define the scope of the project and identify a reasonable range of alternatives which must be "rigorously explored and objectively evaluated." The City acknowledges that the Co-Lead Agencies overall objective is to streamline and merge the SEPA and NEPA processes. However, under NEPA, the Purpose and Need Statement, in its final form, places additional emphasis on the alternatives to be considered.

The City recognizes that the PNS includes two distinct projects as well as two distinct applicants. To summarize, one project is proposed by SSA Marine, which intends to "develop and successfully operate a multimodal marine terminal that includes upland facilities, loading trestle and a deep draft wharf for import and export of dry-bulk commodities to meet international and domestic demand."(See applicant's PNS.)

The other project is proposed by BNSF which intends to make improvements and modifications along the Cherry Point Subdivision Mainline (aka Custer Spur) to facilitate the increase in train traffic. In fact, the actual language describing the Custer Spur proposal states, "Improvements to the BNSF Cherry Point Subdivision Mainline (Custer Spur) are necessary to accommodate the number, length, and weight of trains, as well as to safely and efficiently provide rail services for the existing facilities in the Cherry Point Industrial Area and the proposed GPT facility. Current capacity is insufficient to efficiently and safely handle the potential volume and length of trains without impacting operations on the Cherry Point

Subdivision Mainline or the Bellingham Sub-division Mainline." (See applicant's PNS. Italics and underling added for emphasis.)

The City cannot reconcile nor understand why the Custer Spur proposal is included in the PNS for the reasons stated above without also acknowledging and addressing other known infrastructure deficiencies on the Bellingham Subdivision mainline. Rail studies performed by the Washington State Department of Transportation and others, as far back as 2006, and as recently as 2011, have concluded that existing BNSF railroad infrastructure allows operation of existing freight and passenger services to operate at or near capacity. Studies also conclude that chokepoints already exist on the Bellingham Subdivision Mainline between Bow and the Custer Spur. These studies did not take into account the phased increase of up to 18 additional dry-bulk commodity trains per day on the Bellingham Sub-division at full build out of the GPT.

The City requests that the PNS be revised to include future development of BNSF railroad infrastructure (beyond those BNSF proposed improvements along the Custer Spur) anywhere within Whatcom County in order to address the chokepoint and capacity deficiencies specified above.

3. Indirect Effects Analysis

Indirect effects are those effects that ". . . are caused by the action and are later in time and farther removed in distance, but are still reasonably foreseeable" (40 C.F.R. 1508.8). These are different than "direct effects" which are caused by the action and occur at the same time and place. For example, there is a direct effect of building the upland terminal facilities on wetlands, i.e. wetland fill. Indirect effects are also different than "cumulative impacts," which are those impacts on the environment which result from the incremental impact of the action if added to other past, present and reasonably foreseeable future actions, regardless of who undertakes the actions. For example, there is an expected cumulative impact on rail capacity, air quality, etc. when added with the number of freight trains hauling coal to *other* dry-bulk commodity terminals proposed within Washington and Oregon States.

Many cities between the Powder River Basin and GPT, especially those with larger populations, will be negatively impacted by the increase in trains over time as the GPT approaches full build-out. Full build-out is projected to occur in 2026, or, an estimated ten years after the GPT is built. Projected export of coal to Asia will begin at 25 million metric tons per year and increase up to approximately 48 million metric tons per year over that ten year period. The number of trains (delivering and then returning) will start at 10 per day and increase to up to 18. If the GPT is built, impacts on municipalities between the Powder River Basin and GPT continue and increase up to and beyond the 10-year full build out date.

These estimates and projections are specifically listed in the Revised Project Information Document from March 2012 as submitted by the applicant as part of its project application. (See Table 4.5). These indirect effects ARE reasonable and foreseeable because the applicant states it directly in its application.

Municipalities vary in size and are in various stages of land use and transportation planning. It is unclear to many of the municipalities along the rail corridor exactly how adversely they will be affected by the increase in freight trains resulting from this specific proposal. Municipalities within the Puget Sound region have ports and important transportation hubs (such as the Washington State Ferries) that may be negatively impacted by the increase in freight trains well into the future.

The City of Bellingham's Planning Commission is about to commence review of the Waterfront District Sub-Area Plan. This project presents a rare opportunity for the City to reclaim and renew its downtown central waterfront that for decades was a pulp mill. However, the Waterfront District is separated from the downtown core by the BNSF mainline and the City is concerned about the adverse impacts that may result from the GPT.

While it is true that coal leaving the Powder River Basin may go to a handful of different terminals in Oregon and Washington, those terminals all have limited capacities. The GPT is expected to be the largest of the proposed terminals. With the exception of the proposed Millennium Bulk Terminal, which is proposed to be slightly smaller than the GPT, the GPT terminal will export nearly twice the tonnage and require twice the number of freight trains as any of the other proposed terminals in Washington and Oregon

An Indirect Effects Analysis is appropriate in this case because the proposed GPT terminal located in the northwest corner of Whatcom County will have effects that are "later in time and farther removed in distance, but are still reasonably foreseeable."

The City requests that an Indirect Effects Analysis (as defined in 40 C.F.R. Section 1508.8) be performed to determine the indirect effects on the applicant's projected increase of up to 18 additional dry-bulk commodity freight trains that are hauling coal from the Powder River Basin to the GPT. Specifically, the study area should include incorporated municipalities that may be indirectly affected by all freight trains hauling Powder River Basin coal that travel or enter anywhere on the BNSF mainline between the Centralia Junction (where the BNSF and Union Pacific lines merge) and the GPT. The analysis should include a 20-year time period beginning at the time the GPT is operational. The City makes this request pursuant to 40 Code of Federal Regulations; Section 1502.16; Environmental Consequences.

The City of Bellingham appreciates the opportunity to provide this follow up scoping letter and we look forward to having these comments reflected in the Final Scoping Document and carried forward into the EIS process.

Sincerely,

Kelli Linville
Mayor

Attachments:

Resolution 2012-16
December 12, 2012 Scoping Letter



MAYOR'S OFFICE
Kelli Linville, Mayor
City Hall, 210 Lottle Street
Bellingham, WA 98225
Telephone (360) 778-8100
Fax (360) 778-8101

December 12, 2012

GPT/Custer Spur EIS
c/o CH2M HILL
1100 112th Avenue NE Suite 400
Bellevue, WA 98004

RE: Scoping Comments for the Gateway Pacific Terminal Environmental Impact Statement

Dear Sir or Madam:

These scoping comments are submitted to you on behalf of the Mayor of the City of Bellingham and the Bellingham City Council. The following comments are meant to address both on and off-site potential impacts of the Gateway Pacific Terminal (GPT) project to the City of Bellingham and its Urban Growth Areas and are organized according to the negative impacts the project may have on the City's Legacies and Strategic Commitments, as further discussed below and attached for your reference.

On July 23, 2012 the Bellingham City Council adopted Resolution 2012-22, which is attached to this letter. The Resolution highlighted the potential that additional off-site infrastructure within the City may be necessary for the GPT project to function as proposed at full-build out in 2026, which may adversely impact the City's ability to achieve its Legacies and Strategic Commitments.

Therefore, the City is providing the following specific scoping comments for consideration and inclusion in the Final Scoping Document in order to inform the various alternatives to be studied in the EIS.

1. Please analyze the cumulative impacts of all currently proposed coal export facilities and/or dry bulk commodity terminals within Washington and Oregon in a Cumulative Impact Analysis pursuant to the National Environmental Protection Act. Specifically, please analyze the cumulative impact to existing freight and passenger train traffic capacity in Washington State as well as the cumulative impacts to natural and cultural

resources resulting from the increase in freight train trips within Washington State and vessel traffic within Puget Sound, Georgia Straight and the Columbia River. We acknowledge that the BP Refinery located within the Cherry Point Industrial Area has applied for permits to develop new railroad (loop) infrastructure on their own property. The proposed improvements are intended to accommodate a planned for increase in trains carrying crude oil from the Midwest to their facilities at Cherry Point. BP has forecasted that they expect one additional train every two days to travel on the BNSF line traveling through Bellingham to the Custer Spur and then to the refinery itself. Please include this additional train traffic in the Cumulative Impact Analysis.

2. Please analyze the increase in impacts to the health and welfare of the citizens of Bellingham including impacts from diesel emissions from trains and ships, coal dust, noise and the potential for increased rail/car and rail/pedestrian accidents through a comprehensive independent third party Health Impact Assessment.
3. Please analyze the impacts to existing freight train and passenger train service, including impacts to shared capacity by the addition of up to 18 additional bulk-commodity train trips per day on Burlington Northern Santa Fe (BNSF) railroad infrastructure (Bellingham Subdivision Mainline), between Mount Vernon, Washington and the GPT.
4. Please analyze the impacts to the elements of the environment, as specified in WAC 197-11-444, which would result from the construction / development of a new railroad siding partially or wholly within the City in order to facilitate / accommodate the addition of up to 18 additional bulk-commodity train trips per day on the Bellingham Subdivision Mainline (BSM) between Mount Vernon and the GPT.

The following comments relate to the City's potentially affected resources and are categorized in relation to the City's Legacies and Strategic Commitments. The City expects these resources to be adversely impacted by the increase of up to 18 additional freight train trips traveling through the City of Bellingham every day at the time of full build out of the GPT. We request that the "increase" in impacts resulting from this action be analyzed through the EIS process for each element list below.

5. Please analyze the increase in impacts within an EIS to the following elements, related to the City's "Healthy Environment Legacy," which commits the City to protect the health of Bellingham Bay and its ecological functions, as well as reduce contributions to climate change:
 - Marine species, vegetation and the water quality of Bellingham Bay and its pocket estuaries as a result of increased coal dust from open container cars and increased diesel particulates from locomotives;
 - Marine species, aquatic vegetation and water quality due to an increase in vessel traffic and vessel anchorage;
 - Air quality of park and recreation users related to increased dust and increased particulates from open container cars and locomotives due to idling of those locomotives to the proximity of BSMs to heavily used City park and trail amenities;

- Upland wildlife habitat, connectivity and accessibility to park lands and greenway habitat corridors as a result of an increase in the amount, frequency and length of commodity trains;
 - Air quality, the marine environment and upland vegetation, resulting from the various methods of handling, moving and storing coal and other similar commodities from the moment it arrives at the terminal via train to its deposition into the cargo vessel;
 - Marine near-shore environment from an increase in noise and vibration due to additional, longer and more frequent freight train trips along the BSM;
 - Noise from increased train traffic on park users, riverine and estuarine fish and wildlife and related habitat; and
 - Potentially unstable slopes located on or adjacent to public and private lands especially those within the Edgemoor, South Hill, Birchwood and Columbia Neighborhoods as a result of additional, longer and more frequent freight train trips along the BSM;
6. Please analyze the increase in impacts within an EIS to the following elements related to the City's Legacy of "Vibrant and Sustainable Economy," which commits the City to support and promote a thriving local economy across all sectors, public and private investment as well as preservation of farmland and agricultural economy:
- Existing and planned land use and economic development potential within the City's Central Business District, the Waterfront District, Old Town and Fairhaven, all of which have development potential west of the BSM as a result of additional, longer and more frequent freight train trips;
 - Property values and assessments and the impacts to services resulting from a potential decrease in property tax revenue;
 - Job retention and creation within the City of Bellingham;
 - Bellingham's economy from increased train traffic related to tourism use of public park property within proximity of the rail line;
 - Tribal nations, local and regional fishing industries resulting from the increase in vessel traffic and marine infrastructure within the Strait of Georgia and the Cherry Point Aquatic Reserve.
7. Please analyze the increase in impacts within an EIS to the following elements related to the City's Legacy of "Sense of Place," which commits the City to support and protect neighborhoods, historic and cultural resources, as well as natural settings and access to open space:
- Resulting from additional freight train trips on the BSM on recreation resources and social benefits of the Bellingham parks and open space system;
 - Impacts of additional, longer and more frequent freight train trips along the BSM, as well as related infrastructure, including fencing, signals, siding, tracking, to the quality of public parks, open space and trails, and to scenic water views;

- Impacts of potential expansion of tracking or sidings associated with the increased rail traffic on public park lands and access to those lands, including impacts due to acquisition and/or eminent domain of properties that have a potential for future public access;
 - Impacts of trains idling to adjacent park land, including public access, emergencies and operational access, noise, dust;
8. Please analyze the increase in impacts within an EIS on to the following elements related to the City's Legacy of "Safe and Prepared Community," which commits the City to preventing and responding to emergencies and crime, as well as increasing community readiness and resilience:
- Paramedic response times and services of City of Bellingham's Fire and Police Departments as well as Whatcom Medic One and Fire District 7;
 - Emergency response times for Medic One and Fire District 7 paramedics within and beyond the northern portions of the City;
 - Safety of the general public resulting from fire in a coal car, including idling locomotives and train derailments or collisions;
 - Impacts resulting from accelerated wear and tear on the rails themselves, ties, supporting ballast, bridges, crossings and tunnels.
 - Public access issues, including delays in emergency response time and operational access, caused by increased rail traffic, to existing and future park lands along the rail right of way;
 - Existing rights of way, both opened and unopened, that provide access to public lands and shorelines;
 - Public and private property resulting from any potential spill on land or water during transport, storage or handling, including any spill due to a ship collision.
9. Please analyze the increase in impacts within an EIS on the following elements related to the City's Legacy "Mobility and Connectivity Options," which commits the City to providing safe and well connected mobility options for all users as well as increase infrastructure for non-vehicular modes of transportation:
- The safety of park users as a direct result of increased rail traffic. Many existing legal access points to parks and trails involve at-grade rail crossings;
 - Mobility and connectivity between on-street and off street non-motorized pedestrian and bicycle systems;
 - Existing and proposed trail systems, including the Coast Millennium Trail, Bay to Baker Trail, Nooksack Loop Trail, all of which are identified in the City's Comprehensive Plan as well as proposed trail systems and linkages within and along the shoreline in the Waterfront District;
 - Crossing safety for pedestrians, bicyclists, transit busses, automobiles, and freight delivery vehicles;
 - Traffic congestion backing up into other intersections, blocking access to side streets, alleys, and driveways;

- Access to and from Amtrak passenger trains, the Alaska Ferry Terminal, other marine transportation tenants stationed at the Bellingham Cruise Terminal, the Community Boating Center and the Port of Bellingham's Fairhaven boat launch facilities and the effect on Bellingham's tourism income.
- The following at-grade street crossings all within the City limits:
 - Harris Avenue (Fairhaven)
 - 6th Street north of Harris Avenue (Fairhaven)
 - Bayview Drive (Boulevard Park)
 - South Bay Trail @ Boulevard Park
 - Pine and Wharf Street (Waterfront District)
 - Cornwall Avenue (Waterfront District)
 - West Laurel Street (Waterfront District)
 - Central Avenue (Old Town)
 - "C" Street (Old Town)
 - "F" Street (Old Town)

10. Please analyze the following items related to the City's Legacy "Quality, Responsive City Services," which commits the City to delivering efficient, effective and accountable services, and transparent processes to involve stakeholders in decisions:

- Associated costs of transportation improvements necessary to mitigate safety, congestion, and access issues resulting from an increase in freight train trips as part of the GPT proposal.

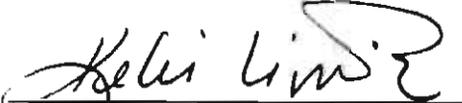
It is important to note that the City concurs with the October 22, 2012 letter from Buri, Funston and Mumford Attorneys at Law, which asserts that the GPT proposal is a "major development" as defined in Whatcom County Code (WCC) 20.88.010 and therefore is required to satisfy the "major development criteria," as specified in WCC 20.88.130.

As the project qualifies as a major project, the applicant is responsible for demonstrating compliance with the criteria listed in WCC 20.88.130, including a showing that the project will not impose uncompensated requirements for public expenditures for additional utilities, facilities and services, will not impose uncompensated costs on other property owned and will be appropriately responsive to any EIS prepared for the project.

It is vital that any off-site infrastructure that is necessary for the project be considered as part of the project proposal itself, as required by WCC 20.88.130(6). If the Washington State Department of Ecology, the Army Corps of Engineers and Whatcom County (the "Co-Leads") does not require that the off-site infrastructure be considered as part of the project, then that infrastructure should be included as a condition precedent to the establishment of the major development, as required by WCC 20.88.140 or, considered as a reasonable alternative to the proposal and be analyzed pursuant to both SEPA and NEPA.

The City looks forward to the inclusion of the study of these potential impacts as part of the GPT project EIS.

Sincerely,


Kelli Linville
Mayor


Terry Bornemann
City Council President

Attachments: Legacies & Strategic Commitments
Resolution 2012-22

“We are working today so future generations will benefit from...”

Clean, Safe Drinking Water

- Protect & improve drinking water sources
- Limit development in Lake Whatcom watershed
- Use efficient, ecological treatment techniques
- Maintain reliable distribution system
- Promote water conservation

Healthy Environment

- Protect & improve the health of lakes, streams & bay
- Protect & restore ecological functions & habitat
- Reduce contributions to climate change
- Conserve natural & consumable resources

Vibrant Sustainable Economy

- Support a thriving local economy across all sectors
- Promote inter-dependence of environmental, economic & social interests
- Create conditions that encourage public & private investment
- Foster vibrant downtown & other commercial centers
- Preserve farmland & the agricultural economy

Sense of Place

- Support sense of place in neighborhoods
- Encourage development within existing infrastructure
- Preserve historic & cultural resources
- Protect natural green settings & access to open space
- Support people-to-people connections

Safe & Prepared Community

- Prevent and respond to emergencies
- Prevent and respond to crime
- Ensure safe infrastructure
- Increase community readiness and resilience

Mobility & Connectivity Options

- Provide safe, well-connected mobility options for all users
- Maintain & improve streets, trails & other infrastructure
- Limit sprawl
- Increase infrastructure for bicycles, pedestrians & non-single-occupancy vehicle modes of transportation
- Reduce dependence on single-occupancy vehicles

Access to Quality of Life Amenities

- Maintain & enhance publicly owned assets
- Foster arts, culture & lifelong learning
- Provide recreation & enrichment opportunities for all ages & abilities
- Ensure convenient access to & availability of parks & trails citywide

Quality, Responsive City Services

- Deliver efficient, effective & accountable municipal services
- Use transparent processes & involve stakeholders in decisions
- Provide access to accurate information
- Recruit, retain & support quality employees

Equity & Social Justice

- Provide access to problem-solving resources
- Support safe, affordable housing
- Increase living wage employment
- Support services for lower-income residents
- Cultivate respect & appreciation for diversity

Legacies and Strategic Commitments

Adopted by Bellingham City Council
July 13, 2009



RESOLUTION NO. 2012-22

A RESOLUTION REQUESTING THAT CERTAIN POTENTIAL ON AND OFF-SITE IMPACTS ASSOCIATED WITH THE GATEWAY PACIFIC TERMINAL BE ANALYZED AS PART OF THE SEPA AND NEPA PROCESSES

WHEREAS, Pacific International Terminals, Ltd. has proposed the Gateway Pacific Terminal (GPT) at Cherry Point for the shipment of up to 54 million metric tons of various dry bulk commodities including coal to foreign locations; and

WHEREAS, these bulk commodities will arrive at the GPT via trains that are proposed to travel through the City of Bellingham; and

WHEREAS, the length, number and frequency of these freight trains are likely to increase over time as the GPT phases construction towards full build-out, which may require construction of additional off-site rail infrastructure improvements within the City of Bellingham; and

WHEREAS, these bulk commodities will then leave the GPT via ship in approximately 9 bulk carriers per week for an estimated total of 487 per year, and the projected shipping route is through the San Juan Islands to GPT and then north along the coast of Vancouver Island, the coast of Alaska and through the Aleutian Islands, generally following the migratory route of wild salmon; and

WHEREAS, risk of spills and ship collisions increase with an additional 487 single-hulled bulk carriers per year and a diesel or bunker fuel spill will be catastrophic to Puget Sound and Bellingham Bay and harmful to industry, tourism, fisheries and our quality of life; and

WHEREAS, the increase in freight trains and/or additional infrastructure improvements within the City of Bellingham and the increase in shipping due to the GPT project is likely to compromise the City's ability to continue to achieve its Legacies and Strategic Commitments (the "Legacies") which were adopted by the Bellingham City Council on July 13, 2009 to set forth City goals and strategic commitments to support those goals; and

WHEREAS, the City of Bellingham aligns all of its actions with the Legacies including: protection of Bellingham Bay, land use planning, capital facilities planning for trail and park systems, multi-modal circulation and utility system upgrades, as well as providing reliable emergency services; and

WHEREAS, the City of Bellingham has a variety of boards and commissions that also contribute to achieving the Legacies, such as the Parks and Recreation Advisory Board, Greenway Advisory Committee, Tourism Commission, Transportation Commission and the Waterfront Advisory Group; and

WHEREAS, the City of Bellingham anticipates that the GPT and its associated freight train traffic, the potential for off-site infrastructure improvements within the City, and the shipping impacts to Puget Sound, will have direct negative impacts to the Legacies; and

WHEREAS, the GPT and associated increased freight trains, potential construction of a new rail siding, and increase in ocean shipping may undermine the City of Bellingham's "Healthy Environment" Legacy by negatively impacting the ecologic functions of Bellingham Bay, by contributing to climate change and air quality degradation through increased coal dust and diesel engine particulate emissions, by increasing consumption of natural resources through the export of coal, by harming runs of wild salmon that originate in or travel through our waters, and by increasing ocean acidification resulting in a decline in production by local shellfish producers; and

WHEREAS, the GPT and associated increased freight trains, increased train noise, potential siding, and increased shipping impacts may undermine the City's "Vibrant Sustainable Economy" Legacy by creating conditions that discourage public and private investment; decrease values of properties located along the rail line or located waterward of it; cut off the newly developing Waterfront District by creating significant problems with noise, traffic blockage, air pollution and safety, thereby putting at risk millions of public dollars, thousands of potential jobs and additions to the productive tax base; deter a thriving tourist economy by negatively affecting the image and reality of Bellingham as a "green" destination; pollute Bellingham Bay; harm commercial and sport fishing industries; and disable the interdependence of environmental, economic and social interests; and

WHEREAS, the GPT and associated freight trains, potential siding, and potential increase in vessel traffic in Bellingham Bay may undermine the City's "Sense of Place" Legacy by severely limiting access to open space to such iconic places as Taylor Dock, Boulevard Park and the soon to be developed Cornwall Beach Park and by disrupting access to our public waters for sailing regattas and other recreational uses; and

WHEREAS, the GPT and associated freight trains, potential siding, and resulting blocked crossings may undermine the City's "Safe & Prepared Community" Legacy by preventing rapid response to emergencies and crime; and

WHEREAS, the GPT and associated increased freight trains, potential siding, and increased vessel traffic may undermine the City's "Mobility & Connectivity Options" Legacy by closing off at-grade crossings, blocking access to multi-modal trails and other infrastructure, disrupting non-bulk commodity vessels in Bellingham Bay, and disabling the well-connected mobility options, such as passenger train service the City of Bellingham strives to maintain and to increase; and

WHEREAS, the GPT and associated increased freight trains and potential siding may undermine the City's "Quality, Responsive City Services" Legacy by reducing the efficiency and effectiveness of the City Fire and Police Departments; and

WHEREAS, the GPT and associated increased freight trains and potential siding may undermine the City's "Equity and Social Justice" Legacy by decreasing opportunities for living wage employment as economic investment may decrease due to the GPT project impacts to the environment and access to amenities.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

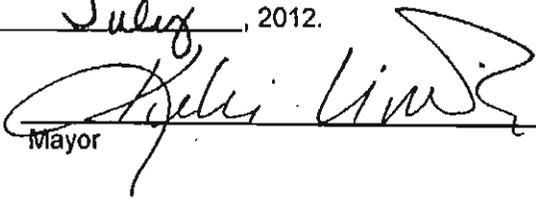
1. The City of Bellingham supports the Washington State Department of Ecology May 7, 2012 request that the U.S. Army Corps of Engineers conduct a Cumulative Impact Analysis under NEPA, of all currently proposed Coal export facilities and/or dry-bulk commodity terminals within Washington and Oregon.
2. In addition to the Cumulative Impact Analysis specified above, the City of Bellingham requests a project specific EIS to evaluate the full range of potential cumulative and unique impacts of the GPT project, on the City of Bellingham including off-site infrastructure improvements that may be required now or in the foreseeable future.
3. If offsite Infrastructure Improvements are required within Bellingham city limits, the City of Bellingham requests that they shall not be included as mitigation, but rather as a part of the GPT project.
4. If a rail siding is required within Bellingham city limits, the City of Bellingham requests that it shall not block or disrupt access to our parks or our waterfront.
5. The City of Bellingham requests that costs for the required mitigation for potential negative impacts as specified above shall not be borne by Bellingham residents.
6. The City of Bellingham requests that a comprehensive Health Impact Assessment be conducted by a separate and qualified third party contractor in order to analyze potential impacts to the health and welfare of the citizens of Bellingham including impacts from diesel emissions from trains and ships, coal dust, noise and the potential for increased rail/car and rail/pedestrian accidents.
7. The City of Bellingham requests an analysis of the transportation impacts to at-grade rail/street crossings including the delays to traffic and emergency vehicle response time and impacts to passenger rail traffic at full build out.
8. The City of Bellingham requests an analysis of the economic impacts to public and private entities resulting from any potential spill on land or water during transport, storage, or handling, including any spill due to a ship collision.

9. The City of Bellingham requests that probable anchorages be included in any vessel traffic analyses prepared for GPT, with an assessment of the likelihood of vessels anchoring in Bellingham Bay.

PASSED by the Council this 23rd day of July, 2012.


Council President

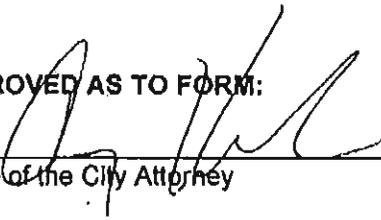
APPROVED by me this 27th day of July, 2012.


Mayor

ATTEST:


Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

A Resolution of the City of Bellingham, Washington

Resolution No. 2012-22
Agenda Bill No. AB 19618
Final Passage 7/23/2012
Published (if applicable)

CC Legal Secretary
Executive Assistant to City Council
Other:



King County

Larry Phillips

Councilmember, District Four

Metropolitan King County Council

May 24, 2012

The Honorable Jack Louws
Whatcom County Executive
311 Grand Avenue, Suite 108
Bellingham, WA 98225

Ted Sturdevant
Director
Washington State Dept of Ecology
PO Box 47600
Olympia, WA 98504

Brigadier General John R. McMahon
Commander, NW Division
U.S. Army Corps of Engineers
PO Box 2870
Portland, OR 97208-2870

Dear Executive Louws, Mr. Sturdevant, and Brigadier General McMahon,

As you prepare for the upcoming draft Environmental Impact Statement (EIS) regarding the proposed Gateway Pacific Terminal at Cherry Point, a facility to be used primarily for coal export, I wish to offer the following comments and concerns.

I represent King County Council District Four, which encompasses over 200,000 residents of several northwest Seattle neighborhoods through which the coal trains will pass on their journey to Cherry Point, including the Downtown Seattle Waterfront, Interbay, Ballard, Sunset Hill, North Beach, Blue Ridge, and Broadview. My constituents are gravely concerned about this proposal and opposition is growing.

Common themes include the following concerns:

- Negative impacts on **quality of life and public health** from noise and air pollution from diesel engines and coal dust emanating from open rail cars. With up to twenty coal trains a day traveling through our community, each over a mile-long, and with each car losing up to 500 pounds of coal dust en route, the cumulative amount of pollution, and increased linked respiratory diseases in our population, could be significant.
- Impacts on **traffic and safety** could be significant. A single train can obstruct a rail crossing by 6 minutes or more; 20 trains would mean blocking some crossings by 2 hours per day. Access to the northern portion of the Downtown Seattle waterfront from northwest Seattle is dependent on several railroad crossing points. Pedestrian and vehicle safety must also be considered; the tracks traverse busy pedestrian corridors in my Council district, and I anticipate long waits and increased incidences of rail-pedestrian and rail-vehicle accidents. Cumulative effects of increased train vibration on landslide-prone soils may also pose risk to the rail line and adjacent private property.



- Chilling effects on **residential and commercial development** along the rail line. Due to increased noise, pollution, and traffic impacts from coal trains, property values in communities alongside the rail line could drop, and investments in new housing and retail could be hampered.
- **Congestion on the tracks** impedes current and future freight, passenger and commuter rail service. Frequency of Amtrak and Sounder commuter rail trips are already limited by existing freight loads on the BNSF tracks. The addition of significant volumes of coal trains would appear to severely limit any expansion of freight and popular passenger rail service, or perhaps even require reductions in current service. This would hamper commerce and divert commuters and travelers from rail, resulting in more congestion and pollution on our region's roadways.
- Accelerated **climate change** resulting from burning coal for fuel. Coal is a dirty, carbon-intensive fuel, and exporting large quantities of it to other countries in order to develop overseas coal-based energy infrastructure—and the associated greenhouse gas emissions—will make it even more difficult to stabilize global climate change. Our state came together in 2011 to phase out the only remaining coal-fired power plant in Washington; exporting coal through our region does not match our residents' priorities and values.
- Negative impacts to the **shoreline environment** at Cherry Point. The proposed terminal site would fill wetlands and sit on herring habitat, the primary food source for endangered Chinook salmon, which are in turn, the main food source for imperiled Orca whales, a potentially significant impact on the ecology of Puget Sound and adjacent waters.

I appreciate the opportunity to pass along these initial concerns on behalf of my King County Council district, and look forward to continued involvement in this important issue that directly affects my constituents.

Thank you for considering these concerns as part of the EIS process.

Sincerely,



Larry Phillips, Councilmember
Metropolitan King County Council, District Four

cc: The Honorable Christine Gregoire, Governor, State of Washington
The Honorable Peter Goldmark, Washington State Commissioner of Public Lands
Steve Gagnon, Project Manager, U.S. Army Corps of Engineers
Alice Kelly, Regional Planner, NW Regional Office, WA Dept of Ecology



SKAGIT COUNTY
BOARD OF COMMISSIONERS

RON WESEN, First District
KENNETH A. DAHLSTEDT, Second District
SHARON D. DILLON, Third District

January 3, 2013

GPT/Custer Spur EIS Co-Lead Agencies
c/o CH2M Hill
1100 112th Avenue NE, Suite 400
Bellevue, WA 98004

RE: Gateway Pacific Terminal / Custer Spur EIS Scoping Comments

Greetings,

We write to provide comments and input relevant to the Gateway Pacific Terminal / Custer Spur EIS scoping (GPT EIS). Please make this comment letter part of the official record of this action.

We are concerned about the potential impact within Skagit County arising from additional coal trains along the main Burlington Northern Santa Fe (BNSF) freight line, which passes through Skagit County's urban core, bisecting the cities of Mount Vernon and Burlington. A portion of this line traverses at-grade street crossings throughout Skagit County, including streets connected to on-ramps and exits from Interstate 5. Among other things, we are concerned about:

- Degradation of transportation levels of service in Skagit County, and the resultant implications under our State's Growth Management Act;
- Impacts to the community's transportation grid, including possible impacts on emergency access point as well as the economic impacts arising from substantially increased delay at BNSF crossings;

- Impacts to passenger rail service;
- Additional train traffic on the BNSF Bridge over the Skagit River that this proposal will occasion. The BNSF Bridge is an outdated structure that regularly creates backwater conditions during flood events, and has the potential to jeopardize the safety of Skagit County citizens.

Skagit County has a duty to ensure activities related to the project are done in a manner that does not threaten our irreplaceable environment and quality of life. In light of the foregoing, we request that the Gateway Pacific Terminal/Custer Spur EIS include within its scope a systemic analysis of potential impacts to Skagit County, including but not limited to regional transportation and economic impacts. Please make Skagit County a party of record to this action. We thank you for the opportunity to comment on this proposal.

Sincerely,

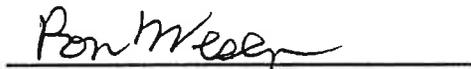
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Kenneth A. Dahlstedt, Chairman



Sharon D. Dillon, Commissioner



Ron Wesen, Commissioner

cc: Mayor Jill Boudreau (Mount Vernon)
Mayor Steve Sexton (Burlington)
Mayor Mike Anderson (Sedro-Woolley)
Mayor Dean Maxwell (Anacortes)
Mayor Ramon Hayes (La Conner)
Mayor Debbie Heinzman (Lyman)
Mayor Judd Wilson (Concrete)
Mayor Appoint, Town of Hamilton

United States Senate

WASHINGTON, DC 20510-4705

July 3, 2012

Paula J. Hammond, P.E.
Secretary
Washington State Department of Transportation
310 Maple Park Avenue, SE
Olympia, WA 98504

Dear Secretary Hammond:

I write to request your assistance in evaluating proposals for new bulk commodity export terminals in Washington state. As you may know, four companies currently have permit applications pending before the U.S. Army Corps of Engineers for new export terminals that will primarily serve to export coal from the Powder River Basin to Asia. If approved, these export facilities would dramatically increase the coal exporting capacity in Washington state, from just over five million tons last year to over 100 million tons annually according to some estimates. Combined with export terminals in Oregon, over 150 million tons of coal per year could potentially make its way through various parts of our state's transportation system.

The potential effects of expanding coal exports on our rail, roadway, and waterway transportation systems have generated considerable concern and questions within the communities that could be negatively impacted. For instance, if new coal export terminals significantly increase rail traffic, roadway improvements in several Washington towns and cities may be necessary to minimize traffic flow disruptions to our road and ferry systems and maintain safety and mobility within heavily-used transportation corridors. The additional rail traffic could also impact freight mobility, adding further congestion to our intermodal transfer centers and ports. Understanding the scale and scope of the potential impacts on transportation systems across Washington state is critically important, particularly when considering multiple concurrent proposals for export terminals.

Some estimates suggest that these impacts may be significant and costly to mitigate, further straining already tight state and federal budgets. To begin understanding and planning for the acquisition of any necessary federal resources, I would very much appreciate your help in analyzing the following questions:

- If one or more of these proposed export terminals were built, how many additional carloads, trains, and tons of freight would be likely each year? How long are these additional trains likely to be? And how do these increases compare to existing and historical freight rail traffic?

EVERETT
2930 WETMORE AVENUE
SUITE 9B
EVERETT, WA 98201
(425) 303-0114
FAX: (425) 303-8351

RICHLAND
825 JADWIN AVENUE
SUITE 204/204A
RICHLAND, WA 99352
(509) 946-8106
FAX: (509) 946-6937

SEATTLE
JACKSON FEDERAL BUILDING
915 2ND AVENUE, SUITE 3206
SEATTLE, WA 98174-1003
(206) 220-6400
TOLL FREE: 1-888-648-7328
FAX: (206) 220-6404

SPOKANE
U.S. FEDERAL COURTHOUSE
WEST 920 RIVERSIDE, SUITE 697
SPOKANE, WA 99201
(509) 353-2507
FAX: (509) 353-2547

TACOMA
950 PACIFIC AVENUE
SUITE 615
TACOMA, WA 98402
(253) 572-2281
FAX: (253) 572-5879

VANCOUVER
MARSHALL HOUSE
1313 OFFICERS' ROW
FIRST FLOOR
VANCOUVER, WA 98661
(360) 696-7838
FAX: (360) 696-7844

WASHINGTON, DC
311 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-4705
(202) 224-3441
FAX: (202) 228-0514

- Are there specific bottlenecks for roads, rails, and ports that would likely become further congested and require additional investment? I understand that recent state studies already show significant rail capacity constraints on a number of critical segments including the track from Everett to Blaine, the central Puget Sound, the Columbia Gorge, and “the funnel” at Spokane.
- What public infrastructure investments, including railroad crossing and safety measures, would be needed to ensure communities are not adversely impacted? Does the weight of bulk commodity shipments cause relatively more wear and tear on railways necessitating more frequent maintenance? Who would likely bear the cost of each of these investments -- the federal government, the state government, municipalities, or the commodity shipper?
- What would be the impact of these proposals on the Washington State Ferry system, and what operational or infrastructure improvements would be necessary to ensure ferry users are not unduly impacted? Would increased shipping traffic create congestion and endanger safety within our already busy shipping lanes?
- What would be the impact of these proposals on Amtrak *Cascades* or freight trains carrying perishable goods, and what operational or infrastructure improvements would be necessary to ensure these users are not unduly impacted?
- Will rail capacity upgrades be required to expand double tracking and siding? Is it likely, or are there specific examples of where such upgrades could impact other planned public investments?
- Will additional train traffic at busy rail crossings increase traffic delays and hinder access to neighborhoods, schools, and businesses? If yes, could these traffic delays increase the likelihood of collisions hazards or impede emergency responders’ response?

Thank you for your consideration of this request. While these bulk commodity export terminals would generate much-needed new jobs in Washington state, we need to better understand what investments and impacts these terminals would have on our state’s transportation system and communities across the state, from Spokane to Puget Sound. Our constituents need this information to be able to evaluate these proposals prudently and anticipate any mitigation measures that may be required.

I very much appreciate and look forward to your timely response.

Sincerely,



Maria Conquest

State of
Washington
House of
Representatives



November 7, 2012

Honorable Chris Gregoire
Office of the Governor
Legislative Building
Olympia, Washington 98504

RE: Task Force to Identify and Review Potential Impacts of Proposed Coal Export Terminal Facilities

Dear Governor Gregoire:

The purpose of this letter is to respectfully ask your most sincere consideration to immediately establish and empower a multi-agency task force to identify the full range of economic, environmental, transportation, and infrastructure implications of the proposed coal export terminals in our state.

As legislators representing varied communities and districts, we are concerned that the widespread impacts of these proposed projects can only be accurately identified—and thus included in the environmental review process—if the departments of Ecology, Transportation, and Commerce are directed to actively coordinate their analyses, data, and perspectives. Moreover, this information can help cities and counties to more thoroughly understand the broader potential impacts.

The purpose of the task force would be to collectively assemble and organize the range of statewide economic, environmental, transportation, and infrastructure data and impacts in a usable format so that such information may be considered by the Department of Ecology, appropriate counties, and the U.S. Army Corps of Engineers for inclusion in SEPA and NEPA documents.

Using the expertise of state agencies, it would be possible to objectively examine the impacts of coal exports on the entire state, not just in the communities where the proposed terminals would be constructed. Both gubernatorial candidates have followed your lead in urging for a thorough, statewide review, with each candidate repeatedly calling for a “rigorous review” including a statewide cumulative impacts analysis. While the SEPA process allows for significant review, it does not ensure that statewide impacts are fully considered. Nor does SEPA contain an adequate mechanism for comprehensively analyzing the net economic impact a specific project would have on a multi-county or statewide level.

As plans have evolved to export coal from Washington ports, a variety of economic concerns in particular have arisen that do not appear to have a natural role in the analytical process of SEPA review. Without active coordination between agencies, there is particular concern that the legitimate

economic externalities may fail to be included in the review. A coordinated approach would more effectively ensure such major potential externalities are included.

At a broad economic level, the policy question of how to effectively coordinate the analysis of the net economic effect must be addressed. Specifically, the creation of full-time, family wage jobs in the immediate vicinity of the export facilities is a legitimate benefit. The externalities of creating those jobs, however, are borne almost exclusively by cities and counties outside of Whatcom and Cowlitz counties, most notably Spokane, Thurston, Pierce, King, and Snohomish counties - five counties that together represent a solid majority of the state's economic base.

With a coordinated approach among state agencies, and a particular focus on economic externalities and issues, there is greater assurance that the EIS will fully identify the range of impacts across the state.

In addition to the economic impacts, the possibility of exporting coal from Washington ports forces a close look at our state's rail infrastructure and what public investment would be necessary to allow for growth in the future. The prospect of doubling the tonnage of freight transported on our railways demands an inspection of Washington's rail capacity, and the proposed daily addition of 60 trains in cities like Spokane highlights the need for examination of mitigation measures and cost. As a trade dependent state, we welcome this analysis as we strive to ensure a world-class transportation infrastructure for the coming decades.

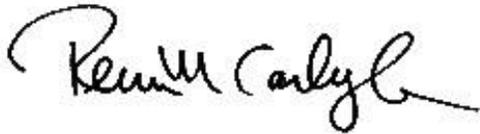
The proposals would also force an examination of the impact that coal trains would have on the ability of Washington businesses to move goods to and from port, and the complications to vehicle movement that would arise in areas where roads and railways intersect. Additional rail traffic would exacerbate existing rail congestion issues, and the incremental impact of this proposal on rail is substantial by any definition. The likelihood of increased short-haul freight costs (for example apple transport between Wenatchee and the Seattle area) serve as a further externality of the plan. These impacts require a thorough analysis by ports, cities, counties, and the State, one not mandated by or possible through the SEPA procedure.

The state of Washington's current economic development strategy, developed by the Department of Commerce, does not include any strategic prioritization on building and expanding coal exports. This is not a trivial oversight and should be addressed by multiple state agencies in a thoughtful, coordinated fashion.

Finally, the transport of coal through our state and the shipment of coal out of our ports may have far-reaching environmental consequences. Coal dust, diesel exhaust, air and water pollution, and damage to marine ecosystems have all been identified as potential impacts, and together they warrant an examination within appropriate guidelines by experts within our state agencies.

In conclusion, we reiterate the critical importance of ensuring an informed decision making process with respect to the proposed coal export projects. The far-reaching impacts of these projects warrant a serious, objective analysis, and we urge you to convene an interagency task force to ensure that the total effect of coal exports on Washington is accurately examined.

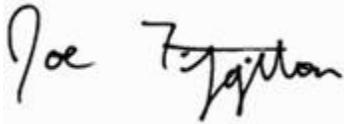
With respect and appreciation,

Handwritten signature of Reuven Carlyle in black ink.

Representative Reuven Carlyle, 36th District

Handwritten signature of Kristine Lytton in black ink.

Representative Kristine Lytton, 40th District

Handwritten signature of Joe Fitzgibbon in black ink.

Representative Joe Fitzgibbon, 34th District

Handwritten signature of Jeff Morris in black ink.

Representative Jeff Morris, 40th District

Handwritten signature of Andy Billig in black ink.

Representative Andy Billig, 3rd District

Handwritten signature of Jim Moeller in black ink.

Representative Jim Moeller, 49th District

Handwritten signature of Steve Tharinger in black ink.

Representative Steve Tharinger, 24th District



P.O. Box 128
Longview, WA 98632-7080
www.mylongview.com

June 18, 2012

U.S. EPA Region 10
Office of Environmental Assessment (OEA)
Attn: Joyce Kelly, Director
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Dear Ms. Kelly,

Currently there are six coal export terminal proposals pending in the Washington and Oregon slated to export approximately 157 million tons of coal annually. Moving 157 million tons of coal from the coal fields of Montana and Wyoming through the Columbia River Gorge for shipment will have significant economic, community, environmental and transportation impacts to Washington and Oregon.

Currently each proposal is being evaluated and permitted individually without comprehensive consideration of the cumulative benefits and impacts of all the coal export terminals on Washington State and our individual communities. It is our opinion that the cumulative, long term impact of the operation of these facilities should be evaluated, and studied as a part of the decision making process.

To that end, we respectfully request that a federal agency prepare a comprehensive environmental impact statement (EIS) under the National Environmental Policy Act to look at the unprecedented number of coal export proposals pending in the Pacific Northwest. Currently, the United States annually exports between 80-100 million tons of coal from all ports in the United States. The current proposals for coal export facilities could result in an additional 157 million tons of coal exports, more than doubling the U.S. coal export capacity.

Most of the economic, community, environmental and transportation impacts associated with this tremendous increase in coal export would be shouldered by Washington and Oregon. It is imperative that the federal government take seriously the responsibility to make informed decisions and that there be a comprehensive look at the economic, energy, environmental and public health impacts of these proposals before our cities and counties commit to this path.

The impacts from the transport of coal through Washington and its communities would be significant. Areas of concern that merit a hard look, at a minimum include:

- Economic development that preserves family wage jobs
- Increased rail traffic noise, and delay times for communities along the proposed rail lines, including emergency vehicles at rail crossings
- Increased vessel traffic on the Columbia River, including navigational and maritime safety concerns (*the proposals could result in a 70% increase in ship traffic in the Columbia River*)
- Protection of water quality, including increased risk of spills
- Impacts to listed anadromous fish species
- Coal dust emissions at the facilities and during product transport
- Emissions of air pollutants, including diesel and coal dust.

We strongly urge an immediate commitment to evaluating the impacts of these projects through a comprehensive Environmental Impact Statement that examines both the cumulative effects of coal transport to the West Coast.

Sincerely,

A handwritten signature in black ink, reading "Dennis P. Weber". The signature is written in a cursive style with a large, sweeping initial "D".

Dennis P. Weber
Mayor

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ALLOWING THE)	RESOLUTION NO. 12-4367A
METRO COUNCIL TO CALL ON THE)	
FEDERAL GOVERNMENT TO CONDUCT A)	Introduced by Councilor Rex Burkholder
THOROUGH REVIEW OF THE POTENTIAL)	
IMPACTS OF LARGE SCALE COAL EXPORTS)	
ON THE ECONOMY, TRANSPORTATION)	
SYSTEM, AIR QUALITY, ENVIRONMENT)	
AND PEOPLE OF THE PORTLAND)	
METROPOLITAN AREA)	

WHEREAS, there is an unprecedented number of coal export proposals pending in the Pacific Northwest, including Oregon; and

WHEREAS, current proposals could result in an additional 157 million tons of coal exports coming through the Pacific Northwest by train and by barge; and

WHEREAS, this increase in coal exports will require up to 60 additional trains coming through the Columbia Gorge National Scenic Area and into Oregon and Washington; and

WHEREAS, each of these additional trains may include 125 uncovered cars each totaling 1 ½ miles in length; and

WHEREAS, fifty of the crossings these trains will use throughout the Portland metropolitan region are at street level, which may cause significantly increased congestion and noise, impacts to public safety, and delays in emergency response; and

WHEREAS, this additional train congestion may impede local jurisdictions' plans for community development and the achievement of local aspirations; and

WHEREAS, this additional train congestion may restrict commerce and the movement of goods in the region, including agricultural products; and

WHEREAS, the significant increase of train and towboat diesel particulate matter and coal dust may increase incidence of asthma; impaired pulmonary development among adolescents; heart attack and stroke among adults; chronic bronchitis; emphysema; and

Whereas, the continued use of coal as a primary energy source undermines the region's ability to achieve its desired outcomes for successful community, including the region's goal of leadership in addressing climate change, and

Whereas the continued use of coal as a primary energy source also runs directly counter to the region's efforts to reduce carbon emissions from transportation through the state-mandated Climate Smart Communities program;

WHEREAS, Metro is the Metropolitan Planning Organization responsible for air quality, state carbon reduction plan implementation, and transportation planning in the Portland metropolitan region; now therefore;

9/20/2012 5:17 PM

BE IT RESOLVED that the Metro Council calls on the federal government to conduct a thorough review of the cumulative potential impacts of large scale coal exports on the region's economy, transportation system, air quality, public health, environment and people of the Portland metropolitan area, and directs Metro staff to communicate this request with our federal elected officials and appropriate federal agencies.

ADOPTED by the Metro Council this _____ day of September 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney



SPOKANE CITY COUNCIL
808 W. Spokane Falls Blvd.
Spokane, WA 99201-3335
(509) 625-6255

03/14/12

Tyler R. Schroeder
Whatcom Planning and Development Services
5280 Northwest Drive
Bellingham, Washington 98226

RECEIVED
MAR 19 2012
Whatcom County P&DS

Cc: Randel Perry, U.S. Army Corps of Engineers;
Alice Kelly, Department of Ecology – Northwest

Re: Scoping Hearings for Gateway Pacific Terminals NEPA/SEPA Process

Dear Mr. Schroeder, Mr. Perry, Ms. Kelly:

Regardless of where coal export terminals may be built in Washington and Oregon, the citizens of Spokane are purported to bear at least a ten-fold increase in coal train traffic as the state entry point of 130 million tons of coal per year from the Powder River Basin in Montana and Wyoming. The citizens of Spokane have already shown their interest in being engaged in this discussion and have demonstrated their desire for inclusion in the NEPA/SEPA process by holding a variety of local meetings including a Coal Train Forum this past summer. Based on local interest already shown, the community's continued engagement and the impacts that will be felt in Spokane by its citizens I **respectfully request that you include Spokane in the schedule of public hearings on the EIS process for the Cherry Point export facility.**

One of the greatest impacts from a significant increase in coal train traffic is serious health problems from breathing diesel exhaust emissions and escaping coal dust containing toxic substances linked to birth defects, cancer, and increased asthma and lung disease in children. Other possible impacts include noise pollution and lowered property values, traffic and first responder/utility delays at crossings, competition with passenger travel and other goods transportation by rail, increased risk of derailments caused by coal dust accumulation on the rails, air pollution, and economic challenges related to infrastructure upgrades. Additionally there is significant concern over increased risk to the Spokane-Rathdrum Prairie "Sole Source" Aquifer from fuel leaks at the BNSF refueling station located directly over the regions only source of fresh, clean drinking water.

Regardless of one's position on coal or coal exports, there are real risks and probable adverse environmental impacts to our communities from increased coal train traffic that should be thoroughly analyzed and presented to citizens who live in Spokane. Those living near the rail lines and most affected, in particular, should be asked to be part of the discussion. These concerns go to the heart of our quality of life – Spokane area residents deserve to have the impacts of increased coal train traffic studied, the facts presented to them, and their feedback heard in the scoping of these terminals.



This very important decision will affect all of our lives. A public hearing in Spokane will, at the very least, show an effort to provide an open, public forum for citizens from around the area to provide input into this process.

Sincerely,

A handwritten signature in blue ink that reads "Amber Waldref". The signature is fluid and cursive, with the first name being particularly prominent.

Amber Waldref
Spokane City Council

A handwritten signature in blue ink that reads "Jon Snyder". The signature is more angular and less cursive than the one to its left.

Jon Snyder
Spokane City Council



July 17, 2012

Brigadier General John McMahon
Commander and Division Engineer
U.S. Army Corps of Engineers, Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

RE: Request for Consideration of Cumulative Impacts of Multiple New Coal Terminals
in Washington and Oregon

Dear Brigadier General McMahon:

I submit, as a matter of public record, a request from 89 local Northwest elected leaders asking you to prepare a stand-alone Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) to address the cumulative impacts from all of the potential new coal terminals in this region. An EIS addressing the cumulative impacts of these proposals will allow the Army Corps to consider similar effects for all terminals in one review, and to hear from communities that will be harmed even if they are distant from the terminal sites.

Attached you will find the following documents:

1. A letter signed by 47 local elected leaders from around the region calling for a comprehensive review.
2. Individual letters from:
 - A. U.S. Senator Patty Murray – WA
 - B. U.S. Representatives Adam Smith and Jim McDermott – WA
 - C. Oregon Governor John Kitzhaber
 - D. Multnomah County OR Chair Jeff Cogen
 - E. Portland, OR Mayor Sam Adams
 - F. Seattle, WA Mayor and City Council
 - G. Longview, WA City Council
 - H. Mosier, OR City Council and Mayor
3. City Resolutions from:
 - A. Missoula, MT
 - B. Helena, MT
 - C. Sandpoint, ID
 - D. Washougal, WA

Thank you for your consideration.

Sincerely,

Sean Guard
Mayor of Washougal

CITY HALL

1701 C Street
Washougal, WA
98671

(360) 835-8501
Fax (360) 835-8808

POLICE DEPARTMENT

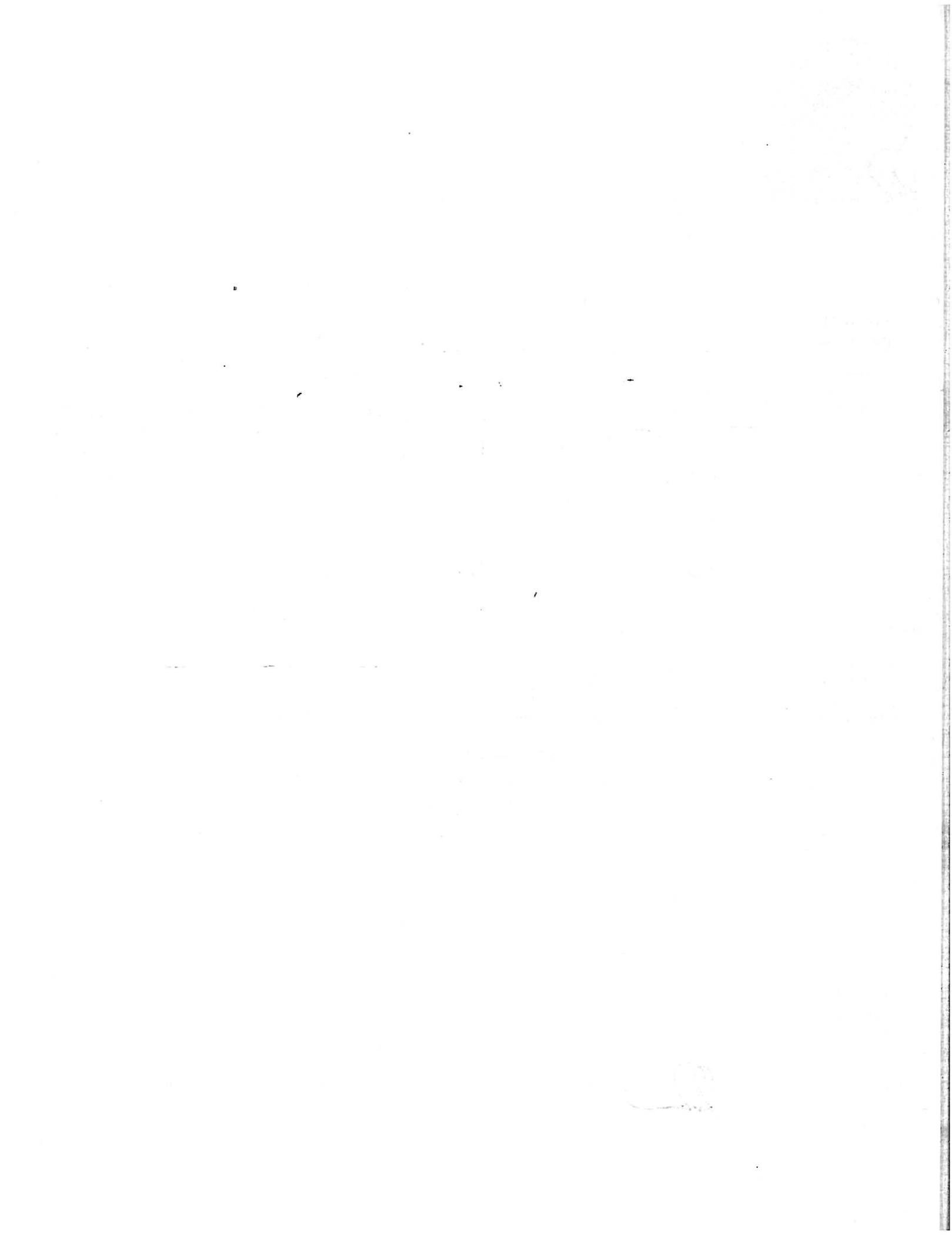
1320 A Street
Washougal, WA
98671

(360) 835-8701
Fax (360) 835-7559

FIRE & RESCUE

1400 A Street
Washougal, WA
98671

(360) 835-2211
Fax (360) 699-4859



July 17, 2012

Brigadier General John McMahon
Commander and Division Engineer
U.S. Army Corps of Engineers, Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

RE: Request for consideration of Cumulative Impacts of New Coal Terminals in Washington and Oregon

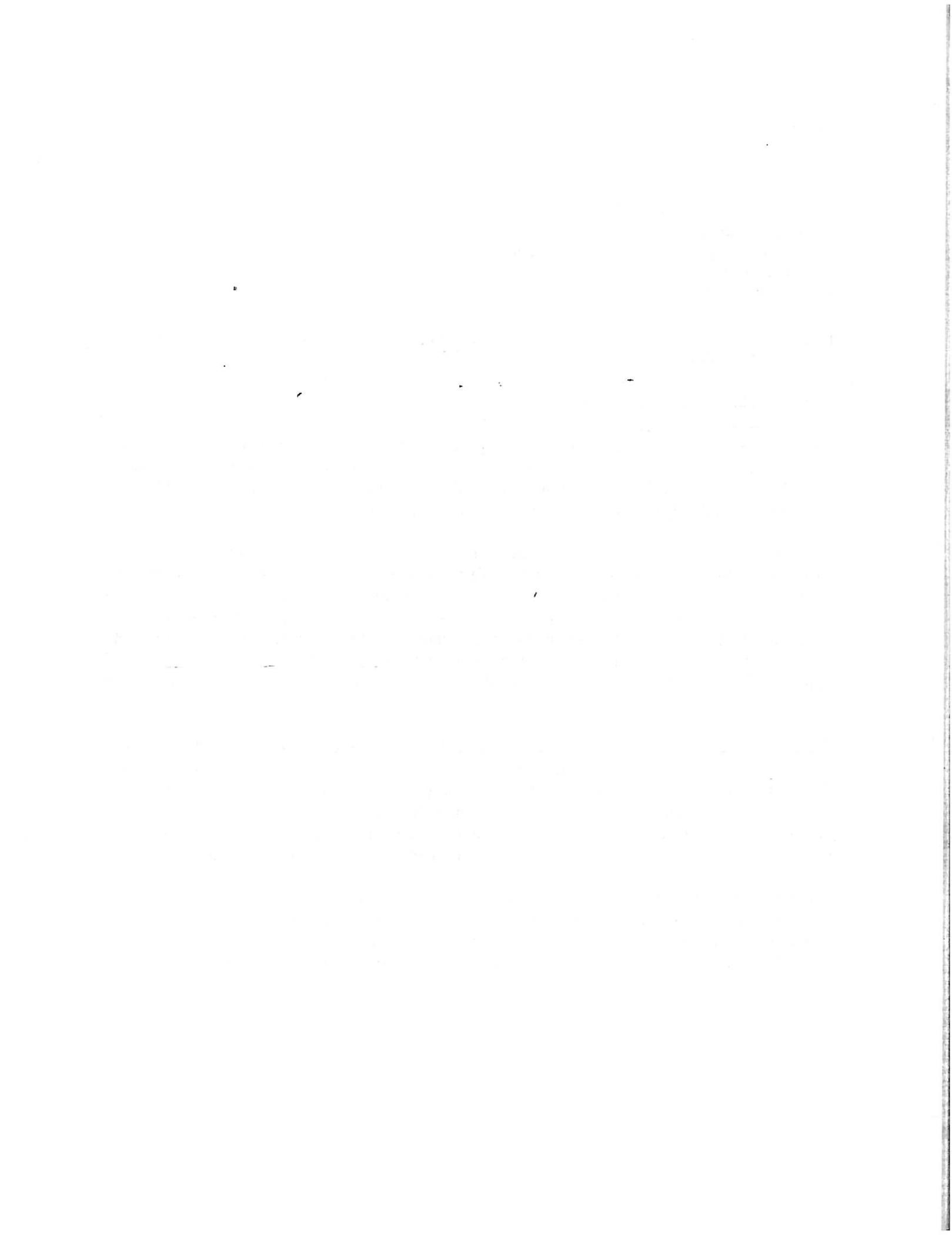
Dear Brigadier General McMahon:

We are a group of local elected officials from states in the Northwest: mayors, city and county council members, representatives to state legislatures, and elected executives. When major federal actions or initiatives impact our communities, we are at the “front lines” of addressing those impacts and helping our constituents understand and cope with them.

We are hearing from our constituents with respect to a series of proposals to build coal export terminals on the Pacific Northwest coast or along the Columbia River. The operation of these terminals will affect the entire region, not just the port communities. The vast volumes of coal that could be moving through the region’s rail system and public waterways will have significant impacts on transportation networks, air and water quality, wildlife habitat, and quality of life. By some estimates, if all of the proposed terminals operated at full capacity, there would be 63 coal trains – each well over a mile long – moving through some Pacific Northwest communities every day.

We believe that these decisions are much bigger than any single permit application for a new terminal. Accordingly, we urge you to prepare a stand-alone Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) to address the cumulative impacts from all of the potential coal terminals. An EIS addressing the cumulative impacts of these proposals will allow the Corps to consider similar impacts for all terminals in one review, and to hear from communities that will be impacted even if they are distant from the terminal sites.

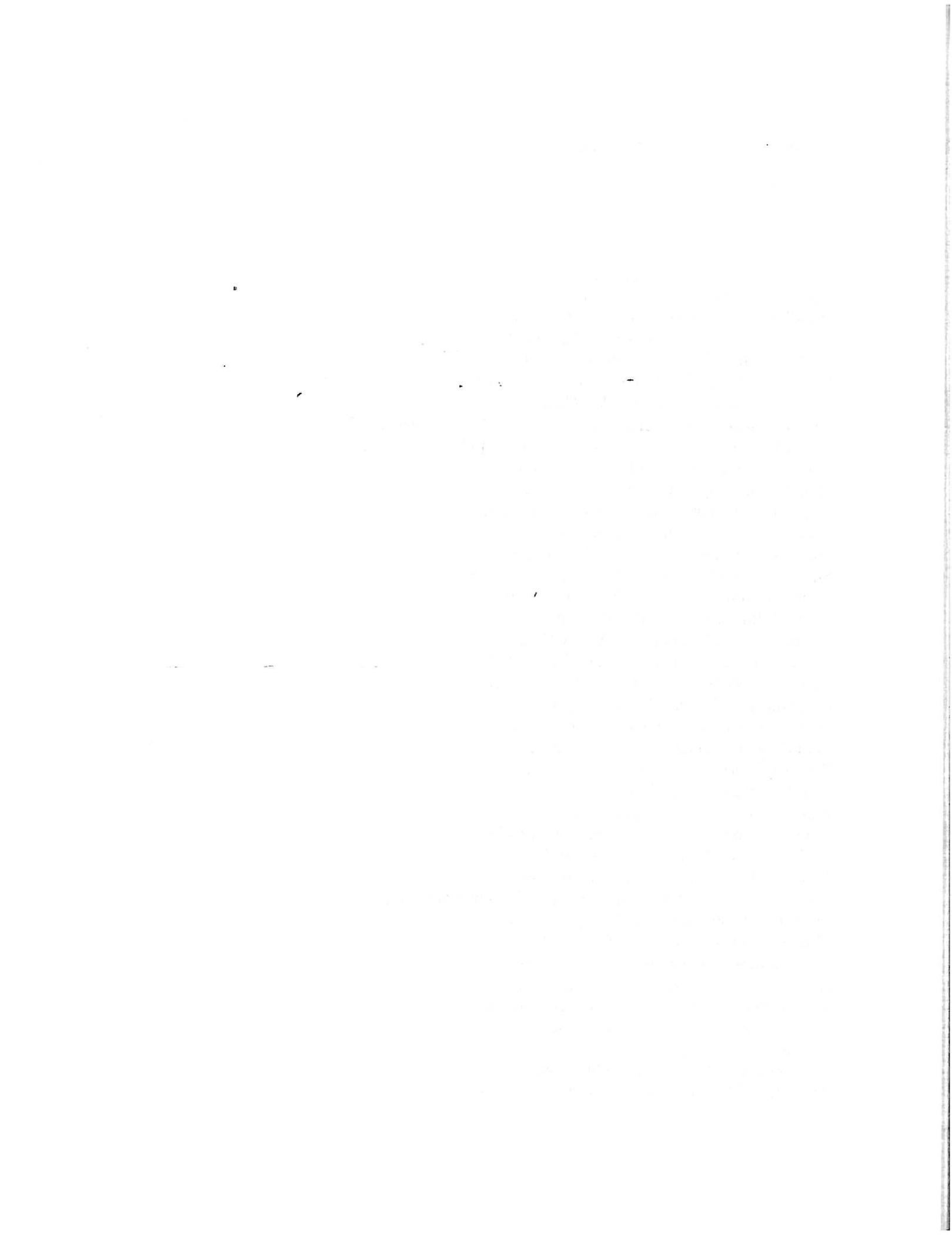
The multiple export terminal projects in Oregon and Washington and the rail impacts in the entire region including Idaho and Montana should be subject to a thorough review of their individual and cumulative impacts on the region’s environment, economy, health, and quality of life. Our constituents deserve a fully public and transparent environmental review process.



We look forward to your response.

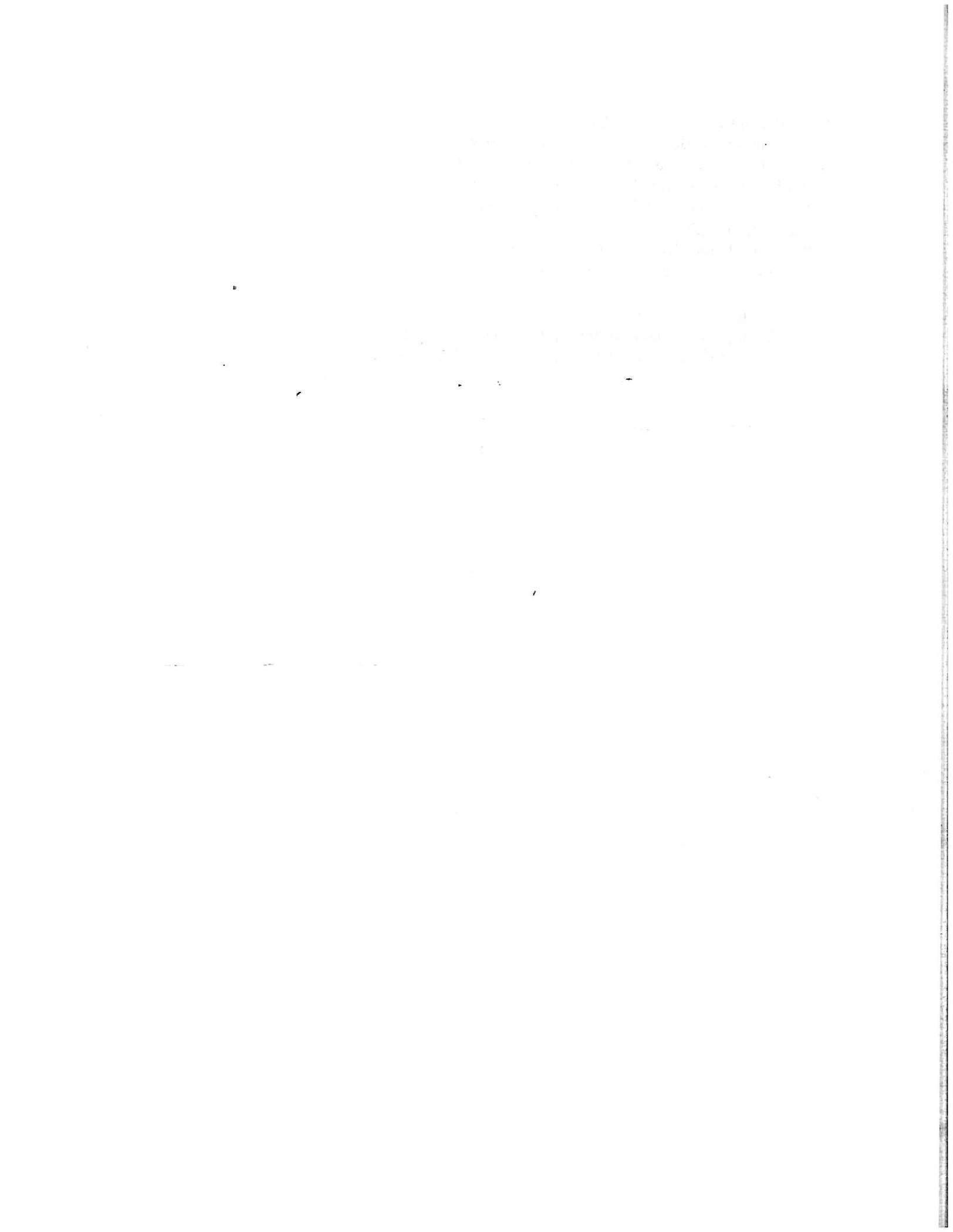
Sincerely,

Sean Guard, Mayor of Washougal, WA
Jeanne Kohl-Welles, Washington State Senator
Hans Dunshee, Washington State Representative
Zack Hudgins, Washington State Representative
Mitch Greenlick, Oregon State Representative
Dow Constantine, King County, WA Executive
Larry Phillips, King County, WA Council
Sandra Romero, Thurston County, WA Commissioner, District 2
Karen Valenzuela, Thurston County, WA Commissioner, District 3
Cathy Wolfe, Thurston County, WA Commissioner, District 1
Sam Adams, Mayor, City of Portland, OR
Stephen H. Buxbaum, Mayor of Olympia, WA
Andrea Rogers, Mayor of Mosier, OR
Jack Weiss, Bellingham, WA City Council
Stan Snapp, Bellingham, WA City Council
Gene Knutson, Bellingham, WA City Council
Michael Plunkett, Edmonds, WA City Council
Strom Peterson, Edmonds, WA City Council
Adrienne Fraley-Monillas, Edmonds, WA City Council
Diane Buckshnis, Edmonds, WA City Council
Joan Bloom, Edmonds, WA City Council
Frank Yamamoto, Edmonds, WA City Council
Lora Petso, Edmonds, WA City Council
Richard Emery, Mukilteo, WA City Council
Jennifer Gregerson, Mukilteo, WA City Council
Randy Lord, Mukilteo, WA City Council
Connie Jo Freeman, Washougal, WA City Council
Paul Greenlee, Washougal, WA City Council
Joyce Lindsay, Washougal, WA City Council
Don McDermott, Chair, Dallesport, WA Community Council
Linda Dietzman, Camas, WA City Council
Moli S Thomas, Stevenson, WA City Council
Monica Masco, Stevenson, WA City Council
Julie Mayfield, Stevenson, WA City Council
Amy Weissfeld, Stevenson, WA City Council
Ron Lawson, Lacey, WA City Council
Cynthia Pratt, Lacey, WA City Council
Julie Hankins, Olympia, WA City Council
Anne Blair, Bainbridge Island, WA City Council



Sarah Blossom, Bainbridge Island, WA City Council
Steve Bonkowski, Bainbridge Island, WA City Council
Kirsten Hytopoulos, Bainbridge Island, WA City Council
Debbi Lester, Bainbridge Island, WA City Council
Bob Scales, Bainbridge Island, WA City Council
David Ward, Bainbridge Island, WA City Council
Steve Tuchscherer, Roseburg, OR City Council
Joan Cathey, Tumwater, WA City Council

cc: Northwest Governors
Washington Lands Commissioner Peter Goldmark
Oregon Department of State Lands Director Louise Solliday



United States Senate

WASHINGTON, DC 20510-4704

June 13, 2012

Brigadier General John R. McMahon
Commander
Northwest Division U.S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Mr. Steve Gagnon, Project Manager
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, OR 97208-2946

Dear General McMahon and Mr. Gagnon:

I write regarding permit applications for new export terminals in the Pacific Northwest and to urge you to undertake a thorough cumulative impact analysis of these projects.

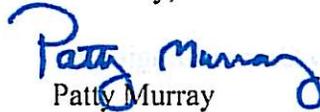
As you know, four companies currently have permit applications pending before the Army Corps of Engineers (Corps) for new export terminals which will primarily serve to export coal from the Powder River Basin to locations overseas such as Asia. If approved, these export facilities would more than double our current coal exporting capacity.

While each of the applications are separate and distinct, they all share common elements that, when considered cumulatively, stand to have significant environmental and public health impacts. These potential environmental and public health impacts are of considerable importance, particularly when considering the multitude of proposals. The National Environmental Policy Act (NEPA) is instructive in a situation such as this, calling on federal agencies to consider impacts from past, present and reasonably foreseeable future actions.

In addition to possible environmental and public health impacts to neighboring communities, concerns have been raised about effects on cultural resources, rail and waterway transportation systems, endangered species, aquatic resources, and impacts of transporting coal mined in Wyoming and Montana and sent through the West Coast for export, which has not been specifically studied by the federal government.

I commend the Corps' efforts to date to inform the public and provide clear information on the purposes of the proposed export terminals. As the Corps continues with its environmental review process on each proposed permit application, I strongly encourage you to also perform a thorough cumulative impact analysis consistent with the law. I appreciate your consideration, and look forward to hearing from you on this important issue.

Sincerely,


Patty Murray
United States Senator

MAY 10 2012
10:07 AM
17-1000

Congress of the United States
Washington, DC 20515

May 9, 2012

Brigadier General John R. McMahon
Commander
Northwest Division U.S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Mr. Steve Gagnon, Project Manager
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, OR 97208-2946

Re: Request for Comprehensive Environmental Impact Statement on the Cumulative
Impacts of New Coal Terminals in Washington and Oregon

Dear General McMahon and Mr. Gagnon:

We write to you to urge the U.S. Army Corps of Engineers (Corps) to conduct a cumulative environmental impact statement (EIS) with respect to the considerable number of permit applications before the Corps for new export terminals in the Northwest.

Currently, four export terminal projects located in Washington and Oregon have permit applications pending before the Corps. It is our understanding that the primary purpose of these terminals is to ship coal that was mined in Wyoming and Montana and transported through Washington and Oregon.

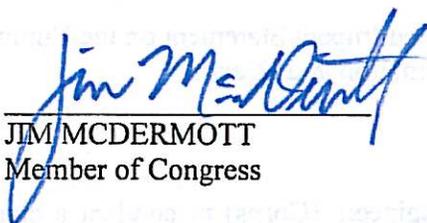
Collectively, these projects are estimated to increase the United States coal capacity by 157 million tons per year. Today, the United States exports approximately 80 to 100 million tons of coal annually from *all* ports nationwide. If approved, and operated at capacity, these new projects would more than double America's coal exports – all of which would travel through Washington and Oregon via rail and public waterways.

This significant increase in coal being transported throughout the region will have a serious impact on the region and surrounding communities. Indeed, the United States Environmental Protection Agency (EPA), in its April 5th letter to the Corps, lists a number of potential impacts including the effects on public health, transportation, cultural resources, endangered species, and aquatic resources. Furthermore, the EPA has recommended that the Corps conduct a “thorough and broadly-scoped cumulative impacts analysis of exporting large quantities of Wyoming and Montana-mined coal through the west coast of the United States to Asia. This cumulative impacts analysis could be used in the environmental analysis of other proposed coal export projects of similar scope.”

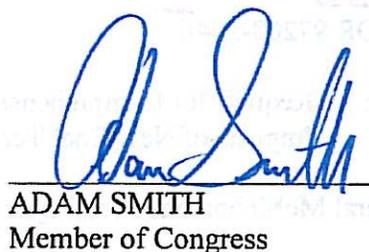
To be clear, this request is not intended to supplant the existing environmental work that the Corps must prepare for each permit application. Rather, we are requesting that the Corps complete an additional cumulative process assessing the impacts that all of these proposed export terminals will have on the region.

Thank you for your consideration of our request. If you have any questions, or wish to discuss this matter further, please contact the Alan Lee in Congressman McDermott's office at (202) 225-3106. We look forward to your response.

Sincerely,



JIM MCDERMOTT
Member of Congress



ADAM SMITH
Member of Congress



April 25, 2012

JOHN A. KITZHABER, MD
Governor

The Honorable John McHugh
Secretary of the Army
1400 Defense Pentagon
Washington, D.C. 20301-1400

The Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW, Room 5665
Washington, D.C. 20240

Major General Merdith W.B. (Bo) Temple
Headquarters
U.S. Army Corps of Engineers
441 G Street NW
Washington, D.C. 20314-1000

Mr. Robert Abbey, Director
Bureau of Land Management
U.S. Department of the Interior
1849 C Street, NW, Room 5665
Washington, D.C. 20240

Dear Sirs:

On behalf of the people of Oregon, I am writing to request that a federal agency prepare a programmatic and comprehensive environmental impact statement (EIS) under the National Environmental Policy Act to look at the unprecedented number of coal export proposals pending in the Pacific Northwest, as well as the potential effects in this country of the use of this coal in Asia. Currently, the United States annually exports between 80 and 100 million tons of coal from all ports in the United States. The current proposals for coal export facilities in Oregon and Washington could result in an *additional 157 million tons* of coal exports, more than doubling the U.S. coal export capacity.

Most of the environmental, community, economic, transportation, and energy security impacts associated with this tremendous increase in coal export would be shouldered by Oregon and Washington. In addition, the United States has the largest proven coal reserves in the world. Developing, transporting and using this resource for energy production in Asia will have significant implications for the trajectory of the world's transition to cleaner sources of energy and for our nation's energy security, as well as localized economic and environmental effects in our state. It is imperative that the federal government take seriously its responsibility to make informed decisions, and that there be a comprehensive look at the energy, environmental, and public health impacts of these proposals before the nation commits itself to this path.

Both the Army Corps of Engineers (Corps) and the Bureau of Land Management (BLM) have the responsibility to look at these impacts because both agencies are making decisions that will result in significant impacts that have not been analyzed. Previously, the Oregon Department of Environmental Quality (ODEQ) asked the BLM to prepare a supplemental EIS for the ongoing coal leasing and development activities on BLM lands in the Powder River Basin in Wyoming and Montana. Our prior request for a supplemental EIS was based on the fact the EIS that BLM

The Honorable John McHugh
Major General Merdith W.B. (Bo) Temple
April 25, 2012
Page 2

The Honorable Ken Salazar
Mr. Robert Abbey, Director

prepared for its coal leasing program analyzed the environmental effects of transporting the coal to the mid-western and eastern United States, for domestic energy production. The BLM did not evaluate the effects of transporting substantial amounts of coal from the Powder River basin to the West Coast for export to overseas markets. BLM Director Abbey denied Oregon DEQ's request for a supplemental EIS on the grounds that the proposals for coal export through the west coast were too indefinite at that time. That lack of certainty has now changed, with several specific proposals now pending regulatory reviews, and others having secured initial property agreements. Now is the time for a programmatic EIS, before substantial and irreversible commitments of resources are made to this path.

The impacts from the transport of coal through Oregon and its communities would be significant. Areas of concern that merit a hard look, at a minimum, include:

- Increased vessel traffic on the Columbia River, including navigational and maritime safety concerns
- Protection of water quality, including increased risk of spills
- Impacts to listed anadromous fish species
- Coal dust emissions at the facilities and during product transport
- Emissions of other air pollutants, including diesel particulate, ozone, mercury, and greenhouse gases and
- Increased rail traffic, noise, and delay times for communities along the proposed rail lines, including emergency vehicles at rail crossings

I have already heard from many of our citizens and elected officials who are deeply concerned about the impacts of increased coal train traffic running through their communities. I share their concerns. This magnitude of coal moving through the region's rail system would represent a substantial increase in train traffic -- perhaps as many as 63 coal trains per day. The trains will travel through communities that have been identified as "choke points" along the line. This could significantly affect the transport of other export commodities and negatively impact plans to increase passenger rail. I am particularly concerned about a substantial increase in rail traffic through the Columbia Gorge National Scenic Area, where train noise, air emissions and coal dust could adversely affect the recreational and visual values protected by federal law.

The proposals could also cause significant vessel traffic impacts on the Columbia River. The Columbia River is a confined system, and the proposals could result in a 70% increase in ship traffic. The Columbia River has multiple ports, a breaking coastal bar at the entrance, and no federal vessel traffic system, all of which create significant potential for risk. Vessel traffic impacts from the proposals could be significant, and need to be analyzed.

The Honorable John McHugh
Major General Merdith W.B. (Bo) Temple
April 25, 2012
Page 3

The Honorable Ken Salazar
Mr. Robert Abbey, Director

Another major concern, and one not addressed by the prior BLM EIS for the Wright Area coal leases, is the impacts of increased or extended use of coal to generate electricity in Asia. Coal-fired energy production in Asia has been directly linked to increases in air pollution on the west coast of the United States. Studies that 84 percent of the mercury in the Columbia River basin is due to atmospheric deposition from global sources and 18 percent of mercury deposition recorded at one Oregon site can be traced to anthropogenic sources in Asia. Over the long term, these transported emissions could lead to economic as well as environmental and health impacts in our states, triggering additional costs in emissions controls for U.S. industries. The air quality impacts of the use of Powder River coal in Asia must be explored in the context of a comprehensive federal EIS.

Greenhouse gas emissions from the transport and combustion of coal are also a major concern. Two years ago, the Secretary of the Interior issued Order No. 3289, Amendment No. 1 (Feb. 22, 2010), which requires each bureau of the Department to consider and analyze potential climate change impacts when making major decisions regarding potential use of resources under the Department's purview. *See also* CEQ Draft NEPA Guidance on consideration of the Effects of Climate Change and Greenhouse Gas Emissions (Feb. 18, 2010). Oregon faces particular threats from climate change, including the reduction in the amount of precipitation falling as snow and the resulting effects on water supplies and fish and wildlife as well as power production from hydroelectric dams, more frequent and intense storm surges, more flooding, likely loss of land in coastal area, more frequent and severe forest fires and increased forest pests and diseases, and detrimental impacts to shellfish fisheries as a result of ocean acidification. As noted above, the United States has the largest proven coal reserves in the world. Developing that resource for energy production in Asia will extend the period of time that Asian nations are reliant on coal, resulting in greater worldwide emissions of greenhouse gases (and conventional air pollutants, as noted above). The impacts of United States coal exports on climate change are an issue of national concern that merits a hard look by a federal agency.

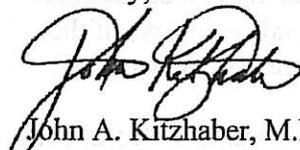
If the United States is going to embark on the large-scale export of coal to Asia it is imperative that we ask -- and answer -- the question of how such actions fit with the larger strategy of moving to a lower carbon future. In the absence of a clear federal policy on this point, we will simply be deciding by not deciding; locking ourselves into a coal-dependent future for Asia without the benefit of a full discussion, consideration and balancing of all the associated economic, environmental and health problems related to such a course of action. The decision must also be made only after we have full information about the short and long-term consequences. This critical step will fill significant information gaps that will benefit our nation, our states, and our communities. Since federal agencies will be making decisions whether to allow these projects to go forward, and because the impacts of the projects cross state boundaries, it is the responsibility of a federal agency to step up and do this analysis.

The Honorable John McHugh
Major General Merdith W.B. (Bo) Temple
April 25, 2012
Page 4

The Honorable Ken Salazar
Mr. Robert Abbey, Director

I strongly urge an immediate commitment to evaluating the impacts of these projects through a comprehensive, programmatic Environmental Impact Statement that examines both the cumulative effects of coal transport to the West Coast, and the effects of the use of that coal to produce energy in Asia here in the United States. The EIS must be prepared before regulatory or additional coal leasing decisions are made. Thank you. I look forward to your response.

Sincerely,



John A. Kitzhaber, M.D.
Governor

cc: Ray LaHood
Nancy Sutley
Joseph Szabo
Jack Lew
Steve Gagnon (re NWP-2012-56)



Jeff Cogen, Multnomah County Chair

501 SE Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Phone: (503) 988-3308
Email: mult.chair@co.multnomah.or.us

June 8th, 2012

Brig. Gen. John McMahon
Commander and Division Engineer, Portland District
U.S. Army Corps of Engineers Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Dear Brigadier General John McMahon,

I am writing to urge the U.S. Army Corps of Engineers to undertake a programmatic and comprehensive review of the numerous coal-export facilities currently proposed in the Pacific Northwest. These facilities may present serious threats to human and environmental health in Multnomah County and in Oregon and we need to understand the potential impacts before deciding to move forward.

To date, coal-export facilities have applied for permits and initiated the review process individually, yet it is their collective impact that poses a larger concern. To adequately evaluate the risks to human and environmental health, I strongly urge you to view these various permit applications in context with one another. While the impacts of any single facility alone are likely significant, the impacts collectively could be far more significant.

Coal to and from several of these export facilities will be transported through Multnomah County by rail or by barge and have the potential for major local impacts on human and environmental health. Of greatest concern are coal dust emissions from uncovered rail cars, which can degrade local air and soil quality. Also of serious concern is a sharp increase in Multnomah County's already elevated levels of diesel particulate matter due to increased rail and barge traffic. As the local public health authority, Multnomah County works hard to reduce asthma and other respiratory health conditions. These conditions would be exacerbated by the coal dust and diesel particulate emissions generated by these proposed projects should they be built. Multnomah County residents already breathe the most polluted air in Oregon and our community health workers see everyday the impact that air pollution already puts on the most vulnerable members of our community including children and the elderly.

These health and environmental impacts are compounded by a second wave of effects when this coal would eventually be combusted in Asia and prevailing winds would carry the resulting air pollution back to the Pacific Northwest. These impacts are not trivial: In

the Columbia River basin more than 80 percent of toxic mercury pollution comes from global coal combustion.

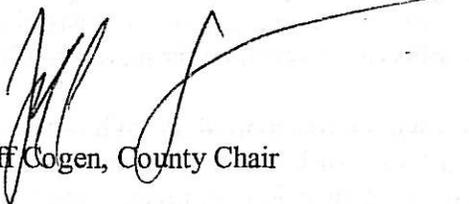
In addition, these proposed projects may negatively impact the treaty fishing rights of Native American communities throughout the Columbia River Gorge. They will also cause significant traffic delays at railroad crossings in Multnomah County and throughout our larger region, and they will displace future economic development opportunities at our ports.

Prior to permitting any further facilities, I respectfully request that the Army Corps of Engineers, in partnership with other federal agencies as appropriate, evaluate the cumulative impacts of the various coal terminals in a single comprehensive Programmatic Environmental Impact Statement (EIS) under the National Environmental Policy Act, in addition to the project specific EIS already underway.

Among the many questions we must ask and answer is this: How does exporting tens of millions of tons of Powder River Basin coal each year to Asia fit into a larger national and regional strategy of lowering carbon emissions? We must understand the cumulative impacts of these proposals—the impacts on human health, the environment, and our economy that these projects would have—before we proceed with a set of approval decisions that our citizens will have to live with for the foreseeable future.

I urge you to review these applications thoroughly and in a larger context prior to reaching a decision. Thank you for considering my request.

Sincerely,



Jeff Cogen, County Chair

cc: The Honorable Ron Wyden
The Honorable Jeff Merkley
The Honorable Suzanne Bonamici
The Honorable Earl Blumenauer
The Honorable Peter DeFazio
The Honorable Kurt Schrader
The Honorable Ken Salazar, Secretary of the Interior
Governor John Kitzhaber
Colonel John Eisenhauer, Commander, U.S. Army Corps of Engineers, NW Division
Director Dick Pedersen, Oregon DEQ



OFFICE OF MAYOR SAM ADAMS
CITY OF PORTLAND

May 2, 2012

The Honorable John McHugh
Secretary of the Army
1400 Defense Pentagon
Washington, D.C. 20301-1400

The Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW, Room 5665
Washington, D.C. 20240

Major General Meredith W.B. (Bo) Temple
Headquarters
U.S. Army Corps of Engineers
1849 C Street NW, Room 5665
Washington, D.C. 20314-1000

Mr. Robert Abbey, Director
Bureau of Land Management
U.S. Department of the Interior
441 G Street NW
Washington, D.C. 20240

Brig. Gen. John McMahan
Commander and Division Engineer
U.S. Army Corps of Engineers
Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Dear Sirs:

I am writing to urge you to undertake a programmatic and comprehensive review of the numerous coal-export facilities currently proposed in the Pacific Northwest. These facilities present potentially serious human and environmental health impacts in Portland and throughout Oregon.

To date, coal-export facilities have applied for permits and initiated the review process individually, yet it is their collective impact that poses the real concern. To adequately evaluate the risks to human and environmental health, I strongly urge you to view these various permit applications in context. While the impacts of any single facility alone are likely significant, the impacts collectively could be catastrophic.

The Portland region was the first in the United States to adopt a Metro Export Initiative, and we are committed to the President's goal of doubling exports over the next five years. However, we believe that long term export growth will come from innovation and advanced manufacturing, and not from continued use of outdated technologies and the export of raw materials that pose significant risks.

Coal to and from several of these export facilities will be transported through Portland by rail or by barge and have the potential for major local impacts on human and environmental health. Of greatest concern are coal dust emissions from uncovered rail cars, which can significantly degrade local air quality. These impacts are compounded by a second wave of effects when the coal is eventually combusted, primarily in Asia, and prevailing winds carry the resulting air pollution to the Pacific Northwest. These impacts are not trivial: In the Columbia River basin more than 80 percent of the mercury pollution, a potent neurotoxin, is from overseas sources.

Prior to permitting any further facilities, I respectfully request that the Army Corps of Engineers evaluate the cumulative impacts of the various coal terminals in a single comprehensive Programmatic Environmental Impact Statement under the National Environmental Policy Act.

These facilities will be with us for decades, and I urge you to review these applications thoroughly and in context prior to reaching a decision.

Thank you for considering my request.

Sincerely,



Sam Adams, Mayor

cc: The Honorable Ron Wyden
The Honorable Jeff Merkley
The Honorable Suzanne Bonamici
The Honorable Earl Blumenauer
The Honorable Peter DeFazio
The Honorable Kurt Schrader
Governor John Kitzhaber
Steve Gagnon, U.S. Army Corps of Engineers (re: No. NWP-2012-56)



City of Seattle

May 7, 2012

Brig. Gen. John McMahon
Commander and Division Engineer
U.S. Army Corps of Engineers
Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Col. Bruce Estok
Commanders, Seattle District
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

Col. John Eisenhower
Commander, Portland District
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

Re: Request for a Programmatic EIS on coal export proposals in the Northwest

Dear Brig. Gen. McMahon, Col. Eisenhower, & Col. Estok:

We write to request comprehensive programmatic environmental impact statement (PEIS) under the National Environmental Policy Act (NEPA) to consider the collective impact of the unprecedented number of coal export proposals pending in the Pacific Northwest.

There are currently four coal-export terminal projects with permits pending before the Corps: the Gateway Pacific Terminals site at Cherry Point, Washington; the Millennium Bulk Logistics site in Longview, Washington; the Oregon Gateway Terminal at the Port of Coos Bay, Oregon; and the Coyote Island Terminal site at the Port of Morrow, Oregon. Additional permit applications are anticipated for a Kinder-Morgan project at the Port of St. Helens, Oregon and the RailAmerica proposal at the Port of Grays Harbor, Washington. Given that all of these proposals have moved ahead rapidly in less than 18 months, additional proposals may be forthcoming. Additionally, coal export terminals in Canada that receive coal shipped through the Pacific Northwest are considering expansions of their own.

The City of Seattle has reviewed the outlines of the proposed coal terminals for the Northwest. Based on concerns about negative impacts on our community and others along the rail routes and near the terminals, we oppose the proposed new coal terminal at Cherry Point and at the other proposed locations. We join the Governor of Oregon and a growing number of towns and cities all along rail corridors in Washington State in requesting a programmatic review of the proposed terminals in our region.

Washington State recognizes the negative economic, public health and environmental impacts of climate change on this state (80.80 RWC; Executive Order No. 0905) and is taking steps toward reducing our dependence on coal-fired power, including the 2011 passage of the TransAlta Energy Transition Bill, making possible retirement of the state's last coal-fired power plant by 2025.

Washington is a leader in clean energy and is working to build an economy that transitions our region to a clean energy future. The current proposals for coal export facilities in Washington and Oregon run counter to our progress. Collectively, the current proposals could result in an additional 157 million tons of coal exports, which would more than double the amount of coal that the United States currently exports. Projects of this magnitude risk altering our country's progress in combating climate change, and have implications for energy security, as well as for local health and safety impacts.

Air quality studies show living near major transportation routes and industrial areas correlates with higher rates of respiratory and other illnesses. Coal is commonly transported via open-top rail cars that allow the spread of coal dust and chunks of coal. Early projections anticipate that new coal export terminals in the region could bring up to 60 additional mile and a half coal trains coming through many northwest cities. Here in Western Washington, the proposed terminals would result in at least 9 additional trains per day through Seattle and at least 18 trains per day through Everett, Bellingham and other cities along rail corridors.

In the coming weeks, Seattle will consider a resolution outlining our intent to protect Seattle residents from the impacts to public health, safety, property, and surface and groundwater caused by the transport of coal through Seattle. These proposed actions include enforcement of existing permit regulations, working with the railroad to mitigate public safety hazards and to develop transportation improvement plans for intersections that would be impacted by rail traffic increases.

While we take action at the municipal level, the U.S. Army Corps of Engineers appears to be the agency best positioned to lead a regional effort, with assistance from the Surface Transportation Board, Environmental Protection Agency, Department of Interior, and states of Oregon and Washington. All of the pending proposals require approval from the Corps under the Rivers and Harbors Act and/or Clean Water Act. Such approval triggers close scrutiny by the Corps to ensure that water resources and commerce are not adversely impacted.

The shared impacts of these terminals that warrant study include rail traffic and emissions; ocean-going vessel traffic and emissions; increased mining; national coal supply and pricing; and air-borne mercury deposition in the Northwest and GHG emissions associated with increased combustion of coal. In addition, coal-fired energy production in Asia has been directly linked to increases in air pollution on the west coast of the United States and the impacts of the use of Powder River coal in Asia should be analyzed. The precise scope of the PEIS should be determined through the public scoping process outlined in NEPA and we don't believe any the permit applications should be made until the PEIS is completed.

Recognizing that public processes at both the Cherry Point and Morrow projects have already commenced, we urge the Corps and its partner Federal agencies to move ahead with a PEIS immediately. Now is the time for a programmatic EIS before permits and resources are committed for irreversible actions.

Thank you for your consideration and we look forward to your response.

Sincerely,



Mayor Michael McGinn



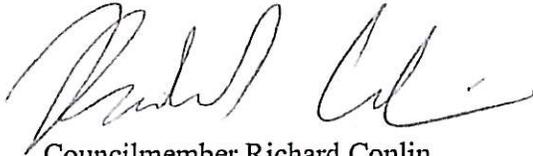
Council President Sally J. Clark



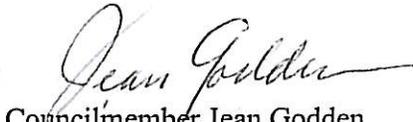
Councilmember Sally Bagshaw



Councilmember Tim Burgess



Councilmember Richard Conlin



Councilmember Jean Godden



Councilmember Bruce Harrell



Councilmember Nick Licata



Councilmember Mike O'Brien



Councilmember Tom Rasmussen

CCs: via email:

Governor Christine Gregoire

Governor John Kitzhaber

Members of Congress – Oregon and Washington

Dennis McLerran, Regional Administrator, Region 10 EPA

James Martin, Regional Administrator, Region 8 EPA

Will Stelle, Regional Director, National Marine Fisheries Service

Robyn Thorson, Regional Director, US Fish and Wildlife Service

Peter Goldmark, Commissioner, Washington Department of Natural Resources

Nancy Sutley, Chair, Council on Environmental Quality

600 Fourth Avenue, Floor 2, PO Box 34025, Seattle, Washington 98124-4025

(206) 684-8888 Fax: (206) 684-8587 TTY: (206) 233-0025

<http://www.cityofseattle.gov>

[The text in this section is extremely faint and illegible. It appears to be a list or a series of entries, possibly containing names and dates.]

[This section contains a few lines of text, possibly a header or a specific entry, which is also very faint.]

[The bottom section of the page contains several lines of text, including what might be a signature or a date, but it is too light to read accurately.]



June 18, 2012

P.O. Box 128
Longview, WA 98632-7080
www.mylongview.com

U.S. EPA Region 10
Office of Environmental Assessment (OEA)
Attn: Joyce Kelly, Director
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Dear Ms. Kelly,

Currently there are six coal export terminal proposals pending in the Washington and Oregon slated to export approximately 157 million tons of coal annually. Moving 157 million tons of coal from the coal fields of Montana and Wyoming through the Columbia River Gorge for shipment will have significant economic, community, environmental and transportation impacts to Washington and Oregon.

Currently each proposal is being evaluated and permitted individually without comprehensive consideration of the cumulative benefits and impacts of all the coal export terminals on Washington State and our individual communities. It is our opinion that the cumulative, long term impact of the operation of these facilities should be evaluated, and studied as a part of the decision making process.

To that end, we respectfully request that a federal agency prepare a comprehensive environmental impact statement (EIS) under the National Environmental Policy Act to look at the unprecedented number of coal export proposals pending in the Pacific Northwest. Currently, the United States annually exports between 80-100 million tons of coal from all ports in the United States. The current proposals for coal export facilities could result in an additional 157 million tons of coal exports, more than doubling the U.S. coal export capacity.

Most of the economic, community, environmental and transportation impacts associated with this tremendous increase in coal export would be shouldered by Washington and Oregon. It is imperative that the federal government take seriously the responsibility to make informed decisions and that there be a comprehensive look at the economic, energy, environmental and public health impacts of these proposals before our cities and counties commit to this path.

The impacts from the transport of coal through Washington and its communities would be significant. Areas of concern that merit a hard look, at a minimum include:

- Economic development that preserves family wage jobs
- Increased rail traffic noise, and delay times for communities along the proposed rail lines, including emergency vehicles at rail crossings
- Increased vessel traffic on the Columbia River, including navigational and maritime safety concerns (*the proposals could result in a 70% increase in ship traffic in the Columbia River*)
- Protection of water quality, including increased risk of spills
- Impacts to listed anadromous fish species
- Coal dust emissions at the facilities and during product transport
- Emissions of air pollutants, including diesel and coal dust.

We strongly urge an immediate commitment to evaluating the impacts of these projects through a comprehensive Environmental Impact Statement that examines both the cumulative effects of coal transport to the West Coast.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis P. Weber". The signature is fluid and cursive, with the first name "Dennis" and last name "Weber" clearly legible.

Dennis P. Weber
Mayor

Mayor Andrea Rogers
Council President Tim
Mortenson
Peny Wallace
Kathy Fitzpatrick
David Princehouse
Steve McKibben
Hector Kent

City of Mosier

U.S. Army
Corps of
Engineers,
Portland
District
Mr. Steve Gagnon
PO Box 2946
Portland, OR 97208-2946

P.O. Box 456 Mosier, OR 97040
541-478-3505 541-478-3810 (fax)
mosiercityhall@mosierwinet.com

RE: Public Comments on NWP-2012-56; Coyote Island Terminals, LLC /dba/ Ambre
Energy Morrow Pacific Coal Export Project

Dear U.S. Army Corps of Engineers,

The Mosier City Council strongly opposes the proposed new coal export terminals which could result in an untenable increase in train and barge traffic through our community and the exposure of our entire population and our environment to the harmful effects of coal dust and diesel pollution. This includes Ambre Energy's proposed Morrow Pacific Project. Ambre's proposal will significantly increase barge traffic on the banks of our community. Moreover, we have serious concerns about whether Ambre's representation that it will use "fully enclosed barges" is technologically viable and whether the company, over the course of decades of operating the coal export project, could change its operations without any government oversight and public process. In turn, we request that the U.S. Army Corps of Engineers (Corps) evaluate both the environmental and public health impacts of shipping 8.8 million tons of coal per year by covered barges or, alternatively, uncovered barges.

The City of Mosier is located on the Columbia River in the heart of the Columbia River Gorge National Scenic Area. Our community thrives on our connection to the Columbia River. Many of our residents and tourists are attracted to Mosier because of access to and use of the Columbia River for swimming, sailing, kayaking, fishing, windsurfing, kiteboarding, boating, and other water recreation. Tourists visiting this national treasure also visit Mosier because we offer excellent cycling roads through the natural scenic beauty of the Gorge and because the City of Mosier has invested heavily in a waterfront park that includes a windsurfing beach on the Columbia River.

Cherry orchards have historically formed the economic base of the Mosier Valley and are still the Mosier area's strongest industry. Vineyards have contributed recently to this strong agricultural presence. Within our city limits, Mosier relies more heavily on the tourist industry to sustain the businesses in our downtown core.

Ambre's proposal to barge coal through the Columbia River Gorge would heavily impact the Mosier community. This proposal represents a significant increase in river traffic along the Columbia River at Mosier. Ambre's application does not account for how its coal barging project will impact river users and Columbia River communities, including Mosier, that rely on the river. The Corps has a duty to fully evaluate the harm to the public interest that would result from Ambre's project, as well as the significant environmental and public health impacts of barging 8.8 million tons of coal per year.

The City of Mosier urges the Corps to prepare a thorough site-specific Environmental Impact Statement (EIS) on the Mosier Pacific Project. This should including holding scoping hearings in impacted communities in the Columbia River Gorge and offering a public comment period and holding public hearings on the draft EIS.

In its evaluation of the Morrow Pacific Project, the Mosier City Council requests that the Corps:

1. Require an analysis of public health impacts and environmental impacts of coal dust if Ambre changes its operations to uncovered barges.
2. Require an analysis of public health and environmental impacts of diesel pollution from Ambre's barging operations.
3. Require an analysis of the economic impact of coal barge traffic on Oregon communities (property values, fishing, river recreation), including the City of Mosier.
4. Require an analysis of public safety impacts from Ambre's barge traffic.

The City of Mosier also joins the U.S. Environmental Protection Agency's recommendation that the Corps integrate environmental review and consultation requirements into a single environmental review process that can inform the Corps' site-specific evaluation of coal export projects. A Programmatic EIS is necessary to thoroughly evaluate the wide-ranging cumulative impacts of multiple proposed coal export terminals on the City of Mosier and other communities that will be inundated with rail and barge traffic if these proposals move forward.

The City of Mosier and other Columbia Gorge communities that could be seriously impacted by the proposed coal export terminals have not been invited to participate in any form of information gathering or decision making related to Ambre's proposal. In turn, we rely on the Corps and its technical and scientific review of the project's impacts to understand how this proposal will impact our constituents and economy.

Thank you for your attention to this issue which could have such a strong negative impact on our community. We request that you inform the City of Mosier in a timely manner of any updates regarding the proposed new coal export terminals, including the Morrow Pacific Project.

Sincerely,

Andrea Rogers, Mayor
Mosier City Council
City of Mosier

Resolution Number 7701

A resolution of the Missoula City Council to request that the U.S. Army Corps of Engineers prepare a comprehensive Programmatic Environmental Impact Statement (PEIS) on the cumulative impacts of new coal export terminals in Washington and Oregon and hold public hearings in Missoula, Montana and other communities that will be significantly impacted from coal that will be transported by train from the Powder River Basin in Montana and Wyoming to terminals along the Pacific Coast.

Whereas, currently, there are four coal-export terminal projects pending before the Corps: the Gateway Pacific Terminals ("GTP") site at Cherry Point, Washington; the Millennium Bulk Logistics ("MBL") site at Longview, Washington; the Oregon Gateway Terminal at the Port of Coos Bay, Oregon; and the Coyote Island Terminal site at the Port Morrow, Oregon. Additional permit applications are anticipated for a Kinder Morgan project at the Port of St. Helens, Oregon, and the RailAmerica proposal at the Port of Grays Harbor, Washington. Additionally, existing export terminals at port facilities in British Columbia are already receiving coal shipments and are considering expansions of their own; and

Whereas, taken together, the announced capacity of the planned U.S. projects is approximately 150 million tons of coal per year (compiled by Northern Plains Resource Council through press releases on each proposal). Operating at full capacity, these plans would mean approximately 60 coal trains – each about a mile and half long – moving through the Pacific Northwest, every day, year round. Many of these trains will pass through Missoula, Montana, and will potentially result in a significant adverse effect on our community that should be considered in any environmental review of these proposals.

Whereas, to ensure each individual permitting action accounts for the significant cumulative impacts of and mitigation for multiple proposed northwest coal export terminals, we believe that the Corps of Engineers must first prepare a PEIS that carefully analyzes the combined impacts of multiple, similar coal export terminal proposals.

Whereas, such analysis is allowed for, and most likely required, under the National Environmental Policy Act (NEPA). Under Section 1508.25(a)(1) and (2) of the Council of Environmental Quality's NEPA regulations, this environmental review must collect, analyze, and consider connected and cumulative actions for any federally supported project. Further, "cumulative" and "similar" actions should be discussed within a single environmental impact statement, necessitating the development of a PEIS.

Whereas, The railroad tracks and rail yard cut through a significant portion of the City of Missoula. In particular, the crossing at Greenough and Madison could cut off the Lower Rattlesnake neighborhood from vehicle by pedestrian travel, not to mention emergency services, item trains and increased traffic will result in additional emissions of air pollutants including greenhouse gases.

Whereas, any environmental analysis of these proposals must consider the negative effects that burning the large volumes of coal would have on the climate. Domestic demand for coal in the Powder River Basin has been rapidly declining. As a result, this coal will be shipped overseas to Asia, where it will permanently shape the developing energy markets there. With access to our cheap coal, countries in Asia will be induced to build new coal-fired power plants instead of transitioning to cleaner energy sources. This will lock in reliance on coal as a source of energy for the life of these power plans (thirty plus years), with an astronomically negative effect on climate change.

Now therefore be it resolved that the Missoula City Council requests that environmental reviews of these proposals consider the effects on the City of Missoula and other impacted communities.

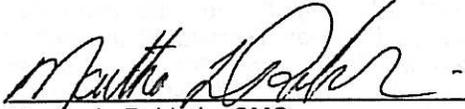
Be it further resolved that we urge the U.S. Army Corps of Engineers to conduct a comprehensive programmatic EIS that includes an analysis of all of the indirect and cumulative environmental impacts, including the impacts on Montana communities, from all proposed coal ports in the Pacific Northwest.

Be it further resolved that we request that U.S. Army Corps of Engineers hold a public hearing in Missoula, Montana.

Passed and adopted this 21st day of May, 2012.

Attest:

Approved:


Martha L. Rehbein, CMC
City Clerk


John Engen
Mayor



June -, 2012

DRAFT

Brigadier General John McMahon, U.S. Army
Commander and Division Engineer
U.S. Army Corps of Engineers Northwestern Division
P.O. Box 2870
Portland, OR 97209

Subject: Request to consider potential impacts on the City of Helena during environmental review of coal export terminal projects

Dear BGen McMahon:

It has come to the attention of the Helena City Commission that the development of one or more proposed coal-export terminal projects in Washington or Oregon may result in a substantial increase in train traffic through our community. We respectfully request that the U.S. Army Corps of Engineers take the potential effects of this increased traffic through Helena into account when conducting an environmental review of these proposals.

By way of background, Helena lies at the base of one of two rail lines that pass over the Continental Divide in the northern Rockies. The Burlington Northern Santa Fe Railroad (BNSF) railroad, more recently leased and operated by Montana Rail Link (MRL), has been a vital part of Helena for over 120 years and both have always been good neighbors in dealing with the City of Helena. However, we are concerned about our ability to accommodate a significant increase in rail traffic. We have heard varying estimates of the increases in rail traffic likely to result from the development of one or more coal ports. About 15 trains per day currently pass through Helena. While estimates of the additional rail traffic cover a wide range, any increase in rail traffic through the community will exacerbate existing problems.

The BNSF/MRL railroad line bisects Helena with crossings at eight streets and Interstate 15. Only two of these crossings and the freeway have grade separations. One of Helena's busiest arterial routes, Montana Avenue, lacks a grade separation and traffic delays there have been an issue in Helena for decades. Neither the City of Helena, nor the Montana Department of Transportation, currently has the funds necessary to construct additional grade separations. A substantial increase in rail traffic would greatly exacerbate these delays and adversely affect transportation in Helena.

We are also concerned about possible impacts to air quality from increased rail operations and increased idling by cars and trucks waiting at the crossings lacking grade separation-especially during wintertime air inversions.

Another concern is the noise from train horns. Citizens have long been complaining of train noise and requesting safety improvements to railroad crossings which would eliminate the requirement for trains to sound their horns. With a substantial increase in train traffic, this problem will significantly worsen. Again, we lack funding to address the issue.

We ask the Corps to consider these potential effects on Helena in the course of evaluating the indirect and cumulative effects of the proposed coal-export facilities. The City of Helena stands ready to assist with this process in any way.

Sincerely,

Courtesy copy:
Governor Brian Schweitzer
Hon. Max Baucus
Hon. Jon Tester
Rep. Dennis Rehberg
Burlington Northern Santa Fe
Montana Rail Link

No: 12-22
Date: April 18, 2012

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

**TITLE: CONCERNS REGARDING INCREASED COAL TRAIN TRAFFIC IN THE
CITY OF SANDPOINT**

WHEREAS: Coal companies are proposing to increase the number of coal trains that travel through Sandpoint in order to reach their new and existing export terminals in Washington state, with mining currently taking place in the Powder River Basin in Montana and Wyoming;

WHEREAS: The City of Sandpoint recognizes the potential for economic, public health, and environmental impacts on Lake Pend Oreille, the City, its visitors and residents;

WHEREAS: Coal is commonly transported in open top rail cars attached to diesel locomotives;

WHEREAS: Coal dust, which contains heavy metals, and diesel exhaust are known to pose a threat to public health;

WHEREAS: The rail line runs adjacent to and across Lake Pend Oreille, and coal dust, along with particulates from diesel locomotives, will have potential negative impact on the water quality of Lake Pend Oreille;

WHEREAS: Increased train traffic threatens emergency response times and pedestrian safety, can cause traffic circulation issues, and increases the likelihood of derailment; and

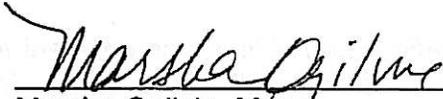
WHEREAS: An increase in the amount of rail traffic threatens property values and has no economic benefit to the City of Sandpoint.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDPOINT, BONNER COUNTY, IDAHO, THAT:

1. The City Council of the City of Sandpoint, charged by law with protecting the health and safety of its citizens, is deeply concerned about potential hazards increased train traffic and coal effects will have on the City of Sandpoint, its residents, and visitors.

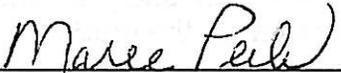
2. The City of Sandpoint urges the Army Corps of Engineers to prepare a Programmatic Environmental Impact Statement—in accordance with NEPA and the U.S. Supreme Court ruling of *Kleppe v. Sierra Club* (1976)—that includes Bonner County.
3. The City of Sandpoint urges the Army Corps of Engineers to host a scoping hearing within Sandpoint in order to determine the scope of an environmental review, explore alternatives and allow for public comment.
4. The City of Sandpoint urges development and adoption of an emergency environmental cleanup plan in the event of a derailment along the shores of Lake Pend Oreille.
5. This Resolution shall be effective upon its passage and approval and shall be forwarded to the U.S. Army Corps of Engineers, the City's legislative representatives, Bonner County Commissioners, Idaho Department of Environmental Quality, Washington State Department of Ecology, and any other agencies having jurisdiction in the permitting process.

BE IT FURTHER RESOLVED THAT: The Sandpoint City Council hereby adopts this Resolution.



Marsha Ogilvie, Mayor

ATTEST:



Maree Peck, City Clerk

City Council Members:

	YES	NO	ABSTAIN	ABSENT
1. Logan	X			
2. Brunner	X			
3. Schuck	X			
4. Qualls Second	X			
5. Eddy	X			
6. Rogstad Motion	X			

CITY OF WASHOUGAL, WASHINGTON
RESOLUTION NO. 1048

A RESOLUTION of the city council of the City of Washougal, Washington, expressing concern regarding the impact of increased rail traffic in Washougal resulting from proposed rail terminal projects in Whatcom County and Cowlitz County and requesting that the principal agencies reviewing the Environmental Impact Statements (EIS) for said projects, including Whatcom County, Cowlitz County, Washington Department of Ecology and The United States Army Corps of Engineers, include impacts along the train route for freight moving to the proposed terminals in the scoping document for the EIS and that at least one of the EIS Scoping hearings and one of any other subsequent hearings related to the EIS for each project be held in Clark County.

WHEREAS, the Burlington Northern Santa Fe (BNSF) track runs through and bisects both communities of Washougal and Camas running east/west; and

WHEREAS, Washougal has five at-grade crossings and only one grade separated crossing; and

WHEREAS, there are proposed rail terminal projects in Whatcom County (the Gateway Pacific Terminal Project, or GPT) and Cowlitz County (Millennium Project); and

WHEREAS, the proposed projects will significantly increase freight traffic on the BNSF track; and

WHEREAS, the increased freight traffic is intended to be coal being delivered to the new terminals but may potentially include a variety of commodities; and

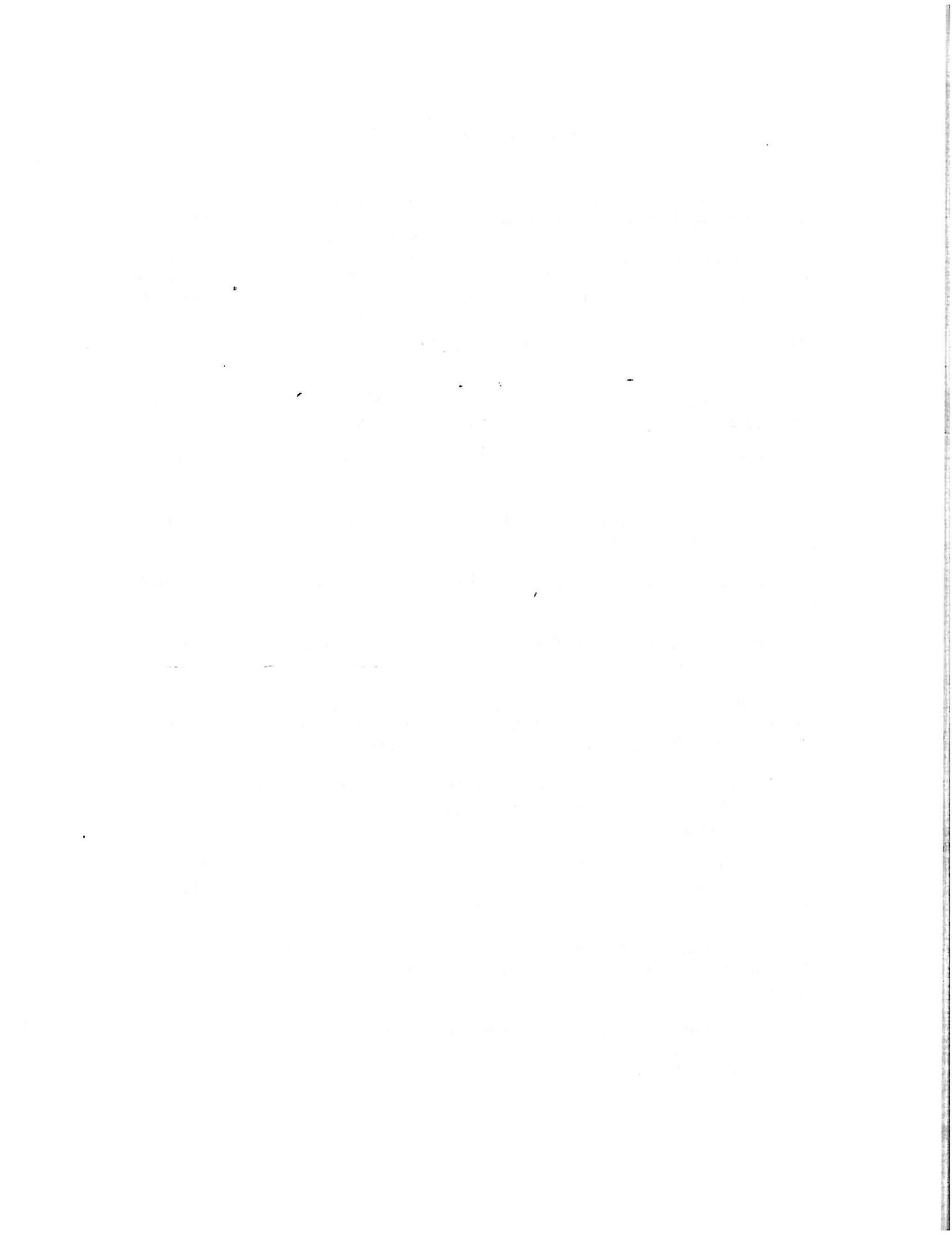
WHEREAS, this increased rail traffic will have impacts in Washougal and Camas including but not limited to increased traffic congestion and delays to residents and commerce and increased tail pipe emissions from stopped and idling vehicles and;

WHEREAS, Washougal has been made aware of potential impacts from coal dust and other particulates that may be blown from open rail cars but has no way to evaluate such potential impacts; and

WHEREAS, Whatcom County, Washington Department of Ecology and the United States Corp of Engineers have entered into an MOU to jointly promulgate the required EIS and are currently scoping the EIS for the GTP project; and

WHEREAS, Cowlitz County is evaluating an application and developing an EIS for the Millennium project and Washington Department of Ecology and the United States Corp of Engineers are also involved; and

WHEREAS, said agencies should include the impacts of this increased rail traffic in the scope of the EIS for each project and public hearings at the various stages of the EIS process should be conducted in Clark County; and



WHEREAS, the City of Washougal wishes to become a Party of Record regarding both projects,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF WASHOUGAL AS FOLLOWS:

SECTION I

We urge Whatcom County, Cowlitz County, State Department of Ecology and United States Army Corps of Engineers to include impacts to Washougal, including but not limited to increased traffic congestion and delays to residents and commerce, increased tail pipe emissions from stopped and idling vehicles and potential impacts from coal dust and other particulates that may be blown from open rail cars in the scoping of the EIS for both the GPT project and the Millennium project.

SECTION II

We urge Whatcom County, Cowlitz County, State Department of Ecology and United States Army Corps of Engineers to conduct at least one EIS scoping hearing for each project and at least one of any subsequent hearings related to the EIS for both projects at a location in Clark County.

SECTION III

We request that the City of Washougal be made a Party of Record for both the GPT and Millennium projects.

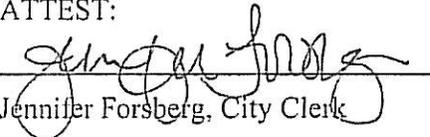
SECTION IV

That this Resolution shall take effect and be in full force upon passage and signatures hereon.
Dated and signed this 19th day of March, 2012.

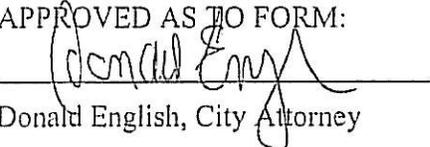
CITY OF WASHOUGAL

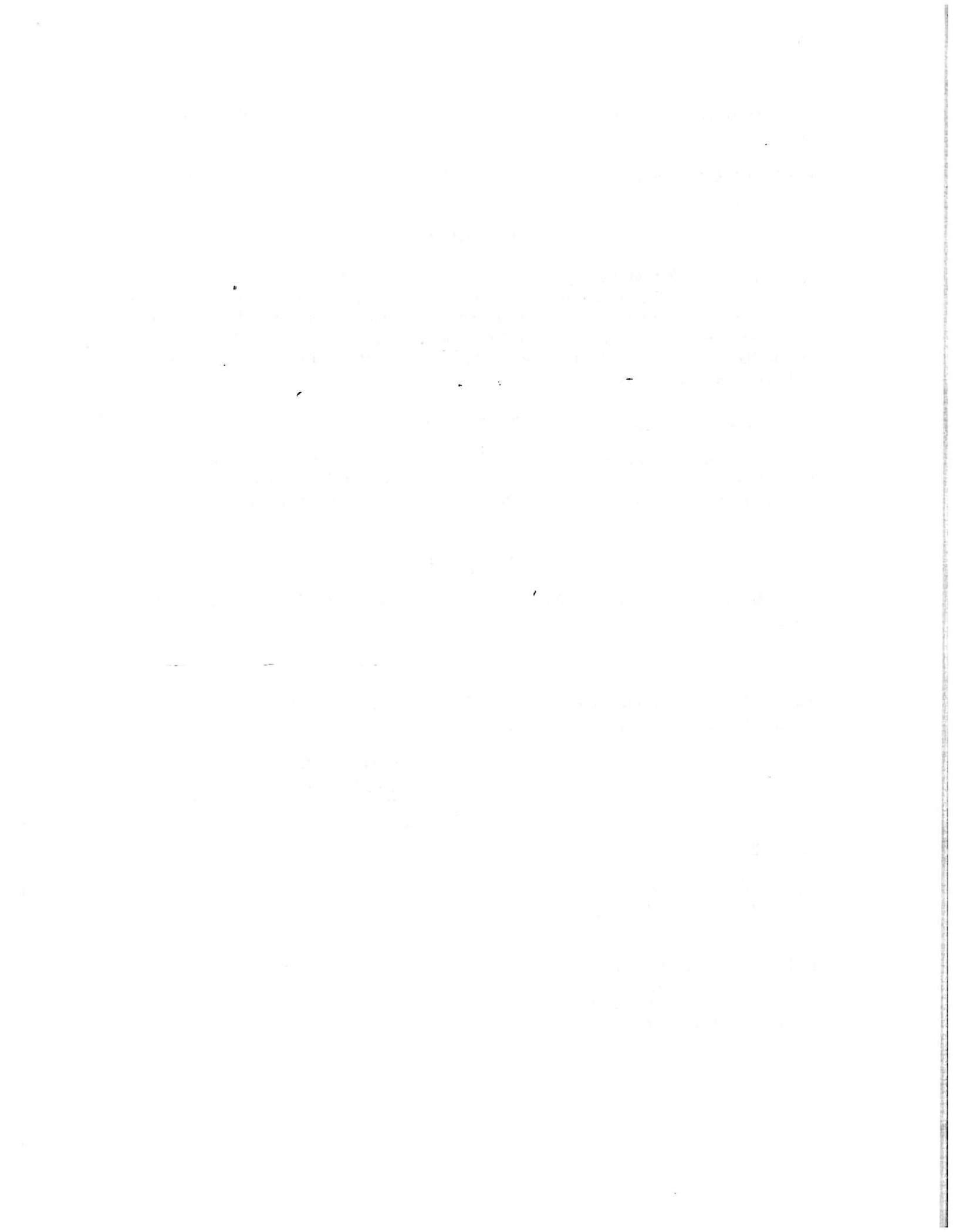

Sean Guard, Mayor

ATTEST:


Jennifer Forsberg, City Clerk

APPROVED AS TO FORM:


Donald English, City Attorney





December 12, 2012

GPT/Custer Spur EIS
c/o CH2M HILL
1100 112th Avenue NE, Suite 400
Bellevue, WA 98004

Re: Proposed Gateway Pacific Terminal Project

Dear Sir or Madam:

The City of Mount Vernon ("the City") is closely following the Gateway Pacific Terminal (GPT) Project proposed by Pacific International Terminals, Inc., through SSA Marine which includes the development of a multi-user import and export marina terminal for bulk, break-bulk, and other marine cargoes and the Burlington Northern Santa Fe (BNSF) Railway's Custer Spur Rail Expansion project ("the GPT Project"). This letter is intended to serve as the City of Mount Vernon's scoping comments for the GPT Environmental Impact Statement and is submitted to you on behalf of the Mayor of the City of Mount Vernon and the Mount Vernon City Council.

The City contains within its jurisdictional boundaries the BNSF rail line. This rail line has eight at-grade railroad crossings located within the City (two of which cross heavily traveled state routes; **Exhibit A**), one just east of College Way and Riverside Drive, the busiest intersection in the County, and another at Kincaid Street which is at the entrance to Mount Vernon's historic downtown and the location of the County Courthouse, Jail and City Hall. As explained below, it is expected this rail line, including at-grade crossings, will be utilized to serve the Project.

The City is required to prepare, manage, and expend substantial funds and resources when an emergency presents itself. To that end, the City operates both a police department and a fire department that provides emergency medical services both within the City and outlying areas in the event mutual aid is required. A regional hospital district, Skagit Public Hospital District One, is located within the City. In addition, Mount Vernon is located along the banks of the Skagit River. There is a substantial and well-documented risk of flooding. River flooding has the potential to cripple key infrastructure, transportation, water, residential areas, and farmland as well as injure life and property. Thus, Mount Vernon not only provides public safety services needed to respond to typical emergency medical services but also provides resources, materials and volunteers all which need to be quickly mobilized along the Skagit River to assist in mitigation of river flooding. In the event flooding is imminent, for example a levee breach occurs; Mount Vernon's emergency plan includes evacuation of citizenry to higher ground. In such an event, time is critical.

The proposed GPT Project would handle import and export of up to 54 million dry metric tons per year of bulk commodities- mostly coal. The project at Cherry Point, if approved, would result in North America's largest coal export facility and the estimate of an addition of eighteen, mile and-a-half long coal trains daily. It is reasonably foreseeable this will create significant delays at at-grade crossings, inhibiting the travel of emergency vehicles, traffic delays and congestion (**Exhibit B**), and endangering pedestrians. Because the proposed project will have off-site impacts, namely the transport of commodities along BNSF rail lines which run through the City of Mount Vernon, the City has clear standing and vested interest in the review process.

The Mount Vernon City Council and Mayor are greatly concerned that the additional rail traffic, proposed by GPT, will result in safety and mobility impacts within the City's most heavily traveled transportation corridors. Traffic delays and congestion have a direct economic impact that will negatively impede business development and investment at a time when the City is removing such obstacles in order to promote economic development. The City spent a great deal of effort and capital on the revitalization of its downtown and envisions significant redevelopment over the next 5-10 years. However, should vehicular and non-motorized travel be impeded as a result of lengthy delays at rail crossings resulting from increased train traffic, this will cause a significant reversal to adopted redevelopment plans for the downtown.

Based on the aforementioned concerns, the City respectfully requests that the EIS carefully consider in its scope the regional impacts of this proposal beyond Whatcom County including impacts to the City of Mount Vernon. As part of the analysis, the City believes full consideration of alternatives as well as mitigation measures designed to alleviate the conflicts between rail traffic and our system of roadways are in order.

As you are aware, lead agency(s) cannot limit consideration to those aspects within its jurisdiction, such as local and state boundaries. When determining the scope and agency must include in their review related connected actions and cumulative actions which when viewed with other proposed actions have cumulatively significant impacts. It is clear on its face that completion of the GPT Project will inevitably and automatically trigger an increased commitment of rail resources, more particularly, an increase in rail freight traffic. Such related connected and cumulative actions must be considered within the scope of your EIS. To fully understand such impacts to the City, the following is requested:

- An examination of the amount and character of travel upon all crossings within Mount Vernon and all dangers proposed by increased delays to such crossings. The amount and character includes use by the City, Skagit County, and all Fire Districts emergency responders for fire, police, and ambulance services for access to the residences and business in the area in response as mutual aid or primary roles as the case may be and the need to utilize such crossings to provide for evacuation of citizenry or mobilization and staging of resources during catastrophic events such as flooding.
- A complete evaluation and potential mitigation of the transportation impacts to at-grade rail crossings including delays to traffic and emergency response time and impacts to passenger rail traffic at full build out. Reasonable alternatives such as separation of the grade crossing or relocation need to be thoroughly explored.
- Analysis of the physical impacts, including increased wear and tear on rail/street crossings from additional freight traffic.
- Analysis of the economic impacts to businesses as a result of traffic congestion and delays resulting from at-grade crossings at Kincaid Street, Blackburn Road and College Way.
- Analyze noise impacts to residential uses along the rail line within the City limits and identify appropriate mitigation.
- Analysis of all pedestrian safety concerns.
 - *Please refer to Exhibit A for all at grade crossings to be examined for impacts and mitigation.*

It is imperative that any and all significant probable adverse environmental impacts must be considered including direct, indirect, cumulative and future impacts. Reasonable alternatives and mitigation must be considered. To that end, the City anticipates that the lead agencies will provide complete and comprehensive answers to questions relating to those impacts as well as the proponent's plans to mitigate those impacts, the timeframe for implementing measures to mitigate impacts and a financial plan that pays for mitigation measures without negatively burdening the local jurisdiction.

The Mount Vernon Council and Mayor request that all costs associated with mitigating the negative impacts associated with the proposed project shall not be borne by Mount Vernon or Skagit County residents.

As a party with a clear interest in this proposal, Mount Vernon respectfully requests that all SEPA/NEPA notifications be sent to the following when notification is required under your rules:

Jana Hanson
Community and Economic Development Director/SEPA Official for the City
PO Box 809
910 Cleveland Avenue
Mount Vernon, WA 98273

The City looks forward to beginning constructive participation and providing further input in this matter. If you have any questions, please do not hesitate to contact Jana Hanson, the City's Community and Economic Development Director at 360-336-6214.

Sincerely,



Jill Boudreau, Mayor



Joe Lindquist, City Councilman – Ward 1



Mark Hulst City Councilman – Ward 2



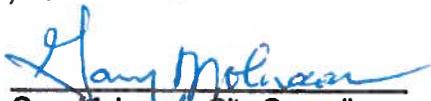
Bob Fiedler, City Councilman – Ward 3



Dale Ragan
City Councilman – At Large



Ken Quam, City Councilman – Ward 1

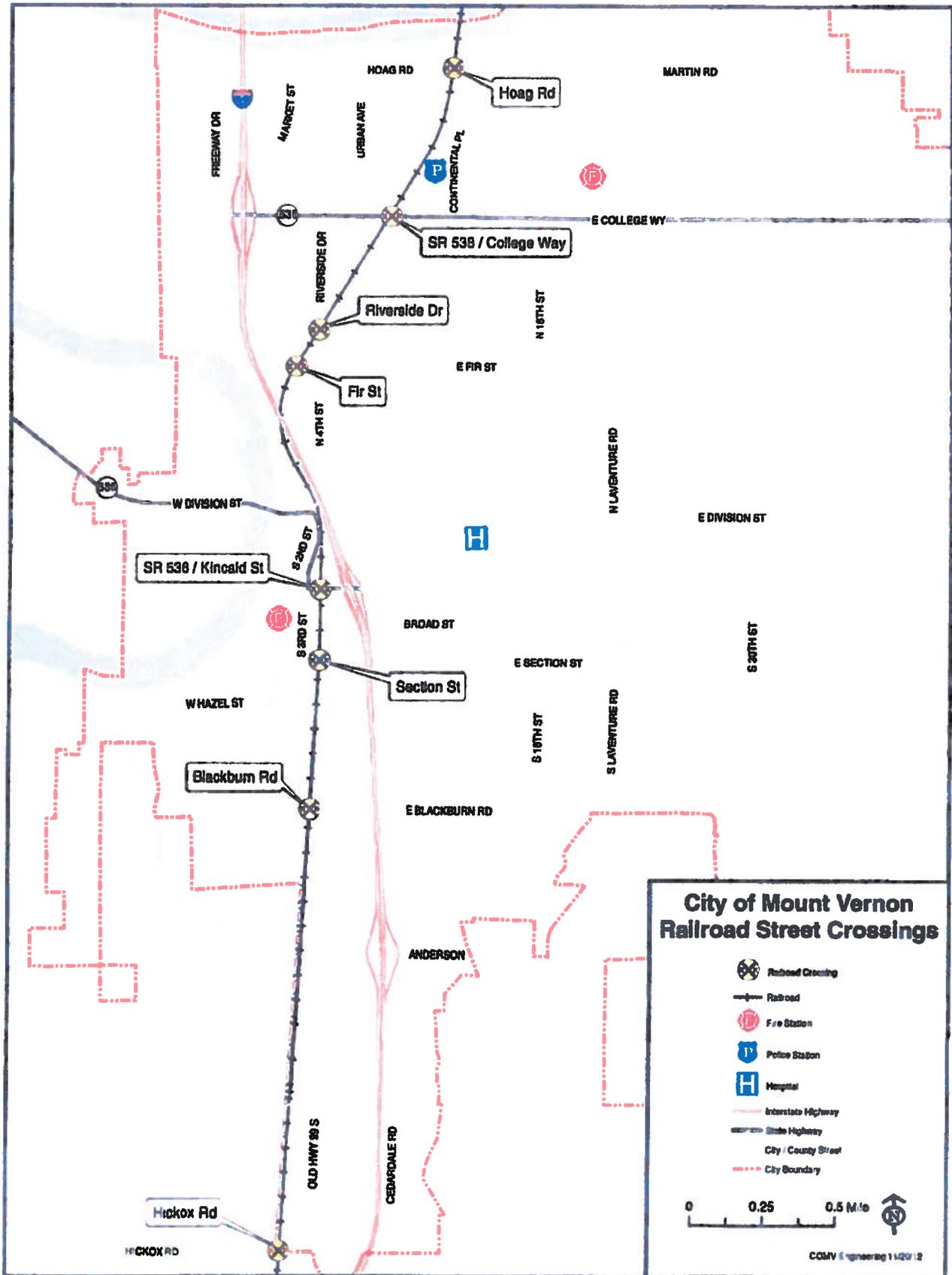


Gary Molenaar, City Councilman – Ward 2



Mike Urban, City Councilman – Ward 3

Exhibit A



City of Mount Vernon Railroad Street Crossings

- Railroad Crossing
- Railroad
- Fire Station
- Police Station
- Hospital
- Interstate Highway
- State Highway
- City / County Street
- City Boundary

0 0.25 0.5 Miles

COMV Engineering 1/12/12

LOCAL

Skagit Valley Herald

F

News Desk: 360-416-2143 / news@skagitpublishing.com

Stalled train snarls traffic in Mount Vernon

Some see incident as glimpse of coal train troubles

By KATE MARTIN
Staff Writer

MOUNT VERNON — A Burlington Northern Santa Fe train stalled in the heart of Mount Vernon Thursday morning, snarling traffic along West Fir Street, Riverside Drive and College Way.

The train halted traffic for 45 minutes to an hour, said Mount Vernon Police Sgt. Peter Lindberg. The train was moved about 10:45 a.m.

BNSF spokesman Gus Melonas said mechanics inspected the train for what appeared to be a locked wheel.

The engine was located beneath the Second Street viaduct, with the train cars to the north. Mount Vernon police say there were no injuries or traffic collisions reported.

"It didn't cause us a problem, but it had a potential to cause us a problem," said Mount Vernon Fire Department Chief Roy Hari.

He said his engines at Station 2 on LaVenture Road could only get to the other side of the railroad tracks by using the Second Street viaduct.

"If we have to go anywhere from there and it's blocking Kincaid, it makes it quite interesting to get around town if you have a train parked in the middle of the city," Hari said.

Lyle Gerrits, owner of Northwest Fine Furnishings on Riverside Drive, took advantage of the traffic jam



Scott Terrell / Skagit Valley Herald

A southbound Burlington Northern Santa Fe train blocks traffic along Riverside Drive Thursday morning in Mount Vernon. Lyle Gerrits, owner of Northwest Fine Furnishings on Riverside Drive, took advantage of the situation to break out the "No coal train" poster, protesting the proposed Gateway Pacific Terminal at Cherry Point north of Bellingham.

to wave a sign protesting the proposed Gateway Pacific Terminal in Bellingham. The terminal would export bulk commodities to Asia, including coal from America's Midwest, and bring as many as 18 additional trains through Mount Vernon and Burlington.

Gerrits met one of the terminal's supporters, who was sitting in traffic in front of his store. The man was upset at Gerrits' sign, which read

"Coal Train" with a red "X" symbol through the words.

"He said that means 800 jobs," Gerrits said. "Yeah, for the hospital, for doctors, for nurses, the car repair folks."

Gerrits said he also owns a farm in Blanchard that is within a quarter mile of the train tracks.

"I don't see what the benefits are," he said. "Temporary jobs and long-term consequences aren't good."

Skagit 911 Director Bill King said emergency dispatchers were aware of the trains blocking the intersections.

"We make sure that all of our user agencies are notified" when intersections are blocked, King said. "Knowing where they can go beforehand is usually a lot of help to them."

The 911 center attempts to figure out what is wrong with the train and a timeline

for its removal, as well as if there are any hazardous materials on board that first responders might need to know about, King said.

Skagit Transit buses also sat in the traffic jam for the duration. A notification on the agency's Twitter account posted at 10:30 a.m. said, "All Mount Vernon buses are stalled due to trains." A spokesman with the agency did not return calls seeking comment.



*Shaping
our community
together*

CITY OF LACEY

420 COLLEGE STREET SE
LACEY, WA 98503-1238

CITY COUNCIL

VIRGIL CLARKSON
Mayor

JASON HEARN
Deputy Mayor

JEFF GADMAN
LENNY GREENSTEIN
RON LAWSON
CYNTHIA PRATT
ANDY RYDER

CITY MANAGER
SCOTT H. SPENCE

June 28, 2012

Brig. Gen. John McMahon
Commander and Division Engineer
U.S. Army Corps of Engineers Northwestern Division
P.O. Box 2870
Portland, OR 97208-2870

Re: Request for Consideration of Cumulative Impacts of New Coal Terminals in
Washington and Oregon

Dear Brig. Gen. McMahon:

I am a member of the Lacey City Council, and when major federal actions or initiatives impact the Lacey community, I am at the front lines of addressing those impacts and helping our constituents understand and cope with them.

I have heard from my constituents with respect to a series of proposals to build coal export terminals on the Pacific Northwest coast or along the Columbia River. The operation of these terminals will affect the entire region, not just the port communities. The vast volumes of coal that could be moving through the region's rail system and public waterways will have significant impacts on transportation networks, air and water quality, wildlife habitat, and quality of life. By some estimates, if all of the proposed terminals operated at full capacity, there would be 63 coal trains – each well over a mile long – moving through some Pacific Northwest communities every day.

I believe these decisions are much bigger than any single permit application for a new terminal. Accordingly, as a member of the Lacey City Council, I urge you to prepare a stand-alone Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) to address the cumulative impacts from all of the potential coal terminals. An EIS addressing the cumulative impacts of these proposals will allow the Corps to consider similar impacts for all terminals in one review, and hear from communities that will be impacted even if they are distant from the terminal sites.



TDD Relay
1-800-833-6388

City Council
(360) 491-3214

City Manager
(360) 491-3214

City Attorney
(360) 491-1802

Community Development
(360) 491-5642

Finance
(360) 491-3212

Parks & Recreation
(360) 491-0857

Police
(360) 459-4333

Public Works
(360) 491-5600

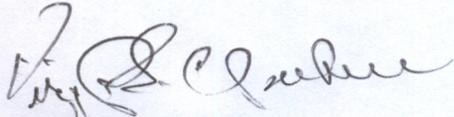
Fax #
(360) 438-2669



The multiple export terminal projects in Oregon and Washington and the rail impacts in the entire region including Idaho and Montana should be subject to a thorough review of their individual and cumulative impacts on the region's environment, economy, health, and quality of life. My constituents deserve a fully public and transparent environmental review process.

Thank you for considering my request. I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Virgil S. Clarkson". The signature is fluid and cursive, with a large initial "V" and "C".

Virgil S. Clarkson
Mayor



CITY COMMISSION OFFICE

City of Helena
316 N. Park Avenue
Helena MT 59623
(406) 447-8410

June 7, 2012

Brigadier General John McMahon, U.S. Army
Commander and Division Engineer
U.S. Army Corps of Engineers Northwestern Division
P.O. Box 2870
Portland, OR 97209

Subject: Request to consider potential impacts on the City of Helena during
environmental review of coal export terminal projects

Dear BGen McMahon:

It has come to the attention of the Helena City Commission that the development of one or more proposed coal-export terminal projects in Washington or Oregon may result in a substantial increase in train traffic through our community. We respectfully request that the U.S. Army Corps of Engineers take the potential effects of this increased traffic through Helena into account when conducting an environmental review of these proposals.

By way of background, Helena lies at the base of one of two rail lines that pass over the Continental Divide in the northern Rockies. The Burlington Northern Santa Fe Railroad (BNSF) railroad, more recently leased and operated by Montana Rail Link (MRL), has been a vital part of Helena for over 120 years and both have always been good neighbors in dealing with the City of Helena. However, we are concerned about our ability to accommodate a significant increase in rail traffic. We have heard varying estimates of the increases in rail traffic likely to result from the development of one or more coal ports. About 15 trains per day currently pass through Helena. While estimates of the additional rail traffic cover a wide range, any increase in rail traffic through the community will exacerbate existing problems.

The BNSF/MRL railroad line bisects Helena with crossings at eight streets and Interstate 15. Only two of these crossings and the freeway have grade separations. One of Helena's busiest arterial routes, Montana Avenue, lacks a grade separation and traffic delays there have been an issue in Helena for decades. Neither the City of Helena, nor the Montana Department of Transportation, currently has the funds necessary to construct additional grade separations. A substantial increase in rail traffic would greatly exacerbate these delays and adversely affect transportation in Helena.

We are also concerned about possible impacts to air quality from increased rail operations and increased idling by cars and trucks waiting at the crossings lacking grade separation- especially during wintertime air inversions.

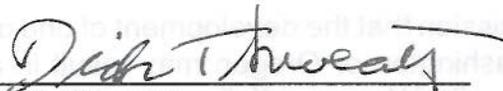
Another concern is the noise from train horns. Citizens have long been complaining of train noise and requesting safety improvements to railroad crossings which would eliminate the requirement for trains to sound their horns. With a substantial increase in train traffic, this problem will significantly worsen. Again, we lack funding to address the issue.

We ask the Corps to consider these potential effects on Helena in the course of evaluating the indirect and cumulative effects of the proposed coal-export facilities. The City of Helena stands ready to assist with this process in any way.

Sincerely,

James E. Smith
Mayor

Daniel Ellison
Commissioner



Dick Thweatt
Commissioner



Matthew Elsaesser
Commissioner



Katherine Haque-Hausath
Commissioner

Courtesy copy:
Governor Brian Schweitzer
Senator Max Baucus
Senator Jon Tester
Representative Dennis Rehberg
Burlington Northern Santa Fe
Montana Rail Link

Resolution No. 2012-01

A RESOLUTION stating the Columbia Gorge Windsurfing Association's opposition of new coal transport by train and barge through the Columbia River Gorge for export

WHEREAS, the CGWA is dedicated to safety, responsible stewardship of resources supporting windsurfing, and protecting existing launch sites, and

WHEREAS, proposals by Millennium Bulk Terminals, Arch Coal, Peabody Energy, and Ambre Energy could bring 48-149 million tons of coal per year through the Gorge, and

WHEREAS, the proposed quantities of coal could amount to 24-34 more coal trains per day plus 3-7 more barges per day, and

WHEREAS, any increased train traffic will limit access to several key launches throughout the Gorge for windsurfers and emergency vehicles, and

WHEREAS, the increase in the number of trains required to transport the proposed quantities of coal may require rail expansion that would further inhibit river access, and

WHEREAS, increased barge traffic, along with a growing population of river users and growing sandbars appearing throughout the Columbia River's corridor increases danger on the water, and

WHEREAS, open train cars will have coal dust loss that will deteriorate the air and water quality in the Gorge, and

WHEREAS, the increased number of trains and barges will produce greater diesel emissions further degrading air and water quality, and

WHEREAS, the possibility of deteriorating safety, river access, and environmental quality in the Gorge from coal shipments will adversely affect the tourism and industry brought to the region by windsurfing and kiteboarding, an estimated added value of \$1.7-3.9 million per year,

NOW, THEREFORE, BE IT RESOLVED BY THE COLUMBIA GORGE WINDSURFING ASSOCIATION AS FOLLOWS:

I

The CGWA opposes any new coal shipments through the Columbia River Gorge, either by train or barge.

II

The CGWA urges the Governors of Washington and Oregon to work on a comprehensive policy opposing all new coal shipments and export terminals.

III

The CGWA urges Washington's Commissioner of Public Lands, the Army Corps of Engineers, and all other decision making entities to deny permits of all projects that involve coal transport through the Gorge.

IV

The CGWA encourages all local elected officials to advise state and federal governments to examine these coal proposals thoroughly and move towards denying all permitting.

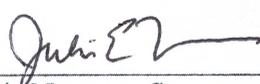
V

The CGWA recommends that its constituency and all Gorge recreationalists, including, but not limited to, windsurfers, kiteboarders, sailors, kayakers, cyclists, mountain bikers, and runners, send letters, e-mails, and make phone calls to local, state, and federal officials urging them to oppose new coal transport through the Gorge.

VI

This Resolution ADOPTED at a regular meeting of the Columbia Gorge Windsurfing Association on this 19th day of April, 2012.

SIGNED: 
Greg Stiegel, Executive Director

ATTEST: 
Julia Norman, Secretary

APPROVED: 
Steve Gates, President



VDA Board

Linda Glover
President

KC Fuller
Vice President

Charlene Dahlen
Secretary

Linda McLain
Treasurer

Adma Tyler
Alishia Topper
Casey Wyckoff
Celinda Rupert
Christie Rust
Colleen Boccia
David Copenhaver
Josh Oliva
Kristy Weaver
Lee Coulthard
Nancy Baker
Patrick Hildreth
Tracie Siegel

Lee Rafferty
Executive Director

July 2, 2012

Vancouver City Council

Vancouver City Manager Eric Holmes

Dear Council and Mr. Holmes;

Vancouver's Downtown Association is proud to have been a part of the renewal of our city center. We have advocated for the things that would make it stronger. We have opposed the things that would make it harder to live, work and invest in our downtown. We are neither advocating for or opposing the topic of today's workshop.

The issue of long coal trains moving as much as 44 million tons of product on a rail system that is adjacent to our city center and might have serious impact on the waterfront project is of concern to us. We ask that you, our city council, ask for more answers so that we can truly know what the potential risks are as well as what the benefits could be.

A system wide study of environmental impacts seems prudent. VDA suggests that a 360 degree look at how this affects our community would be the 'next move'. The Port of Vancouver is a trusted partner that brings economic stability and jobs to our area. The Waterfront Investors could have a different matrix on which to make a decision. And, neighborhoods could have a different take on the issue. At this time, it seems smart to slow this down and ask the right questions of the right people.

Respectfully submitted,

Lee Rafferty

Lee Rafferty

On behalf of the Board of Directors of Vancouver's Downtown Association



WASHINGTON ACADEMY OF FAMILY PHYSICIANS

August 13, 2012

Ted Sturdevant
Director, Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504

RE: Gateway Terminal Project

Dear Director Sturdevant:

The Washington Academy of Family Physicians (WAFP), representing over 3,000 family physicians throughout the State of Washington, requests a comprehensive Health Impact Assessment be performed to address the impact of coal crossing the state of Washington. Concerns by our membership revolve around the adverse health effects of coal dust and excessive diesel exhaust escaping from open trains that would impact air and water quality in the region.

The medical literature does note:

- A 15-27% increase in lung cancer deaths, in people that have never smoked, for each increase of 10 ug/m³ of particulate matter (PM_{2.5}).
- From the impact of transportation-related particulate matter (PM_{2.5}), the risk of ischemic stroke was 34% higher with moderate exposures.
- Short-term exposure to air pollution is a trigger of myocardial infarction (heart attack).
- Exposure to particulate pollution was found to be a strong predictor of cognitive decline.
- Exposure to diesel particulate matter is associated with a 2-3 fold risk of wheezing in infants (an early measure of asthma).

The WAFP encourages you to conduct a comprehensive Health Impact Assessment along the entire transportation corridor anticipated before this initiative moves forward.

Thank you very much.

Sincerely,

Anne Montgomery, MD
President

CC: Alice Kelly, Department of Ecology



Skagit Regional Health
Skagit Valley Hospital · Skagit Regional Clinics

November 1, 2012

GPT/BNSF Custer Spur EIS Co-lead Agencies
1100 112th Avenue Northwest, Suite 400
Bellevue, Washington 98004

RE: Request for scoping review

To whom it may concern:

Please accept this letter on behalf of Skagit Regional Health in regards to the scoping process for the environmental review associated with the GPT / BNSF Custer Spur project.

I am requesting that you investigate and study the impacts caused by the proposed project on the level of service to and from Skagit Valley Hospital in Mount Vernon and to and from our multiple clinic sites in Skagit and Snohomish counties.

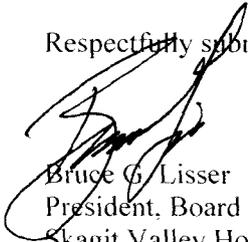
The proposed increase in train utilization along the existing tracks is a concern that needs to be addressed. Our hospital district takes in approximately 10 crossings beginning with the Fir Island Road crossing in Conway to the south and ending with the Hoag Road crossing in Mount Vernon to the north.

Travel time during an emergency is a critical component to the quality of care that our patients receive and any delays can have a negative impact on outcomes. Delays caused by having to re-route around crossings that are closed due to extended train traffic will increase the time it takes to access the hospital and clinics.

I ask that you take our concerns regarding potential effects on patient care seriously during your environmental impact review process by studying the impact of increased train traffic on emergent access to health care services and addressing specific solutions.

Thank you for ensuring that our concerns are addressed through your scoping and environmental review process. If you need additional information, you may contact me at 360-419-7442.

Respectfully submitted,



Bruce G. Lisser
President, Board of Commissioners
Skagit Valley Hospital District No. 1





For our children, our community, our world, our future
CHENEY PUBLIC SCHOOLS
520 FOURTH STREET, CHENEY, WA 99004

(509) 559-1599 * FAX 559-4508
www.cheney.k12.wa.us

March 13, 2012

Mr. Randel Perry
U.S. Army Corps of Engineers
Seattle District Regulatory Branch – Northwest Field Office
1440 10th Street, Suite 102
Bellingham, Washington 98225-7028

Re: Scoping Hearings for Gateway Pacific Terminals NEPA/SEPA Process

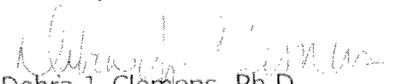
Dear Mr. Perry:

No matter where coal export terminals may be built in Washington and Oregon, Spokane would bear the brunt of at least a ten-fold increase in coal train traffic as the state entry point of 130 million tons of coal per year from the Powder River Basin in Montana and Wyoming. **I respectfully request that you include Spokane in the schedule of public hearings on the EIS process for the Cherry Point export facility.**

One of the greatest impacts we suspect from a significant increase in coal train traffic could include serious health problems from breathing diesel exhaust emissions and escaping coal dust containing toxic substances linked to birth defects, cancer, and increased asthma and lung disease in children. Additional possible impacts include noise pollution and lowered property values, traffic and first responder/utility delays at crossings, competition with passenger travel and goods transportation by rail, increased risk of derailments caused by coal dust accumulation on the rails, air pollution, and economic challenges related to infrastructure upgrades.

Regardless of one's position on coal or coal exports, there are real risks and possible impacts to our communities from increased coal train traffic that should be thoroughly studied and presented in Spokane, with an opportunity for those living near the rail lines and most affected to be a part of the discussion. These concerns go to the heart of our quality of life, and Spokane area residents deserve to have all of the facts and their voices heard in this very important decision that will affect their daily lives. A public hearing in Spokane will accomplish this.

Sincerely,


Debra J. Clemens, Ph.D.
Associate Superintendent

Tyler R. Schroeder, Whatcom Planning and Development Services
5280 Northwest Drive
Bellingham, WA 98226

3-15-2012

Randel Perry, US Army Corps of Engineers
Seattle District Regulatory Branch - Northwest Field Office
1440 10th Street, Suite 102
Bellingham, WA 98225-7028

Alice Kelly, Department of Ecology for NW Regional Office
3190 160th Avenue SE
Bellevue, WA 98008

Regarding: Cherry Point EIS Process and Statewide Public Hearings

Dear MR. Schroeder, Mr. Perry, and Ms. Kelly:

I respectfully request you include Spokane in the schedule of public hearings on the EIS process for the Cherry Point Export Facility. We anticipate many significant potential impacts to our local community as a result of the substantial numbers of rail cars and need to impart those views and concerns. There maybe little the State can do to impart concerns of affected communities by rail transport but there is potential with the needed export facilities.

We have health experts that can point professionally as to the health risks from the increased diesel exhausts and more so to the volumes of escaping coal dust. The increased risks posed by use of a rail refueling depot over our areas sole source of drinking water located above the Rathdrum Aquifer. The excess noise, traffic congestion and including delays from first responders at the many rail crossings that the railroad had previously committed to improve but has since reneged. Increased risk of derailment in a heavily developed metropolitan areas of over a thirty mile long valley like area. This increased rail traffic should be thoroughly studied and those most affected along the rail lines offered an opportunity to participate in the discussion as these concerns go the heart of our quality of life here.

There are real risks and impacts to be felt by our community from increased coal train traffic and that should be thoroughly heard and studied here as well. It is only reasonable that a hearing be in Spokane regarding this matter so that we can impart what we know and would like to know of the greater impacts being faced. And that the challenges faced may result in solutions should this endeavor come to occur.

Robert W. Apple, having completed eight years on the Spokane City Council
cometapple@msn.com
2409 N Upriver Ct. Spokane WA 99217
1(509)487-4107

1 **A Resolution**

2 **Regarding the proposed Gateway Pacific coal terminal at Cherry Point**

3
4 **Whereas** a marine terminal, the “Gateway Pacific Terminal”, has been proposed for development at Cherry
5 Point on the US mainland northwest of Bellingham and 10 miles north of Orcas Island, by Pacific
6 International Terminals, Inc., a subsidiary of SSA Marine, which would provide storage and handling for up
7 to 54 million metric tons of commodities per year, primarily coal from Wyoming and Montana, and
8

9 **Whereas** this coal would be transported in open rail cars on trains more than a mile long, measuring a total
10 of about 30 miles daily, with substantial exposure to coal dust and train diesel fumes along the route, and the
11 increased train traffic from coal trains is likely to interfere with existing key Washington industries that rely
12 on rail to move parts and products, and
13

14 **Whereas** there are potentially significant health impacts of this project, including respiratory illness, noise
15 exposure from train whistles, mercury and heavy metal pollution, and potential to delay emergency medical
16 responses and increase vehicle-train accidents along the train route, and
17

18 **Whereas** coal from these miles of open rail cars would be offloaded onto bulk carriers, heavy polluters of
19 diesel fuel, and which have historically had a high rate of structural failures and safety incidents, and oil
20 spills from these ships would be devastating to our marine environment, and
21

22 **Whereas** if the project is approved, there will be a stockyard at Cherry Point 80 to 105 acres in area for
23 storage of uncovered piles of coal which must be rotated regularly to avoid spontaneous combustion, and
24

25 **Whereas** the proposed terminal would be adjacent to the Cherry Point Aquatic Reserve, so designated to
26 protect an important native ecosystem, and the release of coal dust, which is difficult to control, would
27 endanger eelgrass beds and herring, a keystone species that provides food for Chinook salmon, sea lions,
28 porpoises, and indirectly, orca whales which feed on salmon, and
29

30 **Whereas** degradation of areas with high levels of recreational boating would decrease economic support for
31 the surrounding coastal communities from recreational boating and fishing, while sustainable improvements
32 to our marine environment will increase commercial fishing-related employment, historically an important
33 source of income for our Puget Sound communities, and
34

35 **Whereas** substantially increased ship traffic from bulk carriers may delay ferry crossings in north Puget
36 Sound, especially in bad weather, affecting the work opportunities of residents who commute by ferry, and
37

38 **Whereas** most jobs created by this project would be temporary construction jobs, creating the opposite of a
39 stable and sustainable economy, and while the estimated permanent jobs created by this project would
40 number 2 to 4 hundred, the project may have a net negative offset to the currently projected 10,000 jobs that
41 will come to Washington in the next 10 years **if** environmentally degrading projects such as the one
42 described here are avoided, and
43

44 **Whereas** fossil fuels burned anywhere in the world contribute to global climate change, and China, the
45 planned destination for the millions of metric tons of coal, is already a frontrunner in the production of solar
46 energy products and should be encouraged to use sustainable energy practices, and
47

48 **Whereas** one purpose of government is to regulate commerce to protect the environment, health, and
49 livelihoods of our people, as clearly stated in the Washington State Democratic Platform, while the

1 proposed terminal and its associated activities would make large profits for a few large corporations at the
2 expense of the people of Washington,
3

4 **Therefore be it resolved,** that the Democratic Caucus of San Juan County, Washington urges Congressman
5 Rick Larsen, Senator Patty Murray, Senator Maria Cantwell, the Governor of Washington, and
6 Commissioner of Public Lands Peter Goldmark to strongly oppose the proposed terminal, and
7

8 **Therefore be it further resolved,** that the Democratic Caucus of San Juan County, Washington
9 recommends that in light of the many known and expected adverse effects of the proposed Pacific Gateway
10 Terminal on our environment, health, and economy, that its development not be allowed to proceed, and
11

12 **Therefore be it finally resolved,** that the San Juan County Democratic Central Committee forward this
13 resolution to the Washington State Democratic Central Committee for their review and support.
14
15

16
17 Introduced and adopted at the Washington State Democratic Precinct Caucuses held
18 on Sunday, April 15, 2012; submitted by Alison Longley, PhD
19

Name		Alison Longley, PhD			
Signature					
Congressional District	2	County	San Juan	Legislative District	40
Home Phone		360 317-4069	Mobile Phone	360 317-4069	
Email Address		Alongley_2000@yahoo.com			
Address		PO Box 1755			
City		Friday Harbor	Zip Code	98250	



San Juan Marine Resources Committee
135 Rhone Street, P.O. Box 947
Friday Harbor WA 98250



February 28, 2012

Re: Gateway Pacific Terminal and BNSF Custer Spur Modifications Project

Dear Mr. Schroeder, Mr. Perry, and Ms. Kelly:

The San Juan Marine Resources Committee is very concerned about the proposed Gateway Pacific Terminal project at Cherry Point and the associated increase in shipping traffic and risks this project poses to the recovery and protection of our dynamic marine ecosystem. To fully relay our concerns, we are requesting formal Environmental Impact scoping meetings on each of the three larger San Juan Islands: San Juan, Orcas, and Lopez.

The entirety of San Juan County is a Marine Biological Preserve (RCW 28B.20.320), and all of the shorelines within the County are designated as Shorelines of Statewide Significance and critical habitat for federally listed threatened Chinook salmon and endangered Southern Resident Killer Whales. This proposed project and the increase in shipping traffic poses a significant increased risk of major oil spills with the potential to devastate the endangered Southern Resident Killer Whale population and the threatened salmon runs, as well as significantly impact all marine life in the waters of San Juan County. As detailed in the 2012 Puget Sound Partnership (PSP) Action Agenda and the County's Marine Stewardship Area plan, major oil spills are ranked as a primary threat to the San Juan marine ecosystem and major oil spill prevention is identified as a top priority. As this project would significantly increase shipping traffic and greatly exacerbate this threat, it is in direct conflict with our local and regional management plans based on state and federal regulations.

SSA Marine estimates that a fully operating terminal will generate an increase of 974 ships per year travelling through the waters of the San Juan Islands. These ships would be single hulled, carrying large quantities of bunker fuel, and would be unaccompanied by a pilot or tug boat escort. As stewards of this region, this is alarming to us. The future health and viability of our marine ecosystem, and our way of life, would be greatly jeopardized by this project and the significant risk it imposes of a major oil spill. Our region has a tremendous amount at stake.

In addition to the risk of oil spills, the increased vessel traffic will likely have a negative impact on the foraging behavior of the killer whales. Studies have shown that vessel traffic significantly affects killer whale foraging behavior likely resulting

in reduced prey capture and biologically significant consequences, adding additional stress to an endangered species. This project also increases risk to the highly valuable Cherry Point herring stock which serves as an important food source to several marine species, including salmon and in turn the killer whales.

Another important environmental and human health concern that needs to be considered is the burning of the coal being transported. The air pollution from this coal will not only create negative health impacts for Chinese citizens, it will also contribute to the growing global air pollution concerns, and subsequent human health impacts. In addition, this project will contribute to the growing issue of climate change and its direct impacts to the marine environment including a rise in sea level due to thermal expansion, increases in water temperature, changes in water circulation patterns, and related consequences for marine food chains.

The San Juan Marine Resources Committee was formed in 1996 to serve as an advisory committee to the San Juan County Council on issues related to the health of the San Juan marine ecosystem, to implement restoration projects, and to provide education and outreach to the community. Six other northern Puget Sound counties subsequently established Marine Resources Committees under the Northwest Straits Commission, which was created as an alternative to a federal marine preserve.

The San Juan Marine Resources Committee respectfully request that the scope of the Environmental Impact Statement recognize the increased risk to the environment within the shipping lanes proposed to transport the coal from the port at Cherry Point, Washington. We also ask that the Environmental Impact Statement fully and completely include the connected and cumulative actions, issues, and concerns of the citizens in this area. Because of the geographic distance and transportation challenges, the citizens of San Juan County will not be served by holding a scoping hearing in Bellingham or Seattle. As part of this EIS process, we respectfully ask for representation for the majority of citizens of San Juan County by holding scoping meetings on each of the three larger islands serviced by the Washington State Ferry. Thank you for consideration of our formal request.

Sincerely,

Steve Revella
Chair, San Juan County Marine Resources Committee

A resolution against exportation of coal from Port Westward, Columbia County, and Our Oregon coast:

Whereas: Coal is known to contain carcinogens, Mercury, and Uranium, all with long-term health effects; Coal dust is a known air, water, and land pollutant, harmful to all human and animal life.

Whereas: coal dust deposition contradicts efforts to improve water quality in the Columbia R. Basin; also, invasive species in huge bilge water discharges will be distributed throughout regional waters, with irreversible effects on our ecology and industries; most proposed remedies are inadequate to preclude loss of fish and wildlife, and habitat and nurseries

Whereas: our over-stressed air shed will be inundated by tug and locomotive emissions, and, all air pollution from the loading terminal will affect our Clatsop Co. and Waukiakum Co. WA neighbors; also, we get air pollution from China's coal-fired power plants on our entire Pacific coast; burning Bituminous coal in China will not contribute to World emissions goals.

Whereas: the Coal Terminal is in jeopardy from tsunami, flooding, and earthquakes' soil liquefaction;

Whereas: all unit trains will poison all streams and wetlands they travel through from Boardman, OR to Astoria, and Boardman to Coos Bay, Including all our major Cities and towns; businesses will refuse to move next door to polluted coal train and barge routes, as two PGE power plants decided recently, at both Port Westward, OR and Boardman, OR.

Whereas: extended waiting times for long unit trains to clear intersections will cause traffic to stall, increasing air pollution, causing slower response times for police, fire, EMT and limiting access to residential, school, medical facilities, commercial areas; mercantile areas will, in effect, be isolated, lose exposure, circulation, customers, and growth.

Whereas: traditional Agricultural industries such as: food crops, nurseries, tree farms, Cattle, horse ranching, and hay will be adversely affected when they produce soiled and contaminated products

Whereas: all regional parents, grandparents, and other residents will suffer the Pain and Regret of not stopping this industrial assault on everything around us which constitutes Our descendants' future, and Their descendants', future.

Therefore be it resolved: that the Columbia County Democratic Central Committee does hereby reject the use of our public property through the Port of St. Helens or any other public authority for the purpose of construction of any coal export facilities.

Copyright 2012CCDCCbyPC edit: MLO,DW

Resolution Regarding the Shipment of Coal from Washington's Shores Signatures

Name					
Signature					
Congressional District		County		Legislative District	
Home Phone			Mobile Phone		
Email Address					
Address					
City			Zip Code		

Name					
Signature					
Congressional District		County		Legislative District	
Home Phone			Mobile Phone		
Email Address					
Address					
City			Zip Code		

Name					
Signature					
Congressional District		County		Legislative District	
Home Phone			Mobile Phone		
Email Address					
Address					
City			Zip Code		



Associated Students of Western Washington University
Board of Directors
Resolution Opposing the Proposed SSA Marine Cherry Point Coal Terminal
November 2011

WHEREAS the proposed coal export terminal at Cherry Point would harm the global environment by enabling the continued combustion of coal across Asia, thereby releasing large amounts of heat-trapping gases into the atmosphere, which the Intergovernmental Panel on Climate Change asserts is the "dominant factor in the radiative forcing of climate in the industrial era" and through localized-pollution to air, surface water, groundwater, and soil in communities where coal extraction, transportation, and combustion take place; and

WHEREAS the coal export terminal would harm local ecosystems in Whatcom County by increasing stresses on endemic herring -- a keystone species in the Salish Sea food web and already at risk of decline; by contaminating the composition of topsoil within .62 miles of the terminal to up to 20% coal by weight and by potentially introducing invasive species when barges empty ballast water at Cherry Point; and

WHEREAS the coal export terminal would harm the local economy by necessitating up to 18, mile and a half long coal trains a day. These will disrupt local businesses, devalue homes, and impact local farmers and fishers with the coal dust and train frequency; and potentially derail plans for clean-up and revitalization of the Bellingham waterfront; and

WHEREAS the coal export terminal would degrade community health by increasing pulmonary, cardiac, cancer, and safety risks because of the diesel particulate matter, coal dust, noise exposure and delayed emergency response times, according to 160 Whatcom County physicians; and

WHEREAS the coal export terminal would create environmental justice concerns by sending trains through underrepresented farming communities in the South Fork of the Nooksack River valley; and

WHEREAS the coal export terminal would harm the WWU community by conflicting with the planned WWU waterfront facilities and programming; by decreasing access, health, safety, and quality of experience of students at the proposed WWU waterfront facilities; by putting at risk the renowned sustainability of Bellingham and WWU that attracts prospective students; and for the aforementioned impacts in this document that affect all residents of Bellingham including the WWU community; and

WHEREAS the City of Bellingham, as signatories to the Earth Charter, is committed to "community development which addresses respect and care for the community of life, ecological integrity, social and economic justice, nonviolence, democracy, and peace;" and

WHEREAS the WWU community, as stakeholders in Bellingham, carries the responsibility to apply learning through civic engagement on issues that have direct impacts to the Bellingham community at large, of which comprises WWU, by upholding the commitments that our city has made; and

WHEREAS current WWU students and alumni comprise approximately 37% of the total population of Bellingham. (according to 2010 census data and WWU Alumni office statistics), and thus have the political potential to affect the progress of coal terminal construction; and

WHEREAS WWU has committed in its Strategic Plan "to demonstrate engaged excellence in environmental stewardship and sustainable practices through our programs, scholarship, and actions"; and pledged in its Mission Statement and Strategic Plan to be "a collaborative environment where faculty, staff, and students contribute to the mission of the University;" and

WHEREAS, the AS Board of Directors recognizes that 463 students have already signed a petition opposing the coal terminal; and



Associated Students of Western Washington University
Board of Directors
Resolution Opposing the Proposed SSA Marine Cherry Point Coal Terminal
November 2011

WHEREAS WWU signed the President's Climate Commitment, stating that "we believe colleges and universities must exercise leadership in their communities and throughout society by modeling ways to minimize global warming emissions;" and

WHEREAS WWU has stated through its Office of Sustainability that "a sustainable WWU protects local and global ecology, upholds social equity, creates economic vitality, and maintains human health;" and

WHEREAS WWU was recognized as the 14th "Coolest School" nationally on the Sierra Club's annual list of universities addressing climate change and sustainability; and

WHEREAS the AS of the University of Puget Sound passed a similar resolution opposing coal terminals on October 20, 2011 and WWU's other peer universities of Whitman and Evergreen are currently working on similar resolutions; and

WHEREAS the Bylaws of the Associated Students of WWU states in Article I, Section 2 that the objective of the Associated Students is, "to ensure student representation in decisions that impact students." In the Charge and Charter of ASWWU, the preamble states that ASWWU will "Promote the general welfare of students." Furthermore, Section 2 of Article III, Responsibilities of ASWWU states that ASWWU, "as the primary representative of students shall make every effort to meet the needs and concerns of students;" and

BE IT RESOLVED that the AS of WWU finds the facts included in this document to be an accurate representation of the detriments to the environment, economy, and social welfare associated with the proposed coal export terminal at Cherry Point; and

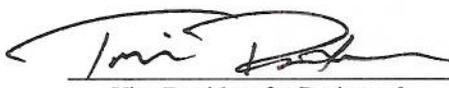
BE IT ALSO RESOLVED that the AS of WWU finds that these facts conflict with the values of the community, the University, and the AS. Furthermore, the AS of WWU recognizes that WWU students have a civic responsibility to the communities of which we are inextricably a part; and

THEREFORE, BE IT RESOLVED that the AS of WWU takes a stance in opposition to the proposed coal terminal at Cherry Point because of its potential for harmful impacts to the global and local environment, the local economy, community health, social equity, and the WWU community; and

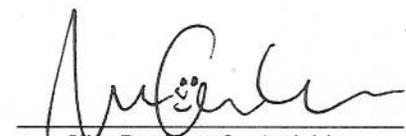
IN ADDITION, BE IT RESOLVED that the AS of WWU supports alternative economic proposals that uphold the aforementioned values of sustainable communities and sustainable environments; and

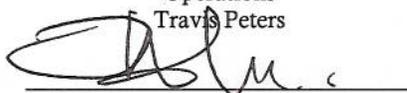
FURTHERMORE, BE IT RESOLVED that the AS of WWU urges that no new coal export terminals be constructed in the Pacific Northwest, and stands in solidarity with other student communities working across the region to protect their communities from similar coal export terminals.


President
Anna Ellermeier

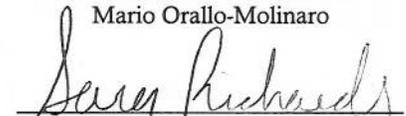

Vice President for Business &
Operations
Travis Peters


Vice President for Academic Affairs
Fabiola Arvizu


Vice President for Activities
Mario Orallo-Molinaro


Vice President for Diversity
Deng Duot


Vice President for Governmental Affairs
Iris Maute-Gibson


Vice President for Student Life
Sara Richards



**Associated Students of Western Washington University
Board of Directors
Resolution Opposing the Proposed SSA Marine Cherry Point Coal Terminal
November 2011**

Appendix of Resolution Content Sources

Global Environmental Impacts

IPCC Statement on Heat-trapping Gases and Climate Change: <http://www.ipcc.ch/pdf/assessment-report/ar4/wg3/ar4-wg3-ts.pdf>

Impacts of coal to water, air and soil quality:

[http://www.catf.us/resources/publications/files/Cradle to Grave.pdf](http://www.catf.us/resources/publications/files/Cradle_to_Grave.pdf)

Local Environmental Impacts

Article on arsenic contamination in soil resulting from coal particulate pollution; Lambert's Point is a similar, but much smaller, coal Terminal in Norfolk, VA: "The amount of particulate coal that occurs in the surface soil samples (i.e., 4 cm depth) of the study area varies from a high of ~ 20% by weight, to a low of 1 wt %, exhibiting a mean value (\pm standard deviation) of 7.1 ± 3.9 wt. %. The surface sample (4 cm) from the 37th Street core (i.e., N2) exhibits the highest amount of particulate coal (i.e., 19.9 wt. %). The 37th Street core is located less than 1 km east of the Lambert's Point Docks (Fig. 1). The surface sample (4 cm depth) of the Silbert Road core (N6), which is located approximately 5.5 km to the east of the Lambert's Point Docks (Fig. 1), has 3.4 wt. % particulate coal, whereas the surface sample from the Capeview Avenue core (N8), roughly 12 km northeast of the docks, exhibits 1.1 wt % particulate coal (Table 1)."

<http://www.springerlink.com.ezproxy.library.wvu.edu/content/98146r1160021h13/fulltext.html>

Data on herring population decline at Cherry Point: "Since the 1970s, the size of the Cherry Point stock has shrunk from a high of approximately 15,000 tons to a low of about 800 tons in the 2000 spawning season, to an estimated 2,100 tons for 2007, followed by a decrease to 1,352 tons in 2008 (see Figures 17 and 18)."

Threat to herring population: "The location of herring spawn deposition in lower intertidal and upper subtidal habitats and the geographically specific nature of herring spawning behavior make herring spawning grounds vulnerable to shoreline development. As a result, it is likely that one of the potential threats to herring within the boundaries of the management area is from damage to eelgrass spawning and rearing habitat."

Introduction of invasive species during emptying of ballast water: "The risk of invasive (non-native) aquatic plant and animal species being introduced through ballast water is a serious one. Non-native aquatic plant and animal species can displace, disturb, consume, and compete with native species (CRS 2007). Non-native organisms may also be attached to the hulls of commercial vessels."

[http://www.dnr.wa.gov/Publications/aqr cp mgmt plan 2010.pdf](http://www.dnr.wa.gov/Publications/aqr_cp_mgmt_plan_2010.pdf)

Local Economic Impacts

Number of Coal trains: "The terminal would add up to 18 round-trip trains per day, with about 125 cars per train, to the Seattle-Bellingham corridor, Cole said." [Craig] Cole is SSA Marine's Spokesperson
<http://www.coaltrainfacts.com/docs/HeraldNet-Rail-terminal-in-Bellingham-could-mean-more-coal-freight-trains-through-county.pdf>

Costs to local economy

Human Health Impacts

Press release from Whatcom Docs, an organization of 160 local physicians concerned about the health impacts resulting from the coal terminal:

<http://www.coaltrainfacts.org/whatcom-docs-press-release>



**Associated Students of Western Washington University
Board of Directors
Resolution Opposing the Proposed SSA Marine Cherry Point Coal Terminal
November 2011**

WWU Impacts

WWU Participation in Bellingham's Waterfront Redevelopment:

<http://www.wwu.edu/president/waterfront/waterfrontnews.shtml>

The Earth Charter that the City of Bellingham is a signatory to:

[http://www.cob.org/web/legilog.nsf/0835b31f5719a205882566f0006c1444/f65368a432a58daf88256c8c006f7545/\\$FILE/200244.pdf](http://www.cob.org/web/legilog.nsf/0835b31f5719a205882566f0006c1444/f65368a432a58daf88256c8c006f7545/$FILE/200244.pdf)

WWU Mission Statement and Strategic Plan on the President's Office website:

["http://www.wwu.edu/president/strategicplan.shtml.](http://www.wwu.edu/president/strategicplan.shtml)

<http://www.ofm.wa.gov/budget/manage/strategic/0911/380strategicplan.pdf>

Petition count comes from unpublished but verifiable number of signatures opposing the coal terminal

American College and University President's Climate Commitment Text:

<http://www.presidentsclimatecommitment.org/about/commitment>

WWU Office of Sustainability's commitment to furthering WWU's strategic goal of campus sustainability:

<http://www.wwu.edu/sustain/>

WWU Ranked 14th on Sierra Club's Annual List of 'Coolest Schools'.

<http://news.wwu.edu/go/doc/1538/1165095/>

Washington Beyond Fossil Fuels Exports Resolution

Section I:

1.1 WHEREAS Associated Students of University of Puget Sound (ASUPS) passed the Beyond Coal Resolution in the spring of 2011 opposing coal burning and exporting in the state of Washington;

1.2 WHEREAS climate change and the destabilization of Earth's ecological systems are serious threats to our environment, economy, and society;

1.3 WHEREAS the burning of fossil fuels for electricity generation and industry contributes more to global warming than any other process around the world;

1.4 WHEREAS the burning of fossil fuels is harmful for the entire planet, regardless of the location where it is burned;

1.5 WHEREAS exporting fossil fuels to foreign countries contributes to the pollution of those countries as well as the effects of global warming;

1.6 WHEREAS the students of today will have to deal with the effects of climate change and pollution in the future and will suffer the most from failure to curtail their effects;

1.7 WHEREAS dust pollution from uncovered coal trains negatively impacts the respiratory health of rail communities through which they pass. Diesel fuels from trains that will not only impact the quality of air here in Washington, but in preventing coal exports from the Northwest we are helping communities around the world that are fighting for clean air.

Section II:

THEREFORE BE IT RESOLVED that the ASUPS supports the involvement of students in deciding the fates of fossil fuel export proposals in the state of Washington, including proposed coal export terminals at Longview, Cherry Point, and Grays Harbor, as well as any similar proposals in the future;

BE IT ALSO RESOLVED that ASUPS supports proposals in favor of the development of cleaner, more sustainable forms of energy, as we are expanding our focus to oppose all coal infrastructures in the region;

BE IT ALSO RESOLVED that ASUPS urges that no new coal export facilities be constructed in Washington, so as to prevent the problems with coal from being transferred abroad.

March 12, 2012

Tyler R. Schroeder
Whatcom Planning and Development Services
5280 Northwest Drive
Bellingham, Washington 98226

Randel Perry
U.S. Army Corps of Engineers
Seattle District Regulatory Branch – Northwest Field Office
1440 10th Street, Suite 102
Bellingham, Washington 98225-7028

Alice Kelly
Department of Ecology – Northwest Regional Office
3190 160th Ave SE
Bellevue, Washington 98008

RE: Cherry Point EIS Process and Statewide Public Hearings

Dear Mr. Schroeder, Mr. Perry and Ms. Kelly:

I write as the Lutheran bishop for 44 congregations within the North Idaho and Spokane area that will be impacted by the proposed transport of coal from the Powder River Basin in Montana and Wyoming. The huge increase in coal train traffic will affect our communities throughout Eastern Washington.

Spokane itself will bear the brunt of a 10-fold increase in coal train traffic and **I respectfully request that you include Spokane in the schedule of public hearings on the EIS process for the Cherry Point export facility.**

The greatest impacts we expect from the significant increase in coal train traffic include serious health problems from breathing diesel exhaust emissions and escaping coal dust containing toxic substances linked to birth defects, cancer, and increased asthma and lung disease in children. Additional impacts include an increase in refueling risk above the Rathdrum aquifer, noise pollution and lowered property values, traffic and first responder/utility delays at crossings, competition with passenger travel and goods transportation by rail, increased risk of derailments caused by coal dust accumulation on the rails, air pollution, and economic challenges related to infrastructure upgrades.

Regardless of one's position on coal or coal exports, there are real risks and possible impacts to our communities from increased coal train traffic that should be thoroughly studied and presented in Spokane, with an opportunity for those living near the rail lines and most affected to be a part of the discussion. These concerns go to the heart of our quality of life, and Spokane

area residents deserve to have all of the facts and their voices heard in this very important decision that will affect their daily lives. A public hearing in Spokane will accomplish this.

Sincerely,

Bishop Martin D Wells
Evangelical Lutheran Church in America
Eastern Washington and Idaho Synod



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 23, 2012

The Honorable Maria Cantwell
U.S. Senator
311 Hart Senate Office Building
Washington, DC 20510

Dear Senator Cantwell:

Thank you for your recent letter regarding the potential impacts of proposed bulk commodity export terminals in Washington State on our transportation system.

As the state transportation agency, it is the responsibility of Washington State Department of Transportation (WSDOT) to provide a safe and efficient transportation system that supports jobs, our economy and residents' quality of life. Your letter raised excellent questions about the impact increased coal trains may have on that transportation system; questions that we expect to be addressed through the environmental review process.

WSDOT will be working with the co-leads for the environmental review of the proposed projects – the U.S. Army Corps of Engineers, the Washington State Department of Ecology and the relevant counties — to ensure the impact on our transportation infrastructure is given appropriate consideration through the formal Environmental Impact Statement (EIS) scoping process. We have already been in communication with the co-leads, and when the scoping process begins later this summer we will formally make the request that the implications of increased freight rail traffic to the state's transportation system be considered in the environmental analysis, together with the potential benefits to freight movement in Washington. We envision providing information about local impacts associated with site development and traffic impacts and conflicts between rail, ferries and roads.

It is also worth noting that we have confidence that the Burlington Northern Santa Fe Railway (BNSF) will continue to provide passenger rail access for the Amtrak Cascades train service per the Service Outcome Agreement we have with them. WSDOT's Service Outcome Agreement with BNSF guarantees 88 percent on-time performance for all of our scheduled passenger service for the North and South corridors by 2017. These agreements support passenger rail system performance related to the state's High-Speed Intercity Passenger Rail projects.

The Honorable Maria Cantwell

July 23, 2012

Page Two

Again, I appreciate you sharing your concerns and can assure you that WSDOT shares your view that potential impacts to the transportation system should be given appropriate consideration. Those impacts are best addressed through the EIS process and we will work with the co-leads to ensure that consideration is given.

Sincerely,



Paula J. Hammond, P.E.
Secretary of Transportation

PJH:jaa

cc: Mark Rupp, Governor's Office
Steve Reinmuth, WSDOT
Allison Camden, WSDOT
Megan White, WSDOT

RESOLUTION No. **36962**

Amend Resolution for City policy opposing coal trains traveling through the City of Portland to add a section on Health Impact Assessment (Resolution; amend Resolution No. 36959)

WHEREAS, substitute Resolution No. 36959, which opposes coal trains traveling through the City of Portland until a programmatic, comprehensive and area-wide Environmental Impact Statement is completed, was adopted on September 19th, 2012; and

WHEREAS, Resolution No. 36959 inadvertently omitted an action item that had been noticed to the public and referenced in the findings; and

WHEREAS, the omitted action item indicated that the City of Portland supports the development and review of a comprehensive Health Impact Assessment prior to approval of coal export permits by any state, regional or federal agency.

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 36959, which opposes coal trains traveling through the City of Portland, is amended to add a sentence in the Be It Resolved Section that states:

"BE IT FURTHER RESOLVED that the City of Portland supports the development and review of a comprehensive Health Impact Assessment prior to approval of coal export permits by any state, regional or federal agency."

BE IT FURTHER RESOLVED, that all other terms and provisions of Resolution No. 36959 remain the same and are not affected by this amendment.

OCT 04 2012

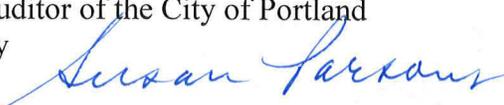
Adopted by the Council:

Commissioner Fritz
Prepared by: Thomas Bizeau
Date Prepared: Sept. 27th, 2012

LaVonne Griffin-Valade

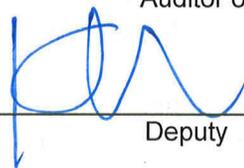
Auditor of the City of Portland

By


Deputy

Agenda No. **36962**
RESOLUTION NO.
 Title

Amend Resolution for City policy opposing coal trains traveling through the City of Portland to add a section on Health Impact Assessment (Resolution; amend Resolution No. 36959)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Comm Fritz</p>	<p>CLERK USE: DATE FILED <u>SEP 28 2012</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz <i>T. Boyce</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By:  _____ Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: N/A Bureau Head:</p>	<p>ACTION TAKEN:</p>
<p>Prepared by: Milena Malone Date Prepared: September 26, 2012</p>	
<p>Financial Impact & Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date October 4, 2012</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan</p>	

AGENDA

TIME CERTAIN
Start time: _____

Total amount of time needed: _____
 (for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	_____	_____
Adams	Adams	✓	

Congress of the United States
House of Representatives
Washington, DC 20515-4701

January 16, 2013

Colonel Anthony C. Funkhouser
Commander, Northwest Division
U.S. Army Corps of Engineers
P.O. Box 2870
Portland, OR 97208-2870

Colonel Bruce A. Estok
Commander, Seattle District
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

Colonel John W. Eisenhower
Commander, Portland District
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, OR 97208-2946

Dear Col. Funkhouser, Col. Estok, and Col. Eisenhower:

I write to urge the U.S. Army Corps of Engineers (Corps) to conduct a thorough and comprehensive cumulative impact analysis of the several proposed new export terminals in the Northwest region.

There are permit applications pending before the Corps for three new export terminal projects in Washington and Oregon. It is my understanding that the terminals would be used to transport coal that is mined in Wyoming and Montana to countries overseas. If approved, these projects would significantly impact the surrounding communities in the Northwest. Among the potential effects include heightened rail traffic, impacts to public health and natural resources, and effects on cultural resources.

Given that there are a number of distinct projects all being considered in the same region, I encourage the Corps to conduct a separate analysis that examines the cumulative impact of the proposed projects together. Consistent with the National Environmental Policy Act (NEPA), an analysis in this situation should consider the environmental impacts from past, present and reasonably foreseeable future actions. I believe that it is essential to understand the collective impact that these export terminals would have, including any relevant overlapping effects, to objectively evaluate the concerns and opportunities that come with such large projects.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Suzan DelBene". The signature is written in black ink and is positioned above the printed name.

SUZAN DELBENE
Member of Congress



January 21, 2013

Via Overnight Mail, Website Comment Form, and Email

GPT/BNSF Custer Spur EIS Co-Lead Agencies
c/o CH₂M Hill
1100 - 112th Avenue N.E., Suite 400
Bellevue, WA 98004
comments@eisgatewaypacific.gov

Re: Scoping Comments on Proposed Gateway Pacific Coal Terminal Facility and Custer Spur Rail Expansion Project

Greetings:

On September 21, 2012, the U.S. Army Corps of Engineers, the Washington State Department of Ecology, and Whatcom County Planning and Development Services announced their intent to prepare a Joint Environmental Impact Statement on the proposed Gateway Pacific Coal Terminal Facility and Custer Spur Rail Expansion Project. 77 Fed. Reg. 58531 (Sept. 21, 2012). The following scoping comments are submitted on behalf of Climate Solutions, Columbia Riverkeeper, RE Sources, National Wildlife Federation, Greenpeace, Sierra Club, Friends of the Columbia Gorge, Center for Biological Diversity, Washington Environmental Council, and Oregon Physicians for Social Responsibility to help the local, state, and federal agencies identify issues that must be addressed during the environmental review process. The commenters are all non-profit organizations dedicated to (1) protecting the environment and natural resources of Washington state and the Pacific Northwest region; (2) ensuring that all citizens of Washington and the Pacific Northwest have clean and healthy air, water, and communities; (3) seeking positive solutions to the challenge of global climate instability caused by combustion of fossil fuels; and (4) working across the region to stop the mining, transport, shipping, and burning of coal. These joint scoping comments supplement any individual comment letters submitted by each signatory group. We appreciate the opportunity to provide these comments and supporting materials.

We are deeply concerned about a decision that will authorize the construction of a new coal export terminal at Cherry Point and allow Gateway Pacific to export approximately 48 million metric tons of coal annually. Either alone or combined with other announced or pending proposals to build major coal export facilities in Washington and Oregon, the decision to authorize construction at Cherry Point will undercut Washington state's considerable efforts to combat climate instability and promote sustainable alternatives. Once burned in a coal-fired power plant or other industrial boiler, 48 million tons of coal will generate approximately 90.6 million tons of CO₂ annually. This one facility will cause Washington state to dramatically

increase its carbon footprint, in plain contravention of the state's repeated commitment to reduce its total greenhouse gas emissions.

As the lead agencies are well aware, citizen attendance at the scoping meetings throughout the state was unprecedented. Thousands of people testified about their concerns about the harmful impacts from the project—concerns stemming from global climate change to regional aquatic impacts to local traffic congestion. Many focused on human health concerns, and many who attended these meetings came from outside Washington, as this project will impact people living in our entire region. Heightened concern came from many tribal governments, who have ties to the lands and water at issue since time immemorial, and whose sovereign status gives them a powerful voice opposing this project.

On a separate CD, we have included the letters and resolutions from federal, state, local, and tribal government officials calling for full environmental review of this and all proposed coal export terminals in Washington and Oregon. Collectively, these exhibits (LR-1 to LR-94) demonstrate widespread concern and controversy over the proposed coal export terminals. Additionally, many local and national newspapers have written editorials asking for full environmental review of these coal export projects. See <http://www.powerpastcoal.org/news/>.

In these scoping comments, we raise specific issues and impacts that we feel the agencies must consider. At the outset, however, we want to stress our concern about the geographic scope of the environmental review. While this project might be physically located in Whatcom County, Washington, the area of impact is much greater. On the terrestrial side, the rail impacts, including rail traffic and emissions, stem from mine mouth in the Powder River Basin through communities in Montana, Idaho, and Washington. In the Powder River Basin, impacts include increased mining, coal supply, and pricing. On the marine side, impacts from coal shipping, including ocean-going vessel traffic and emissions, risks of collisions, and impacts to near-shore environments, extend from the docks at Cherry Point through the San Juan Islands to the final destination in Asia. And from an atmospheric perspective, the agencies must evaluate the input of 90.6 million tons of CO₂ annually into our air, bringing increased air-borne mercury deposition in the Northwest and increased global greenhouse gas (GHG) emissions associated with combustion of coal. We also reiterate our call for an area-wide environmental impact statement to review the direct, indirect, and cumulative impacts of all proposed coal export terminals in the Pacific Northwest.

As President Obama urged in his second inaugural address on January 21, 2012,

We, the people, still believe that our obligations as Americans are not just to ourselves, but to all posterity. We will respond to the threat of climate change, knowing that the failure to do so would betray our children and future generations. Some may still deny the overwhelming judgment of science, but none can avoid the devastating impacts of raging fires, and crippling drought, and

more powerful storms. The path towards sustainable energy sources will be long and sometimes difficult. But America cannot resist this transition; we must lead it. We cannot cede to other nations the technology that will power new jobs and new industries—we must claim its promise. That is how we will maintain our economic vitality and our national treasure—our forests and waterways’ our croplands and snowcapped peaks. That is how we will preserve our planet, commanded to our care by God. That’s what will lend meaning to the creed our fathers once declared.

This project, individually and in combination with other proposed coal export facilities will cause vast and harmful impacts to the air, water, marine environment, fish and wildlife, economics, public health, culture, and communities across our region. Its added harm to global climate change and Washington state’s leadership role in addressing causes of climate change directly contradicts the vision set out by President Obama. Full evaluation of all direct, indirect, and cumulative impacts of the Gateway Pacific Terminal is the first step toward reasoned decision-making that we believe will ultimately reject this project proposal.

I. BACKGROUND ON THE GATEWAY PACIFIC TERMINAL

Gateway Pacific Terminal is proposed by Pacific International Terminals, a subsidiary of SSA Marine, and is affiliated with Peabody Coal.¹ The proposed Gateway Pacific Terminal would be located in Whatcom County, Washington, in an area known as Cherry Point. The entire Cherry Point area is a sacred site to the Lummi Indian Nation. The terminal proposal would be developed on approximately 350 acres and would include a three-berth, deep-water wharf. The primary export commodity would be coal mined in the inland Powder River Basin of Montana and Wyoming. Proposed upland facilities would include open and covered storage, each serviced by rail. A system of conveyors would connect the coal storage areas to the trestle and wharf. The upland facilities would also contain rail unloading facilities, roadways, service buildings, storm water treatment facilities, and utility infrastructure. Gateway Pacific estimates that development of these facilities will impact approximately 145 acres of wetlands and numerous ditches.

Coal would be delivered to the Gateway Pacific Terminal by rail on the existing Burlington Northern Santa Fe (BNSF) Railway’s Custer Spur line from the Bellingham subdivision main line. BNSF Railway proposes to upgrade the Custer Spur line with additional tracks and sidings, which will impact approximately 17 acres of wetlands, and involve modifications to two creek crossings and several ditches.

¹ See Gateway Pacific Terminal, <http://gatewaypacificterminal.com/>; *Cherry Point Shipping Terminal Signs Its First Customer*, Cascadia Weekly, March 2, 2011, available at http://www.cascadiaweekly.com/entertainment/cherry_point_shipping_terminal_signs_its_first_customer_a_coal_exporter.

This is not the first proposal from Pacific International Terminals for an export facility at Cherry Point. In 1997, three conservation groups (Washington Environmental Council, League of Women Voters of Bellingham/Whatcom County, and North Cascades Audubon Society), the Washington Department of Ecology, and the Washington Department of Fish and Wildlife, appealed Whatcom County's issuance of the Shoreline Substantial Development Permit for an earlier iteration of the Gateway Pacific Terminal—one that notably did not include coal export. These appeals were ultimately resolved through a 1999 settlement agreement, which was primarily designed to address the impacts that the Gateway Pacific Terminal (as then proposed) would have on the aquatic environment in Puget Sound, including the Cherry Point herring stock and its spawning habitat in the area of the proposed project.² In the settlement, PIT made a series of commitments for further studies and mitigation measures, the vast majority of which have never been completed.³

II. THE THREAT OF CLIMATE CHANGE HAS SPURRED WASHINGTON'S COMMITMENT TO GREENHOUSE GAS REDUCTION.

In 2007, the United Nations' Intergovernmental Panel on Climate Change (IPCC) released its frequently cited report reflecting the new scientific consensus that unrestrained greenhouse gas emissions causes global warming. As summarized by the U.N. in a press release:

The IPCC, which brings together the world's leading climate scientists and experts, concluded that major advances in climate modeling and the collection and analysis of data now give scientists "very high confidence"—at least a nine out of ten chance of being correct—in their understanding of how human activities are causing the world to warm. This level of confidence is much greater than the IPCC indicated in their last report in 2001. The report confirmed that it is "very likely" that greenhouse gas emissions have caused most of the global temperature rise observed since the mid-twentieth century. Ice cores, going back 10,000 years, show a dramatic rise in greenhouse gases from the onset of the industrial age. The co-chair of the IPCC working group stated, "There can be no question that the increase in these greenhouse gases are dominated by human activity."

² At one time, the Cherry Point herring stock was the largest herring stock in Washington state; however, it has declined considerably over the last two decades. Pacific herring are highly sensitive to noise, light, and disturbance caused by human activities, and construction and operation of the Gateway Pacific Terminal will disrupt herring near-shore movement, schooling, and spawning, impacting the already diminished herring spawning and recruitment success.

³ Exh. 161, Settlement Agreement (March 1996); Exh. 160, A Review of Environmental and Safety Impact Documents for the Proposed Gateway Pacific Terminal (Aug. 1997).

The United Nations went on to summarize the key findings of the report:

The report describes an accelerating transition to a warmer world—an increase of three degrees Celsius is expected this century—marked by more extreme temperatures including heat waves, new wind patterns, worsening drought in some regions, heavier precipitation in others, melting glaciers and arctic ice, and rising global average sea levels.

Scientific analysis since then has demonstrated that the urgency to act on climate impacts is even greater than it was in 2007. The Copenhagen Climate Science Congress, attended by 2,000 scientists, concluded with this “Key Message 1:”

Recent observations confirm that, given high rates of observed emissions, the worst-case IPCC scenario trajectories (or even worse) are being realized. For many key parameters, the climate system is already moving beyond the patterns of natural variability within which our society and economy have developed and thrived. These parameters include global mean surface temperatures, sea-level rise, ocean and ice sheet dynamics, ocean acidification, and extreme climatic events. There is a significant risk that many of the trends will accelerate, leading to an increasing risk of abrupt or irreversible climatic shifts.⁴

Numerous studies predict severe impact from climate change in Washington state, including dramatic reductions in snowpack, declining river flows, increased deaths from temperatures and air pollution, increased risk of wildfires, loss of salmon and shellfish habitat, lost hydropower generation, and flooding. In 2006, Washington commissioned a study “Impacts of Climate Change on Washington’s Economy,” which found that the cost of climate impacts would reach \$3.8 billion annually by 2020.⁵ The state Department of Ecology in 2009 summarized recent scientific studies specific to the Pacific Northwest as follows: “Each [of the studies] shows that without additional action to reduce carbon emissions, the severity and duration of the impacts due to climate change will be profound and will negatively affect nearly every part of Washington’s economy.”⁶

In February 2012, Washington Governor Christine Gregoire convened the Washington State Blue Ribbon Panel on Ocean Acidification to chart a course for addressing the causes and consequences of acidification. The Governor charged the Panel to:

⁴ International Scientific Congress Climate Change: Global Risks, Challenges, and Decisions (Mar. 12, 2009).

⁵ Available at <http://www.ecy.wa.gov/pubs/0701010.pdf>.

⁶ Available at <http://www.ecy.wa.gov/pubs/0901006.pdf>.

- Review and summarize the current state of scientific knowledge of ocean acidification,
- Identify the research and monitoring needed to increase scientific understanding and improve resource management,
- Develop recommendations to respond to ocean acidification and reduce its harmful causes and effects, and
- Identify opportunities to improve coordination and partnerships and to enhance public awareness and understanding of ocean acidification and how to address it.

The Panel released its report and recommendations in the document Washington State Blue Ribbon Panel on Ocean Acidification (2012): *Ocean Acidification: From Knowledge to Action*, Washington State's Strategic Response, H. Adelsman and L. Whitely Binder (eds). Washington Department of Ecology, Olympia, Washington.⁷

In November 2012, Governor Christine Gregoire issued an Executive Order⁸ acknowledging the particular harm that ocean acidification, caused by increased emissions of greenhouse gases into the atmosphere, inflicts on Washington. “[I]t is critical to our economic and environmental future that effective and immediate actions be implemented in a well-coordinated way and that we work collaboratively with federal, tribal, state, and local governments, universities, the shellfish industry, businesses, the agricultural sector, and the conservation/environmental community to address this emerging threat. The Executive Order specifically directs “[t]he Office of the Governor and the cabinet agencies that report to the Governor to advocate for reductions in emissions of carbon dioxide at a global, national, and regional level.”

This warming threatens major environmental impacts in Washington, the Pacific Northwest, and worldwide. According to the U.S. Global Change Research Program (GCRP), climate change could affect the Pacific Northwest, including western Washington, by causing “declining springtime snowpack lead[ing] to reduced summer streamflows, straining water supplies, [and] ... increased insect outbreaks, wildfires, and changing species composition in forests [that] will pose challenges for ecosystems and the forest products industry.”⁹ In the northwestern United States, “salmon and other coldwater species will experience additional

⁷ Available at <https://fortress.wa.gov/ecy/publications/SummaryPages/1201015.html>. The technical summary (Feely, R.A., T. Klinger, J.A. Newton, and M. Chadsey (2012): *Scientific Summary of Ocean Acidification in Washington State Marine Waters*. NOAA OAR Special Report) is available at <https://fortress.wa.gov/ecy/publications/SummaryPages/1201016.html>.

⁸ Available at http://www.governor.wa.gov/execorders/eo_12-07.pdf.

⁹ Exh. 165, U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, at 135-38 (Thomas R. Karl et al., eds., 2009), available at <http://downloads.globalchange.gov/usimpacts/pdfs/climate-impacts-report.pdf>.

stresses as a result of rising water temperatures and declining summer streamflows.” *Id.* at 136. Global warming also could profoundly affect the health of western fisheries, by “hamper[ing] efforts to restore depleted salmon populations,” *id.* at 137.

Concentrations of CO₂ in the atmosphere “are projected to continue increasing unless the major emitters take action to reduce emissions.” Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496, 66,539 (Dec. 15, 2009). The U.S. Environmental Protection Agency recognized the cumulative nature of both the climate change problem and the strategies needed to combat it:

[N]o single greenhouse gas source category dominates on the global scale, and many (if not all) individual greenhouse gas source categories could appear small in comparison to the total, when, in fact, they could be very important contributors in terms of both absolute emissions or in comparison to other source categories, globally or within the United States. If the United States and the rest of the world are to combat the risks associated with global climate change, contributors must do their part even if their contributions to the global problem, measured in terms of percentage, are smaller than typically encountered when tackling solely regional or local environmental issues.

Id. at 66,543 (emphasis added). Consistent with this finding, the Ninth Circuit has rejected the argument that individual actions represent too minor of a contribution to the global problem to merit consideration under NEPA: “The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct. Any given rule setting a [vehicle fuel-efficiency] standard might have an ‘individually minor’ effect on the environment, but these rules are ‘collectively significant actions taking place over a period of time.’” *Ctr for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008) (internal citations omitted).

Both the United States and Washington have sought to meet the challenge of climate change with a variety of statutory and regulatory actions to reduce our reliance on fossil fuels and promote conservation and alternatives. At the federal level, EPA has responded with a formal finding that greenhouse gases endanger the public health and welfare, 74 Fed. Reg. 66496 (Dec. 15, 2009), the first step in comprehensively regulating greenhouse gases under the federal Clean Air Act. EPA has already issued some regulations relating to reducing emissions from both mobile and stationary sources, including the June 2010 “tailoring rule” governing federal Clean Air Act requirements for greenhouse gas emissions from stationary sources, 75 Fed. Reg. 31514 (June 3, 2010), passenger vehicle rules, *see, e.g.*, 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Full Economy Standards, 77 Fed. Reg. 62,624 (Oct. 15, 2012), and proposed rules for power plants, *see* Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources, 77 Fed. Reg. 22,392 (April 13, 2012).

Washington adopted greenhouse gas reduction standards via legislation adopted in 2008. *See* RCW 70.235.070(1)(a). The statute establishes that by 2020, emissions shall be reduced to 1990 levels. By 2035, greenhouse gas emissions are to be 25 percent below 1990 levels and by 2050, they are to be 50 percent below 1990 levels. The state legislature has consistently reinforced its concern for greenhouse gas impacts on Washington's climate and economy, for example: a) by taking measures to triple the number of green jobs by 2020; b) adopting a clean car standard that will reduce greenhouse gas emissions from mobile sources; c) dramatically increasing efficiency requirements for buildings; d) helping communities reduce greenhouse gas emissions by saving energy; e) requiring all state agencies to inventory and reduce emissions; f) funding planning for climate change mitigation and adaptation; g) creating tax and other financial incentives to support low-carbon alternative energy sources; h) requiring new power plants to meet an "emissions performance standard" for greenhouse gases; and i) requiring new power plants mitigate 20 percent of life-time greenhouse gas emissions from the power plant. These legislative actions have been supplemented by a number of Executive Orders promoting reduction of greenhouse gas emissions and increasing the availability of energy alternatives.¹⁰ In addition, the citizens of Washington passed I-937, mandating 15 percent of all electricity energy to come from renewable energy and energy efficient sources by 2020.

In short, both the United States and Washington have made firm and clear commitments to address the causes of climate change and have committed to promote alternatives to projects that generate greenhouse gas emissions and mitigate those that cannot be avoided. The proposal to construct a coal export terminal with massive direct and indirect greenhouse gas emissions needs to be evaluated in light of those statutory and regulatory commitments.

III. FEDERAL AND STATE LAW REQUIRES AGENCIES TO FULLY DISCLOSE AND CONSIDER ALL ENVIRONMENTAL IMPACTS FROM PROPOSED PROJECTS, INCLUDING CLIMATE IMPACTS FROM GHG EMISSIONS.

A. The National Environmental Policy Act

Section 102(2)(C) of the National Environmental Policy Act (NEPA) establishes an "action-forcing" mechanism to ensure "that environmental concerns will be integrated into the very process of agency decisionmaking." *Andrus v. Sierra Club*, 442 U.S. 347, 350 (1979). Pursuant to that statutory provision, "all agencies of the Federal Government shall ... include in every recommendation or report on ... major Federal actions significantly affecting the quality of the human environment, a detailed statement" known as an environmental impact statement (EIS) addressing "the environmental impact of the proposed action, any adverse environmental impacts which cannot be avoided ..., alternatives to the proposed action," and other environmental issues. 42 U.S.C. § 4332.

¹⁰ The laws and executive orders are *available at* www.ecy.wa.gov/climatechange/laws.htm.

NEPA has two fundamental purposes: (1) to guarantee that agencies take a “hard look” at the consequences of their actions before the actions occur by ensuring that “the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impact,” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989); and (2) to ensure that “the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision,” *id.* at 349. NEPA “emphasize[s] the importance of coherent and comprehensive up-front environmental analysis to ensure informed decision making to the end that ‘the agency will not act on incomplete information, only to regret its decision after it is too late to correct.’” *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998).

Under NEPA, an EIS must consider direct effects, indirect effects, and cumulative effects. “Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 C.F.R. § 1508.8. The direct effects of an action are those effects “which are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). The indirect effects of an action are those effects “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). For example, “[i]ndirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” *Id.* These types of growth-inducing impacts must be analyzed, even when they are characterized as “secondary.” *City of Davis v. Coleman*, 521 F.2d 661, 676 (9th Cir. 1975) (requiring EIS to address growth-inducing impacts of freeway interchange planned in agricultural area on the edge of urban development). In fact, “[f]or many projects, these secondary or induced effects may be more significant than the project’s primary effects... . While the analysis of secondary effects is often more difficult than defining the first-order physical effects, it is also indispensable.” Fifth Annual Report of the Council on Environmental Quality, 410-11 (Dec. 1974).¹¹

The Council for Environmental Quality (CEQ), which implements NEPA at the federal level, has also issued draft federal guidance on how to evaluate the effects of GHG under NEPA.¹² The Federal Guidance confirms that both direct and indirect greenhouse gas emissions should be evaluated in the context of “cumulative effects” in an EIS if significant. *Id.* at 5

¹¹ Available at <http://www.slideshare.net/whitehouse/august-1974-the-fifth-annual-report-of-the-council-on-environmental-quality>.

¹² Available at http://ceq.hss.doe.gov/nepa/regs/Consideration_of_Effects_of_GHG_Draft_NEPA_Guidance_FINAL_02182010.pdf.

(“Analysis of emissions sources should take account of all phases and elements of the proposed action over its expected life, subject to reasonable limits on feasibility and practicality.”). Under the Federal Guidance, NEPA documents should put direct and indirect greenhouse gas emissions associated with a project in the context of the “aggregate effects of past, present, and reasonably foreseeable future actions” related to climate. *Id.* at 9-10. As the guidance confirms, the duty to evaluate all climate related impacts is not “new.” Rather, climate is an important factor to be considered within NEPA’s existing framework. *Id.* at 11.

B. Washington’s State Environmental Policy Act

In adopting the State Environmental Policy Act (SEPA), the Washington legislature declared the protection of the environment to be a core state priority. RCW 43.21C.010. SEPA declares that “[t]he legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.” RCW 43.21C.020(3). This policy statement, which is stronger than a similar statement in the federal counterpart of NEPA, “indicates in the strongest possible terms the basic importance of environmental concerns to the people of the state.” *Leschi v. Highway Comm’n*, 84 Wn.2d 271, 279-80 (1974).

At the heart of SEPA is a requirement to fully analyze the environmental impact of projects that have a significant impact on the environment. RCW 43.21C.031(1). An EIS is required for any action that has a significant effect on the quality of the environment. WAC 197-11-330. Significance means a “reasonable likelihood of more than a moderate adverse impact on environmental quality.” WAC 197-11-794. The purpose of this analysis is not to generate paperwork. Rather, the EIS allows decision-makers to make judgments based on a fully informed appreciation for the environmental impacts of decisions, the available alternatives, and any mitigation that may be appropriate.

SEPA and its implementing regulations explicitly require consideration of direct and indirect climate impacts. *See* RCW 43.21C.030(f) (directing agencies to “recognize the world-wide and long-range character of environmental problem); WAC 197-11-444 (listing “climate” among elements of the environment that must be considered in SEPA review); *Rech v. San Juan County*, 2008 WL 5510438 (Wash. Shorelines Hearing Bd. June 12, 2008) at *12 n.8 (“We further note an emerging trend in the case law under the National Environmental Policy Act (“NEPA”) and state NEPA analogues in which courts are increasingly requiring agencies to analyze climate change impacts during environmental assessments.”). The Washington Supreme Court has ruled that the state should look to NEPA for guidance. “Since much of the language from SEPA is taken verbatim from NEPA (signed into law January 1, 1970), we look when necessary to the federal cases construing and applying provisions of NEPA for guidance.” *Eastlake Comty. Council v. Roanoke Assocs., Inc.*, 82 Wn.2d 475, 488 n. 5 (Wash. 1973).

SEPA regulations also explicitly direct that environmental impacts outside the jurisdiction of the deciding agency should be considered. WAC 197-11-060(c). Crucially, agencies are required to assess both the direct impacts of the proposal as well as the indirect impacts. WAC 197-11-060(4)(d). For example, when considering a government action, a SEPA document must also consider the effects of private growth that may be encouraged by this government action. *Id.*; *Cheney v. City of Mountlake Terrace*, 87 Wn.2d 338, 344 (1976) (SEPA requires that decision makers consider more than the “narrow, limited environmental impact” of the current proposal...agency “cannot close its eyes to the ultimate probable environmental consequences” of its current action).

In recent years, state and federal agencies have made efforts to better define how climate analysis should be performed, and to provide tools to enable agencies to meaningfully assess and mitigate the greenhouse gas contribution of proposed projects. For example, in late 2008, Ecology and the State’s Department of Community, Trade and Economic Development (CTED) issued a “comprehensive plan to address the challenges and opportunities of climate change.” (2008 Climate Plan).¹³ That plan recognized the increasing pressure on local governments to better identify climate impacts in their SEPA analyses, and noted that SEPA analysis provided an opportunity to evaluate climate impacts of government decisions and to identify changes to proposals to reduce or mitigate those impacts. *Id.* at 50.

Also in 2008, a governor-appointed working group provided a list of recommendations on how to ensure that climate change is considered in meeting SEPA’s directives.¹⁴ Notably, those recommendations identified the following categories of greenhouse gas emissions to be considered pursuant to SEPA: a) off-site mining of materials purchased for the project; b) transportation of raw materials to the project, and transport of the final product offsite; c) use of products sold by proponent to consumers or industry, including “emissions generated from combustion of fuels manufactured or distributed by the facility.” *Id.* at App. D.

Ecology recently issued draft SEPA guidance for considering greenhouse gas emissions.¹⁵ That Draft Guidance confirms that SEPA is a crucial tool in helping the state and political subdivisions “address the threats that greenhouse gas emissions and climate changes pose to our health, our economy, and our environment.” *Id.* at 2. In fact, the Draft Guidance specifically observes that the failure to evaluate the climate impacts of a proposal “could result in a successful legal challenge regarding the adequacy of an agency’s review.” *Id.*

¹³ Available at <http://www.ecy.wa.gov/pubs/0801025.pdf>.

¹⁴ Available at http://www.ecy.wa.gov/climatechange/2008CATdocs/IWG/sepa/103008_sepaiwg_report.pdf.

¹⁵ Available at <http://www.ecy.wa.gov/climatechange/sepa.htm>.

Accordingly, the Draft Guidance makes clear that SEPA requires climate to be considered in its environmental analysis. Specifically, agencies should consider “if and how” greenhouse gases will contribute to environmental impacts and “how those impacts could be mitigated.” *Id.* at 7-8. The Draft Guidance notes that SEPA’s substantive authority “may be used to deny a proposal if the proposal will result in significant environmental impacts identified in a final or supplemental EIS and reasonable mitigation measures are insufficient to mitigate the identified impacts.” *Id.* at 10.

Ecology’s Draft Guidance makes clear that climate impacts cannot be ignored simply because they are a step removed from the decision under review. It defines “Scope Three” emissions as those that are produced as a consequence of the activities in the proposal, albeit from sources not owned by the proponent or that are not part of the proposal itself. *Id.* at 12. While noting that “Scope Three” emissions may be harder to calculate, the Draft Guidance acknowledged that these emissions “can be critically important to consider when reviewing the overall long-term greenhouse gas emissions associated” with a proposal. *Id.*

The Draft Guidance proposes that the documents consider whether the proposal will “significantly contribute” to greenhouse gas concentrations, “either directly, indirectly, or cumulatively.” While it does not propose a particular numerical threshold at which greenhouse gas emissions become “significant,” it references the federal NEPA climate guidance, which proposes a significance threshold of 25,000 tons/year of CO₂ equivalent. Projects with emissions above this threshold should be considered in a full EIS if not mitigated. It should be noted that states like California have proposed far lower thresholds under their own state NEPA provisions, and that many national and regional conservation organizations have opposed the proposed CEQ threshold as too high.

Most recently, Ecology re-issued the Draft Guidance in the form of a “working paper.”¹⁶ That working paper provides a “table of tools” that can be used to calculate emissions from projects. That Table, in turn, lists various sources of emissions from projects, methods to calculate those emissions, and options to mitigate them. Included on that list is the “extraction, processing and transportation” of raw materials and feedstocks, and “emissions from the future combustion of fossil fuels,” which is defined to include “emissions that will result from the combustion of fossil fuels transported, distributed or imported as a result of the project (*e.g.*, natural gas pipeline).” *Id.* at 2; *see also id.* at 3 (including emissions from “combustion of fuels distributed by a proposed facility” as an emission that should be quantified and mitigated in SEPA documents).

¹⁶ Available at <http://www.ecy.wa.gov/climatechange/sepa.htm>.

C. The Agencies Are Legally Obligated to Evaluate Direct, Indirect, and Cumulative Climate Impacts.

While the Washington Courts have not yet had an opportunity to evaluate the obligation to consider indirect climate impacts under SEPA, such questions arise regularly under NEPA and parallel laws in other states. Washington courts regularly turn to federal NEPA interpretations for guidance on interpreting SEPA. *See, e.g., Gebbers v. Okanogan PUD No. 1*, 144 Wn. App. 371 (2008).

In a landmark 2008 case, the Ninth Circuit Court of Appeals—which has jurisdiction over Washington state—found that a federal agency violated NEPA when it failed to prepare a full EIS on proposed corporate average fuel economy (CAFÉ) standards for light trucks. *Center for Biological Diversity*, 538 F.3d 1172. There, the Ninth Circuit rejected the argument that individual actions represent too minor of a contribution to the global problem to merit consideration. Even more recently, the Ninth Circuit again emphasized that “‘reasonably foreseeable future actions need to be considered [under NEPA] even if they are not specific proposals.’” *N. Plains Res. Council v. Surface Transp. Bd.*, 668 F.3d 1067, 1079 (9th Cir. 2011) (quoting EPA guidance document).

Several cases confirm that NEPA requires evaluation of climate-related impacts even where those impacts are only indirectly related to the project under review. For example, in *Mid-States Coalition for Progress v. Surface Transportation Board*, 345 F.3d 520 (8th Cir. 2003), the Eighth Circuit Court of Appeals invalidated an EIS for a rail construction project intended to supply coal from the Powder River basin to power plants because it failed to analyze the emissions of burning the coal that would be transported by the rail project. The Court found that the project was likely to affect the country’s long-term demand for coal and hence the impacts of coal burning should have been considered in the EIS.

Similarly, in *Border Plant Working Group v. Department of Energy*, 260 F. Supp. 2d 997 (S.D. Cal. 2003), a federal district court invalidated a decision to approve transmission lines that would connect proposed power plants in Mexico to the U.S. power grid because indirect effects were not considered. The Court found that the decision violated NEPA because decision-makers failed to consider the impacts of the operation of the Mexican power plants—including impacts on air quality and climate—that were closely linked to the transmission lines. The Court found that the operation of the power plants were an “indirect effect” of the transmission line project because the two were causally linked. The Court specifically struck down the agency’s decision that the project’s impacts were too minimal to require preparation of an EIS. *Id.*

The impacts of exporting coal are not limited to the climate impacts of its use in overseas power plants. A valid SEPA analysis must also consider the climate and other air emissions of transporting these huge volumes of coal. Each trip of a fully loaded container ship to China, for example, uses around 500 tons of bunker fuel per trip, generating both significant CO₂ emissions

in its own right as well as a variety of toxic and harmful air emissions, including diesel particulates that are highly damaging to human health as well as black carbon, one of the most potent greenhouse pollutants in existence. These kinds of impacts are “indirect effects” of the decision to authorize the coal export facility and should be evaluated in an EIS, along with any appropriate mitigation.

The EIS must also include discussion of the impacts of mercury deposition that will be caused by the burning of this increased volume of coal. Coal burned in Asia is a major source of mercury contamination in the Columbia River basin.¹⁷ Mercury is a highly toxic pollutant that bioaccumulates and poses severe health hazards, especially to pregnant mothers and small children. In particular, mercury contamination in salmon is a critical issue for Indian tribes in the Columbia basin.

There are also extraordinary environmental impacts from mining coal and transporting it by rail to Cherry Point. Mining, of course, causes a broad array of environmental harms through contamination of air, surface and groundwater, and publicly owned lands.¹⁸ Transportation of coal over long distances also has significant environmental impacts, including the fossil fuel consumption of moving large volumes of material over long distances. Moreover, data shows that open coal trains lose huge volumes of coal dust during transportation. Such discharges would add to air quality problems along the rail route. According to BNSF studies, 500 to 2,000

¹⁷ See Jaffe, D. et al., “Atmospheric mercury from China,” *Atmos. Evt.* Vol. 39, 3029-38 (2005). The U.S. EPA’s 2009 Columbia River State of the River Report for Toxics explains: “Based on available data, atmospheric deposition appears to be the major pathway for mercury loading in the Columbia River Basin. Mercury air deposition includes both emissions from industrial facilities within and near the Basin and fallout from the pool of global mercury that has been transported from sources as far away as Asia and Europe. EPA estimates that the total mercury air deposition in the Columbia River Basin is 11,500 pounds per year. Approximately 84 percent of that load comes from global sources.” Report at Sec. 5, p. 16 (*available at* <http://yosemite.epa.gov/r10/ECOCOMM.NSF/Columbia/SORR-STATUS>). Similarly, the Willamette River Total Maximum Daily Load (TMDL) is an in-depth study on what sources contribute mercury to the Willamette River. Under the Clean Water Act, the Willamette is considered “water quality impaired” for mercury, which is why Oregon prepared a TMDL. See Willamette River Mercury TMDL at 3-21 (“The load associated with erosion of native mercury-containing soils (47.8%) and the runoff of atmospherically-deposited mercury from local and global sources (47.7%) represent the two largest mercury inputs to the mainstem Willamette River system.”). Oregon Dep’t of Env’tl. Quality, Willamette River Mercury TMDL, *available at* <http://www.deq.state.or.us/WQ/TMDLs/docs/willamettebasin/willamette/chpt3mercury.pdf>.

¹⁸ See Exh. 128, A Hidden Cost of Coal, Northern Plains Resource Council; Exh. 137, Exporting Powder River Basin Coal: Risks and Costs, Western Organization of Resource Councils (Sept. 2011).

lbs of coal can be lost in the form of dust for each rail car, and coal trains are typically composed of at least 120 cars per train. In other studies, again according to BNSF, as much as three percent of the coal in each car (around 3,600 lbs per car) can be lost in the form of dust.¹⁹ This is a huge volume of coal that will escape into the air and water. Moreover, as with the greenhouse gas impacts, this analysis must be viewed in the context of all existing and reasonably foreseeable similar impacts, including pending proposals to build other coal export terminals in Washington and Oregon.

IV. ALL ISSUES AND IMPACTS CAUSED BY CONSTRUCTION AND OPERATION OF THE GATEWAY PACIFIC TERMINAL MUST BE CONSIDERED IN THE ENVIRONMENTAL IMPACT STATEMENT.

Coal export at the proposed Gateway Pacific Terminal will affect people and places far beyond the immediate construction zone. Every community located along the rail line between the coal mines and Cherry Point will be harmed, and people outside Washington will be affected by the climate impacts of mining, transporting, and ultimately burning this coal. The EIS must, of course, analyze the impacts of coal export at and near the terminal, but it also must analyze the impacts of coal trains and coal use on a much broader scale. This includes the direct, indirect, and cumulative impacts of coal export on public health, public safety, economics, marine health, public investment, and climate change.

The Corps' scoping notice identifies a preliminary list of "potentially significant issues" to include "project specific and cumulative effects on navigation (*e.g.*, vessel traffic and navigational safety); marine aquatic habitats, including state designated aquatic reserves; marine aquatic species, including Endangered Species Act listed species and Washington species of concern; Tribal treaty rights; wetland and riparian habitat and wildlife; railroad and vehicle traffic; cultural, historic, and archeological resources; air and water quality; noise; recreation; land use; and aesthetics." While this list represents a starting point, it appears that the Corps plans to limit the geographic scope of its impacts and alternatives analysis. **To be clear, we believe the joint EIS must examine the full direct, indirect, and cumulative impacts of the proposed Gateway Pacific Terminal from the mining of the coal in the Powder River Basin, the transport of coal by rail through several states and hundreds of communities, the loading and shipping of coal via large ocean vessels, to the burning of the coal in Asia.**

Below we briefly describe the impacts in each category and reference specific documents, reports, and studies that the agencies should consider as they conduct their analysis.

¹⁹ Exh. 112, Hearing Transcript, July 29, 2010, *Arkansas Electric Cooperative Association – Petition for Declaratory Order*, Surface Transportation Board, Docket No. FD 35305, at 42:5-13.

A non-exhaustive collection of documents and reports are included in a CD of materials accompanying this scoping letter for inclusion in the administrative record (Exhibits 1-173).²⁰

A. The Public Health Issues Raised by This Project Are Significant and Harmful.

The public health issues raised by a project of this size and extent include increased air pollution from coal dust (mercury, arsenic, lead, uranium), diesel pollution over different operational lifetime projections for the terminal, soil contamination by coal dust, and increased noise. The EIS should include a specific focus on children, the elderly, and other vulnerable members of the community. A group of health care professionals, Concerned Oregon Physicians, summarized many of the public health impacts in a letter to Oregon Governor Kitzhaber, Exhibits 151-58. These groups have also asked for a health impact assessment.²¹

1. *The Gateway Pacific Terminal, alone or in combination with other proposed coal export facilities, will cause harmful air impacts.*

Air quality impacts and pollution from nitrogen dioxide (NO₂), particulate matter, and coal dust must be analyzed. Expert reports on air quality impacts at a similar proposed project at the Port of Morrow on the Columbia River found that the proposed project “will cause very adverse air quality impacts in both Oregon and Washington.”²² NO₂ exposure can have a wide range of health impacts depending on the length of exposure and various other factors. Epidemiologic research establishes a plausible relationship between NO₂ exposures and adverse health effects ranging from the onset of respiratory symptoms to hospital admission.²³ Particulate matter (PM) refers to a broad class of diverse substances that exist as discrete particles of varying size.²⁴ Such particles are produced by a variety of anthropogenic and natural

²⁰ The exhibits include detailed comments submitted to the Oregon Department of State Lands (Exhs. 1, 108, 116) for the Port of Morrow proposed coal export terminal in Oregon. Many of the issues raised are similar and further support the call for an area-wide environmental review of all proposed coal export projects.

²¹ Health Impact Assessment Information Sheet, *available at* http://coaltrainfacts.org/docs/Health_Impact_Assessment_factsheet_Final.pdf.

²² Exh. 13, AMI Environmental, AERMOD Modeling of Air Quality Impacts of the Proposed Morrow Pacific Project—Final Report (Oct. 2012).

²³ Exh. 14, 76 Fed. Reg. 57105 at 57304; Environmental Protection Agency, Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (EPA/600/R-08/07), 5-15.

²⁴ Exh. 15, Environmental Protection Agency, Integrated Science Assessment for Particulate Matter, 4-2. EPA/600/R-08/139F, December 2009, 76 Fed. Reg. 57105 at 57302; Exh. 147, Health Effects and Economic Impacts of Fine Particle Pollution in Washington, Washington Dep’t of Ecology (Dec. 15, 2009).

sources, though most fine particles are produced by anthropogenic combustion and transformations of gas emissions, like NO_x, in the atmosphere. The composition of the particles can vary greatly and can remain in the atmosphere for weeks and disperse over thousands of miles. Depending on the size, these particles can be inhaled and penetrate the respiratory tract to cause significant adverse health effects. Coal dust contains many harmful components and causes health problems as people are exposed to fugitive coal dust from coal trains, coal storage piles, loading and unloading practices, emissions from dust control systems, and risk of explosion and fire from coal dust.²⁵

Further, a valid NEPA analysis must consider air pollution impacts that specifically accompany transporting and burning coal overseas. Each trip of a fully loaded container ship to China, for example, uses around 500 tons of bunker fuel per trip, generating both significant CO₂ emissions in its own right as well as a variety of toxic and harmful air emissions, including diesel particulates that are highly damaging to human health as well as black carbon, one of the most potent greenhouse pollutants in existence.²⁶ The climate impact of the coal dust must also be analyzed in depth in the EIS, including the potential local and regional albedo and warming impacts.

Exporting coal may also increase the air-quality impacts associated with its combustion. When coal is burned domestically, we can be reasonably certain of the pollution-control regulations to which it will be subject. For example, the Clean Air Act requires new and significantly modified sources of air pollution to install the “best available control technology” for pollutants such as sulfur dioxide, nitrogen oxides, particulate matter, and other pollutants. *See* 42 U.S.C. § 7475(a)(4). Many of the largest and dirtiest coal-fired power plants are subject to new retrofit obligations to reduce their contribution to visibility impairment due to sulfur dioxide and nitrogen oxide emissions. *See id.* § 7491. In addition, recently adopted mercury and air toxics standards will regulate coal-plant emissions of mercury and harmful acid gases. *See* NESHAPs from Coal- and Oil-Fired Electric Utility Steam Generating Units, 77 Fed. Reg. 9304 (Feb. 16, 2012). There is no guarantee that such stringent regulations will be in place in the Asian countries where the exported coal will be sold and burned. As a result, the air pollution impacts of exporting Powder River Basin coal may be far greater than if the coal were to be burned domestically. Yet these impacts will not stay in Asia. Airborne transport of soot, sulfur compounds, mercury, ozone, and other byproducts of coal combustion can travel across the Pacific Ocean and affect the health of western states’ ecosystems and residents. *See* Eric de

²⁵ Exh. 100, Leyda Consulting, Inc., Ecological Impacts of Proposed Coal Shipping on the Columbia River Port of Morrow and Port Westward, Oregon October 2012; Exh. 138, The Fire Below: Spontaneous Combustion in Coal, U.S. Dep’t of Energy (May 1993).

²⁶ Exh. 170, T.C. Bond *et al.*, *Bounding the role of black carbon in the climate system: A scientific assessment*. Journal of Geophysical Research: Atmospheres (on-line version Jan. 15, 2013).

Place, Northwest Coal Exports: Some common questions about economics, health, and pollution (Nov. 2011) at 7.²⁷ These kinds of impacts are “indirect effects” of the shipment of coal and should be evaluated in an EIS along with any appropriate mitigation.

2. *The Gateway Pacific Terminal will harm water resources.*

The EIS must consider effects to all surface and ground water resources within the project area. The EIS must consider all potential water quality impacts (*e.g.*, increased sediment loads, possible spills, coal dust impacts, mercury deposition, changes to alluvial groundwater quality, degradation of drinking well water) and water quantity impacts (*e.g.*, drawdown of aquifers, diversions or diminutions of surface flow, hydrologic changes affecting seeps and springs, drinking water impacts) of Gateway Pacific Terminal’s construction and operation. The agencies should ensure that the EIS describes, in detail, the possible sources of all water needed for the railroad and associated mining activities, including water originating in any over-allocated water source.

The agency also must consider cumulative water resource impacts flowing from reasonably foreseeable coal mines in the Powder River Basin (*e.g.*, disruption of hydrologic systems, pollution impacts), as well as impacts to water resources that would be expected from burning the coal, whether domestically or overseas. In addition to water availability considerations, the EIS must examine the project’s potential impacts to water quality. Contamination of river and drinking water supplies can occur with diesel emissions and diesel spills both during project construction and during the ongoing operation of the project, which relies on continuous activity of trains. In addition, the drinking water supplies can become contaminated from coal dust and coal spills. Coal will be delivered in open top rail cars to the site. Regular movement of uncovered rail cars and the loading and unloading of these cars cause the release of fugitive coal dust, which can further contaminate the water supplies. Construction and operation of the railroad may also result in water quality impacts in the way of increased sedimentation and other changes. The EIS must assess these impacts and detail how federal, state, and local water quality standards will be met, monitored, and maintained.

B. Public Safety Will Be Jeopardized by Construction and Operation of the Gateway Pacific Terminal.

The impacts to public safety run the gamut from increased train traffic and vehicle accidents, increased derailments and concomitant emergency response, travel time delays at specific intersections (including the economic impacts of those delays, and impacts to/delay of emergency services (fire, police, EMT).

²⁷ Available at <http://www.sightline.org/wp-content/uploads/downloads/2012/11/coal-FAQ-November-12.pdf>.

Threats from frequent long trains at rail crossings all along the route from the Powder River Basin and near the project area will mean delayed emergency medical service response times; and increased accidents, traumatic injury and death. Each fully loaded train is over a mile long, and this proposal would significantly increase the daily number of trains along the rail route. These trains will bisect multiple communities along the route, leading to significant traffic delays and potential safety issues at grade-crossings. The delay of only a few minutes for an emergency response vehicle can mean the difference between life and death for citizens in these rural communities. In addition, increased rail traffic will lead to increased collisions between passenger vehicles, pedestrians, and trains; there are approximately 3,000 vehicle collisions with coal trains each year already, and 900 pedestrian accidents.²⁸

Preliminary traffic impact studies have been done for several communities along the proposed rail transportation route, including:

- Exhibit 132, Coal Train Traffic Impact Study, Parametrix (Nov. 2012).
- Exhibit 139, Cherry Point Commodity Export Facility Rail Operations-City of Bellingham, Gibson Traffic Consultants (June 21, 2012).
- Exhibit 140, Cherry Point Coal Export Facility Rail Operations-Burlington, Gibson Traffic Consultants (Aug. 15, 2011).
- Exhibits 141, 142, Cherry Point Coal Export Facility Rail Operations-City of Edmonds, Gibson Traffic Consultants (May 22, 2012).
- Exhibit 143, Cherry Point Coal Export Facility Rail Operations-Marysville, Gibson Traffic Consultants (June 15, 2011).
- Exhibit 144, Cherry Point Coal Export Facility Rail Operations-Mount Vernon, Gibson Traffic Consultants (Sept. 1, 2011).
- Exhibit 145, Cherry Point Coal Export Facility Rail Operations-City of Seattle – Preliminary Report, Gibson Traffic Consultants (Feb. 13, 2012).
- Exhibit 146, Cherry Point Coal Export Facility Rail Operations-Stanwood, Gibson Traffic Consultants (Aug. 8, 2011).
- Exhibit 148, Heavy Traffic Ahead, Western Organization of Resource Councils (July 2012).

In addition to the threat of delay, the EIS must review the threats associated with coal train derailments. There were over 18 derailments of coal trains in the United States in the summer of 2012, including one at Mesa, Washington, near the Columbia River and others across the country that caused fatalities and major coal spills. There is a serious risk to human health from a huge increase in coal train traffic along the route to and from the Powder River Basin and near the project area.

²⁸ Exh. 20, Daniel A. Lashof et al., Natural Resources Defense Council, Coal in a Changing Climate (Feb. 2007).

Coal dust has also been shown to be a cause of rail bed instability and derailments, which can pose a significant public safety hazard. As the Surface Transportation Board (STB), which found coal dust to be “a pernicious ballast foulant,”²⁹ acknowledged in its coal dust proceeding, the quantity of coal emitted by a train into the air, water and onto tracks is not insignificant.³⁰ An average of 500 pounds of coal dust per rail car is lost during each trip. BNSF Railway, Coal Dust Frequently Asked Questions (2011).³¹ Each train is composed of 120 cars or more. *See* Hearing, July 29, 2010, Arkansas Electric Cooperative Association—Petition for Declaratory Order, Surface Transportation Board, Docket No. FD 35305 at 42:5-13. The risk of train derailments is heightened on lines with heavy coal-train traffic. “Coal dust, even in small amounts, poses a real threat to the integrity of the ballast section and track stability.” *Id.* at 46:18-20.³²

The EIS’s analysis of coal dust should include a discussion of the efficacy of surfactants to control coal dust, potential impacts of the use of surfactants to control dust emissions, as well as consequences from not using surfactants. First, although use of surfactants in some contexts is common, their efficacy and safety for use on coal-carrying trains is unproven. Second, surfactants contain myriad undisclosed chemicals, many of whose biological and ecological effects have not yet been adequately studied. Surfactants could cause a number of potential harms, including: danger to human health during and after application; surface, groundwater and soil contamination; air pollution; changes in hydrologic characteristics of the soils; and impacts on native flora and fauna populations. *See* Environmental Protection Agency, Potential Environmental Impacts of Dust Suppressants: Avoiding another Times Beach § 3 (May 30-31, 2002). Third, while BNSF has a voluntary mandate encouraging the use of surfactants, STB proceedings evaluating that practice are ongoing. In the absence of binding regulation, many coal companies are electing not to apply any sort of topping agent.³³ As a result, the use of

²⁹ Exh. 111, Surface Transportation Board Decision, *Arkansas Electric Cooperative Corporation – Petition for Declaratory Order*, Docket No. FD 35305 (Mar. 3, 2011) (available at <http://www.stb.dot.gov/decisions/readingroom.nsf/WebDecisionID/40436?OpenDocument>).

³⁰ The STB has conducted two proceedings related to coal dust, referenced at Docket numbers 35557 and 35305. The latter is ongoing. *See* <http://www.stb.dot.gov/newsrels.nsf/219d1aee5889780b85256e59005edefe/72355569b86fcf0485257950006d6966?OpenDocument>.

³¹ Copy on file with Earthjustice.

³² Exh. 112, Surface Transportation Board Hearing Transcript (STB Hearing Transcript), Re: *Arkansas Electric Cooperative Corporation – Petition for Declaratory Order*, Docket No. FD 35305 (July 29, 2010) (available at [http://www.stb.dot.gov/TransAndStatements.nsf/8740c718e33d774e85256dd500572ae5/9e49ebf2fea431f1852578460066c5cb/\\$FILE/0729stb-exh.pdf](http://www.stb.dot.gov/TransAndStatements.nsf/8740c718e33d774e85256dd500572ae5/9e49ebf2fea431f1852578460066c5cb/$FILE/0729stb-exh.pdf)).

³³ Exh. 12, *Some shippers not complying with BNSF coal dust tariff*, Platts Energy Week, November 3, 2011.

surfactants is not certain, and so the analysis of the impact of coal dust must consider scenarios both without and with any sort of surfactant use.

C. The Overall Economic Impacts of the Gateway Pacific Terminal Are Likely Negative.

The economic impacts of this project must also be reviewed. Issues here include the impact of dramatic increases in coal train traffic on real estate values and damage to property from coal dust, diesel emissions, vibration, and noise. There are also serious concerns relating to the impact of such a massive increase in coal rail traffic on other non-coal shippers of freight by rail, including ports and shippers of agricultural products. These same issues may dramatically affect passenger rail interests. These significant rail traffic increases are likely to create major impacts on communities affected by vehicle traffic problems related to delays at non-grade separated railway crossings, which will affect non-rail freight mobility, access to ports, retailers, tourist centers, and employers.³⁴ On the marine side, there are likely to be significant economic impacts on marine dependent industries such as commercial and tribal fisheries and shellfish growers, tourism, and other businesses.

Hundreds of community and business leaders have expressed their concerns about the economic impacts of the Gateway Pacific Terminal. Washington State Senator Ranker and a dozen other state senators wrote to Washington Department of Ecology Director Ted Sturdevant on November 3, 2011, stating that “[w]e must be fully aware of the potential economic tradeoffs associated with this increased level of transportation. Small and large businesses along rail lines in communities from Spokane, to central Washington to Bellingham could be negatively impacted by significantly increased numbers of rail runs transecting their community.” Exh. LR-10 Port of Skagit Commissioners Ware, Kaufman, and Shuler wrote to former Governor Gregoire that “[e]ven the most cursory review of the Gateway proposal shows that the additional trains required to supply the new terminal with coal will further obstruct traffic, and have a negative impact on economic development in our community leading to a net loss of jobs.” Exh. LR-57. Dow Constantine, King County Executive, noted in a letter to Ted Sturdevant, Director, Washington State Department of Ecology on January 31, 2012 that “key industries like aerospace and international trade rely on the rail corridor to move parts and finished products. Increased use of this corridor by long-haul coal trains could conflict with future rail-dependent economic development, like the plans for 737 MAX production.... Traffic delays will have direct economic impacts that also need to be considered in communities along the rail corridor.” Exh. LR-20.

³⁴ For an unrelated proposed new arena in downtown Seattle, many interests, including Amtrak (Exh. 166) and the Port of Seattle (Exh. 167) have advocated for a broad scope of environmental analysis, including a specific focus on rail and port transportation impacts.

1. *The project, individually and in combination with other proposed coal export projects, will create massive increases in rail traffic for a single commodity, with major impacts on other rail users and affected communities.*

The increased rail traffic associated with shipping at least 48 million metric tons of coal per year at full build out to the Gateway Pacific Terminal (and 54 million tons of all freight) would represent a huge increase in freight rail usage and would likely present significant conflicts with other users of the rail line, including freight and passenger shippers. According to the Washington State Department of Transportation (WSDOT), inbound freight rail traffic totaled 58 million tons in 2010.³⁵ Based on WSDOT's figures, rail tonnage associated with just the Gateway Pacific Terminal at full build out would represent a 94% increase in the inbound rail tonnage on Washington rails. These impacts are even more significant if you take into account the cumulative impacts on a regional perspective. The authors of the *Heavy Traffic Ahead* study, Exh. 148, have estimated that combined rail traffic from the Powder River basin to the proposed northwest coal terminals (including projected growth in British Columbia, Canada) would equal as much as 157 million metric tons per year. This would result in a nearly 200% increase of inbound regional freight rail traffic for just this one commodity. It is critical that the EIS include a full analysis of the cumulative impacts from these proposals, including the capacity of the rail system to handle these increases without significant adverse impacts on other shippers, passenger rail users, and communities.

The most recent analysis of Washington's freight capacity, conducted in 2009 (Exh. 164, Washington State Department of Transportation Freight Rail Plan 2010-2030), indicated that a number of critical sections of track, including the Columbia Gorge and I-5 corridor mainlines and sections from Everett to the Canadian Border, were at or near capacity in 2008 and predicted further congestion by 2028. The Plan specifically identified a number of stretches along the I-5 corridor as, "chronic chokepoints, causing delays that ripple across the entire state and Pacific Northwest rail system." *Id.* at 3-23. A key bottleneck includes the section of line between Everett and the proposed terminal. The project documents indicate that rail traffic at full build out will equal 18 trains per day on this segment (9 full and 9 returning), with 16 trains required for coal. Other key chokepoints are identified in the Plan, the Washington State Transportation Commission's Statewide Rail Capacity and System Needs Study, December 2006 (Exh. 162), and the *Heavy Traffic Ahead* study (Exh. 148). Additional critical bottlenecks include the Central Puget Sound region, the Columbia Gorge, the Spokane-Sandpoint Corridor (known in railroad parlance as "the Funnel," due to the fact that most major east-west rail corridors converge there).

³⁵ WSDOT, Washington State Rail Plan Public Workshop Presentation (Slide 21), November 2012, available at <http://www.wsdot.wa.gov/NR/rdonlyres/9FDB1C42-B024-4554-A4E7-D2328BEB9C92/0/SRPWorkshop112912.pdf>.

Unless mitigated with significant capacity additions, the addition of the massive increases of coal train traffic is likely to present significant adverse impacts on other users of the rail line, including grain and fruit shippers, intermodal users, ports, industries, aircraft manufacturers and passenger rail—all of who are critically dependent on timely and affordable access to the rail system. *Heavy Traffic Ahead*, Exh. 148. Existing state studies indicate that coal rail traffic is already having a significant negative impact on the ability of Washington shippers to access markets where coal traffic from the Powder River Basin is dominating the rail lines; experts working for the state have concluded that “the high volume of coal trains moving east out of the Powder River Basin has made it virtually impossible to route time-sensitive intermodal trains moving from PNW ports to central and southeast gateways such as Kansas City and Memphis through the near continuous flow of slow-moving coal trains. Adjusting to this, BNSF has shifted most intermodal traffic destined to locations south of Chicago to the Ports of Los Angeles and Long Beach.”³⁶ These reports also confirm that the railroad prioritizes unit trains, such as coal trains, over other shippers. The EIS should fully analyze the impacts on northwest shippers if inbound and outbound freight traffic is diverted or eliminated due to the competition with coal trains. Further, the EIS should look at impacts related to diversion of this freight rail traffic to other modes, including trucks and barges.

The EIS must also analyze impacts, mitigation measures and potential funding relating to the use of passenger rail on these same lines. As Exhibit 173 discusses, the Amtrak Cascades Mid-Range Plan (2008), Washington and passenger rail advocates have significant plans for increases of passenger rail capacity, including adding additional high-speed passenger trains on the I-5 corridor. The EIS must analyze how existing and expanded passenger rail uses will be impacted if freight traffic increases.³⁷ The EIS should also consider existing and prospective public funding for rail capacity to purchase passenger rail service. The public has spent billions of dollars in rail improvements to ensure that passenger rail fits with existing capacity, and it is imperative that the EIS fully analyze the past and prospective investments to ensure that public funds are not spent for private purposes.

It will also be necessary to review the need for public investment spurred by this project. Rail infrastructure improvements are anticipated, although it is far from clear how those improvements will be funded. Rail lines and infrastructure will also need to be regularly

³⁶ Communitywise Bellingham, Annotated Bibliography with Key Extracted Pages Studies Relevant to Rail Related Public Policy Concerns Community Impacts, Local Business Impacts, Lack of BNSF Cost Sharing, *available at* <http://www.communitywisebellingham.org/wp-content/uploads/2012/05/CWB-WSDOT-Public-Policy-Concerns-Report.pdf>.

³⁷ Passenger service that may be affected would include, among others, Sound Transit Sounder Commuter services as well as Amtrak intercity service and Empire Builder service between Seattle and Chicago. The Empire Builder service also utilizes “The Funnel” in Spokane, which is expected to see the greatest increase in freight rail traffic because of the coal shipments.

maintained, and there will be mitigation costs for structures such as overpasses, tunnels, and railroad crossings. The EIS must also address whether the public will be expected to bear any costs for infrastructure constructed for private benefits. Federal and State Governments commonly bear a significant share of the costs of freight rail capacity improvement projects.³⁸ The EIS should include all needed capacity improvements that will be required to address at least those areas where the planned coal train traffic will exceed the capacity of the existing system.

Bellingham provides a perfect example of this need. A report prepared for Communitywise Bellingham examines existing state records on capacity improvements that will be needed to address increased traffic on the mainline between the Skagit Valley and the project site. *See* Exh 172, *Potential Local Direct Effects of Increased Coal Train Traffic on BNSF Railway through Bellingham*, prepared by Transit Safety Management, January 17, 2012. As discussed in this report, BNSF and WSDOT have been planning to build a major siding in Bellingham that will result in significant impacts on parks, local businesses, and the affected community. This project, and other projects needed to address capacity bottlenecks to allow the level of freight associated with the Gateway Pacific Terminal, must be studied in the EIS.

2. *The project is likely to create very significant impacts relating to traffic in dozens of impacted communities.*

Numerous studies have confirmed that the massive increases in freight rail traffic for coal export will result in significant adverse impacts on other traffic and freight mobility within affected communities. *See* Exhs. 132, 139-46, 148. Each of these studies concludes that the level and type of coal train traffic associated with this project is likely to cause a number of affected intersections to reach unacceptable levels of service, including many intersections that are projected to reach level of service “D” or “F.” These traffic impacts will cause direct economic losses to effected communities and businesses through interruptions of freight mobility, challenges for customers reaching businesses, and lost employee time. Air pollution impacts related to increased idling and congestion may also directly impact growth in affected communities.

Although these studies show the likelihood of significant adverse impacts in a number of communities, it is imperative that the EIS fully analyze these issues in these and all other communities that are likely to be similarly affected along the entire corridor from the Powder River Basin to the proposed Gateway Pacific Terminal site. These concerns relating to the economic and community impacts from increased traffic are at the heart of many of the dozens of resolutions and letters that have been received from cities, counties, local elected officials, businesses and community leaders along the proposed route.

³⁸ *See* Sightline, January 2013, *Who Pays for Freight Rail Upgrades?* available at <http://daily.sightline.org/2013/01/18/who-pays-for-freight-railway-upgrades/>.

An example of the kind of specific issue that must be evaluated in detail is the potential conflict between the increased coal train traffic and the operation of the Washington State Marine Highway system at the Edmonds ferry terminal. The City of Edmonds, WSDOT, and other stakeholders have all pointed to significant adverse impacts associated with the operation of the ferry terminal due to the lack of grade separation. Because this ferry terminal is a critical link in Washington SR 104, it is very important to freight shippers and other businesses on the Olympic and Kitsap peninsulas. The EIS must look at the potential impacts on businesses and communities that rely on this link and potential mitigation measures.

The EIS must also look at necessary mitigation for these traffic and mobility concerns and the question of who will bear the costs of this mitigation. Under federal law, railroads are generally limited to paying no more than 5% of the costs of grade separated crossings, where at grade crossings are being eliminated. Typically, the railroad pays far less than that amount. Given that the costs of grade separated crossings to address these traffic issues are in the \$10s and \$100s of millions, the EIS must analyze any mitigation that is needed to reflect the huge increases in coal train traffic associated with this project to ensure that the public does not pay for private benefits.

3. *Other economic impacts and risks associated with the project will be significant.*

a. Property valuation

Recent studies have indicated that the massive increases in coal train traffic induced by the proposed terminal may directly result in significant reductions in property values, effecting owners, other taxpayers and effected communities.³⁹ The study conducted by the Eastman Company (property valuation experts and consultants) concludes that property valuation losses are likely to be significant for properties located within 500 feet of the mainline tracks in Whatcom, Skagit, Snohomish, King, and Pierce Counties, due to the impacts related to traffic, safety, vibration, noise, pollution, and stigma and perception issues. For single family residential properties north of Everett (where there are likely to be 18 new train trips daily at full build out), the report authors calculated these property losses in the range of 5-20%. Other estimates included multi-family properties (5-15%); commercial properties (5-10%); and industrial properties (5-8%). The Eastman report also concluded that there would be significant impacts that would be 3-5% less for properties south of Everett, based on their assumption that all return trains would go over Stevens Pass (an option which remains to be confirmed by the project

³⁹ Exh. 133, Increased Coal Train Traffic and Real Estate Values, The Eastman Company (Oct. 30, 2012); Exh. 134, The effect of freight railroad tracks and train activity on residential property values, Robert A. Simons R. & A. El Jaouhari (Summer 2004); Exh. 136, Examining the Spatial Distribution of Externalities: Freight Rail Traffic and Home Values in Los Angeles, Futch, M. (Nov. 11, 2011).

proponent). Using a database of assessed property values in the study area, the Eastman report concluded that even a 1% diminution in property value would result in a loss of approximately \$265 million. Based on this analysis and supporting studies, there is clearly a potential for significant adverse impacts that should be fully evaluated in the EIS. The EIS should look at these issues along the entire corridor, using specific estimates of rail traffic associated with the project, as well as the cumulative impacts of other coal export facilities.

b. Impacts on economies dependent on the marine environment

There are likely to be significant adverse impacts and major risks posed to the Salish Sea and aquatic ecosystems from this project. In addition to the impacts on ecosystems, these issues must be evaluated for the impacts and risks that they pose for marine related businesses and economies, such as commercial, tribal and sports fisheries, shellfish growers, tourism, and other related businesses. These businesses cumulatively provide billions of dollars in positive economic impacts to the state and region.⁴⁰

c. Economic uncertainty and market volatility surrounding coal export

Several studies and reports in the accompanying materials address the speculative and uncertain nature of coal export terminals as a foundation for economic prosperity. *See, e.g.,* Exh. 129, Coal Export: A History of Failure for Western Ports, VandenHeuvel, B. & E. de Place (Aug. 2011). Coal export terminals in Portland and Los Angeles were both shut down at significant taxpayer expense. One of the few terminals shipping thermal coal from the West Coast of the United States—located in Seward, Alaska—recently cutback operations and laid off workers citing adverse international market conditions.⁴¹

Moreover, the EIS should examine the market uncertainty and volatility surrounding coal. Domestic demand for coal has fallen substantially since 2008, as U.S. electricity generators have turned to cleaner burning natural gas, renewable energy, and increased energy efficiency.⁴²

⁴⁰ Exh. 7, National Wildlife Federation, *The True Cost of Coal: The Coal Industry's Threat to Fish and Communities in the Pacific Northwest* (2012) at 9 (recreational fishing accounts for \$2.7 billion a year to the Washington and Oregon economies; commercial fishing in Washington contributed \$3.9 billion to economy).

⁴¹ *Lack of Demand Slows Coal Shipping*, The Seward Phoenix Log, November 29, 2012, available at <http://www.thesewardphoenixlog.com/story/2012/11/29/local/lack-of-demand-slows-coal-shipping/895.html>.

⁴² US Energy Information Administration: *Annual Energy Review*, September 2012, Table 2.1f: Electric Power Sector Energy Consumption, 1949-2011, available at <http://www.eia.gov/totalenergy/data/annual/showtext.cfm?t=ptb0201f>; and December 20, 2012, Quarterly Coal

The reasons for this change undoubtedly include the increasing environmental control costs for burning coal, as well as a growing recognition among companies and financial analysts that mining and burning coal to produce electricity is no longer a viable strategy to produce an acceptable return on investment. The EIS should analyze the extent to which these trends are being followed in the proposed export markets, including the trends to replace coal with renewables, efficiency, and natural gas for energy generation and the impacts on the long term prospects for this project. Potential domestic electricity pricing impacts to U.S. consumers from exporting coal should also be examined.

The EIS should evaluate the purpose and need statement relating to coal export and consider alternatives. It should also evaluate the risk that the proposed terminal may join the other projects that have experienced economic failure, sometimes leaving significant clean up liabilities and unfulfilled expectations for local communities. The EIS should consider potential mitigation measures relating to these risks, including the need for the project proponents to post a bond or provide other security to ensure that communities and local governments are not left with the responsibility for site clean up and other costs in the event of project failure.

Given the substantial market uncertainty related to coal finances and coal export, it appears very likely that project economics may depend on direct subsidies and avoidance of taxes owed to federal and state governments. The authors of Exhibit 169, *The Great Giveaway*, concluded that anti-competitive leasing practices had allowed coal mining companies to avoid \$29 billion in lease payments to the federal government over the past several decades. Coal companies were able to avoid competitive bids for leases due to a loophole excluding the Powder River Basin (the largest coal reserves in the United States) from provisions applying to areas designated as “coal producing regions.” In statements, federal officials admitted that these practices reduced payments from coal companies, but justified it based on the desire to maintain low electricity rates in the United States. Obviously, these concerns do not apply to coal export.

Additionally, new concerns have been raised that federal, state, and tribal governments may be losing millions of dollars in royalties as coal companies base their calculations on low domestic prices, as opposed to much higher prices coal commands overseas. As the rules that govern Powder River Basin sales to Asia come under more rigorous review, projected profits from coal export may significantly decline. *See* Exh. 171, Letter from Senators Wyden and Murkowski to Interior Secretary Salazar re: Federal coal royalty management (Jan. 3, 2013). If these loopholes are fixed, U.S. exported coal prices may not be competitive with other thermal coal exports to the same customers from Australia, Indonesia, and other countries. Pouring private and public investments of money, time, and community good-will into coal export terminals will likely prove a losing decision.

4. *The EIS must review all economic impacts on a regional scale.*

All of these economic impacts beg the question whether the overall economic impacts of the project are positive. As Exhibit 163 shows, *The Impact of the Development of the Gateway Pacific Terminal on the Whatcom County Economy*, the answer to this question is very likely no. This study, by one of the nation's leading economic consulting firms, evaluated the positive economic impacts from the project in Whatcom County, and then compared them to a wide range of negative economic tradeoffs and impacts. It concluded that the overall economic impact would very likely be negative, *even in the county with most of the positive economic benefits*. The EIS should look at the overall economic impacts of the project on a region-wide basis.

D. The Gateway Pacific Terminal Will Increase Harm to Wildlife, Marine, and Aquatic Health.

The EIS must include an analysis of impacts to biological, marine, and aquatic resources on both public and private lands and waters in the affected area, that is, in the area from the mining of the coal in the Powder River Basin, through the rail corridor to the Gateway Pacific coal export terminal, through the loading and shipping of the coal through the Salish Sea, to its final destination and burning in Asia. Such resources include marine and terrestrial mammals, game and non-game resident and migratory bird species, raptors, songbirds, amphibians, reptiles, fisheries, aquatic invertebrates, wetlands, and vegetative communities. The agencies must ensure that up-to-date information on all potentially impacted flora and fauna is made available, so that adequate impact analyses can be completed. Habitat degradation, fragmentation, and loss must all be assessed, along with any resulting impacts to wildlife and marine species.

1. *Construction and operation of the Gateway Pacific Terminal will harm marine health.*

Risks to marine health—including potential harm to the dwindling Cherry Point herring population, threatened salmon species, and endangered killer whales—stem from oil spills from bulk carriers, impacts during construction (seafloor disturbance, increased turbidity, noise, lighting), impacts during operation (coal dust, shading from pier and wharf, toxics from terminal's outfall pipes, night lighting, noise), chosen shipping routes and shipping traffic along those routes,⁴³ and climate change itself.⁴⁴

⁴³ Exh. 130, Assessment of Oil Spill Risk Due to Potential Increased Vessel Traffic at Cherry Point, Washington (Aug. 31, 2008).

⁴⁴ Exh. 135, Effects of local and global change on an inland sea: the Strait of Georgia, British Columbia, Canada, S.C. Johannessen, R.W. Macdonald, *Clim Res* 40:1-21, 2009.

Construction and existence of the dock and pier⁴⁵ will impact salmon, herring, and other marine life.⁴⁶ The design, construction, and existence of the wharf and trestle will have shading impacts, which in turn affects marine vegetation like eel grass and macro algae. Juvenile salmon, which use near shore environments for migration and rearing, will also be disrupted by the dock system. The use of the area by Pacific herring for near shore movement, schooling, and spawning, as well as spawning habitat for surf smelt and sand lance, will be harmed. Particularly during construction, sea floor sediments and water quality will be disturbed. During terminal operations, noise and artificial light will harm all the fish that use the near shore environment, and vessel berthing will disrupt and harm Pacific herring pre-spawning and migration behavior.

Increased wildlife mortality from railroad and mining related activity (including, but not limited to, increased human conflicts, habitat loss, and increased hunting pressure) must also be discussed. Impacts to wildlife migration corridors must be evaluated.

⁴⁵ While some of these aquatic impacts were evaluated when the smaller Gateway Pacific Terminal proposal was submitted in 1997, reevaluation is necessary for several reasons including the increased capacity of the current proposal, changes to the proposed configuration of the dock and pier, the addition of coal as an export commodity in the current proposal, and the failure of the project proponent to implement mitigation measures and investigative work required in the 1999 Agreement. Washington Environmental Council, along with the other conservation groups that were parties to the 1999 settlement agreement, is submitting separate scoping comments regarding the failure of the project proponent to comply with requirements in the 1999 settlement agreement that resulted from the 1997 Gateway Pacific Terminal proposal.

⁴⁶ See Exh. 117, *Minimizing Effects of Over-Water Docks on Federally Listed Fish Stocks in McNary Reservoir: A Literature Review for Criteria*, prepared by the U.S. Geological Survey for the U.S. Army Corps of Engineers (2010) (prepared in support of criteria for siting new docks in the McNary Pool of the Columbia River, this report recommends, among other things: (1) pilings shall not exceed 5 inches in diameter, (2) each over-water structure shall utilize no more than 6 piles for the entire project, and (3) nothing shall be placed on the over-water structure that will reduce natural light penetration through the structure); Exh. 118, *Overwater Structures and Non-structural Piling White Paper*, prepared by Jones & Stokes Associates for the Washington Department of Fish and Wildlife (2006) (summarizes scientific literature documenting the direct, indirect, and cumulative impacts of overwater structures, including industrial docks, to ESA-listed salmonids and other aquatic life); Exh. 119, *Over-water Structures: Freshwater Issues*, prepared by Herrera Environmental Consultants for the Washington Departments of Fish and Wildlife, Ecology, and Transportation (2001) (comprehensive overview of scientific literature, current through late-2000, describing the impact of pilings and docks on aquatic life, including increased predation, decreased habitat quality, and degraded water quality).

2. *Increased shipping traffic caused by the Gateway Pacific Terminal will harm marine and aquatic health.*

The Washington Department of Natural Resources designated the Cherry Point Aquatic Reserve in 2000, specifically noting the area's importance to pacific herring, marine diversity, kelp and eelgrass beds, and migratory waterfowl habitat.⁴⁷ Increased vessel traffic associated with the coal export terminal brings with it an increased chance of oil and cargo (coal) spills, disruption of endangered southern resident orca behavior, and disruption of pacific herring (including interfering with spawning, smothering of eggs, and cumulative toxicity to eggs and juveniles⁴⁸). The EIS must carefully assess all impacts to the aquatic reserve.

The increased shipping traffic brings with it an increased risk of collisions, groundings, spills, discharges, accidents during vessel fueling. The potential for introduction of invasive species, including through ballast water, must be assessed, as tens of thousands of cubic meters of ballast water per visit will be discharged by the shipping vessels.⁴⁹ Hull fouling presents a similar danger of invasive species introduction.

3. *Threatened and endangered species will be harmed by the Gateway Pacific Terminal.*

Effects on threatened, endangered, and candidate species must be analyzed in the EIS, including effects of the coal terminal and related projects on listed salmon species (including threatened Puget Sound chinook, threatened Puget Sound steelhead, and Puget Sound coho (a species of concern), endangered southern resident killer whales, and threatened marbled murrelets. For species protected under the Endangered Species Act, the agencies must consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS) under § 7 of the Endangered Species Act to determine whether the terminal, the proposed shipping activity and marine shipping routes, any of the proposed railroad routes, and the associated coal mining and combustion activities will adversely affect these species or their designated critical habitat.

Protection of near-shore estuary areas is vital for the survival and recovery of juvenile threatened Puget Sound chinook salmon. "En route to the ocean the juveniles may spend from a few days to several weeks in the estuary, depending on the species. The highly productive

⁴⁷ See generally Exh. 131, Cherry Point Environmental Aquatic Reserve Management Plan (Nov. 2010).

⁴⁸ Exh. 168, Final Report of Pacific Herring (*Clupea pallasii*) Test Development and Validation, Washington Dep't of Ecology Publication No. 11-10-086 (Sept. 2012).

⁴⁹ Exh. 7, *The True Cost of Coal: The Coal Industry's Threat to Fish and Communities in the Pacific Northwest* at 10.

estuarine environment is an important feeding and acclimation area for juveniles preparing to enter marine waters.” Endangered and Threatened Species: Final Listing Determinations for 16 ESUs of West Coast Salmon, 70 Fed. Reg. 37,160, 37,161 (June 28, 2005). NMFS has designated near-shore areas as critical habitat for Puget Sound chinook, noting “[t]his unique, fjord-like ecosystem contains a variety of habitats with physical or biological features essential to Chinook and chum salmon conservation, ranging from deep water habitats used by subadult and adults for migration and foraging to shallow nearshore areas important for juvenile rearing and for migration.” Designation of Critical Habitat for 12 ESUs of West Coast Salmon and Steelhead in Washington, Oregon, and Idaho, 70 Fed. Reg. 52,630, 52,637 (Sept. 2, 2005). NMFS specifically cited docks, dredging, and bank armoring as activities that would harm salmon habitat:

We have defined the [primary constituent elements] for nearshore marine areas as being free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. This area is also the zone containing important marine vegetation and cover (*e.g.*, eelgrass meadows and kelp forests) and in which salmon forage species reside (*e.g.*, surf smelt and sand lance). Activities potentially affecting [primary constituent elements] in this zone include the construction of overwater structures (*e.g.*, docks and piers), dredging and bank armoring.

Id. at 52,638 (citations omitted). Because the Gateway Pacific Terminal will harm all these aspects central to salmon critical habitat, the EIS must thoroughly analyze these impacts.

For endangered Southern Resident killer whales, NMFS has stressed that “even small effects” on individual whales must be “scrutinize[d]” because the population of Southern Resident killer whales is so precarious:

The Southern Resident killer whale DPS has fewer than 90 members and a variable productivity rate. In NMFS’ opinion, the loss of a single individual, or the decrease in reproductive capacity of a single individual, is likely to reduce appreciably the likelihood of survival and recovery of the [population].⁵⁰

⁵⁰ Biological Opinion, Effects of the Pacific Coast Salmon Plan on the Southern Resident Killer Whales (*Orcinus orca*) Distinct Population Segment (May 5, 2009) at 56 (emphasis added). Available at https://pcts.nmfs.noaa.gov/pcts-web/dispatcher/trackable/NWR-2009-2298?overrideUserGroup=PUBLIC&referer=%2fpcts-web%2fpublicAdvancedQuery.pcts%3fsearchAction%3dSESSION_SEARCH.

Increased vessel traffic to and from Cherry Point will harm killer whales. “In recent decades, commercial shipping traffic has become a major source of low frequency (5 to 500 Hz) human-generated sound in the world’s oceans (National Research Council 2003). The Georgia Basin and Puget Sound are among the busiest waterways in the world, with several thousand trips made per month by various types of commercial vessels.” Recovery Plan for Southern Resident Killer Whales (*Orcinus orca*). The proposed Gateway Pacific Terminal will add approximately 480 additional bulk carriers to this already crowded (and loud) area of the Salish Sea.

Climate change itself, exacerbated by burning the coal exported from the proposed Gateway Pacific Terminal, will dramatically affect marine mammals and fish, including endangered killer whales. As the NMFS stated in its Recovery Plan for Southern Resident Killer Whales (*Orcinus orca*) (Jan. 17, 2008)⁵¹:

Extensive climate change caused by the continuing buildup of human-produced atmospheric carbon dioxide and other greenhouse gases is predicted to have major environmental impacts along the west coast of North America during the 21st century and beyond. Warming trends in water and air temperatures are ongoing and are projected to disrupt the region’s annual cycles of rain and snow, alter prevailing patterns of winds and ocean currents, and result in higher sea levels (Glick 2005, Snover et al. 2005). These changes, together with increased acidification of ocean waters, will likely have profound effects on marine productivity and food webs, including populations of salmon and other fish used as prey by Southern Resident killer whales.

The EIS must review all impacts, from prey availability to vessel effects to increased noise to toxic contamination to climate change, to endangered Southern Resident killer whales.

E. Exporting Coal From the Gateway Pacific Terminal Will Cause More Coal to Be Burned, Adding to Global Climate Change.

As discussed above, the impacts on global climate change from the mining, transportation, and ultimate burning of coal must be analyzed and reviewed in the EIS. This includes greenhouse gas emissions from transportation by train and by boat, greenhouse gas emissions from burning, and the impacts of those emissions on ocean acidification, reduced snowpack, flooding, summer droughts, increased forest fires, and the quality of coastal and near-coast habitat. As detailed in Exhibit 8, The Greenhouse Gas Impact of Exporting Coal from the West Coast: An Economic Analysis, Dr. Thomas M. Power, “the proposed coal export facilities in the Northwest will result in more coal consumption in Asia and undermine China’s progress towards more efficient power generation and usage. Decisions the Northwest makes now will

⁵¹ Available at <http://www.nwr.noaa.gov/Marine-Mammals/Whales-Dolphins-Porpoise/Killer-Whales/ESA-Status/upload/SRKW-Recov-Plan.pdf>.

impact Chinese energy habits for the next half-century; the lower coal prices afforded by Northwest coal exports encourage burning coal and discourage the investments in energy efficiency that China has already undertaken. Approving proposed coal export facilities would also undermine Washington's commitment to reducing its own share of greenhouse gas emissions.”

Climate change is already bringing harmful changes to Washington. Ocean acidification, sea level rise, warming stream temperatures, decreases in snow pack, changes in precipitation patterns, and increases in extreme weather events will increase as harmful impacts to Washington state unless the rate of emission of greenhouse gases into the atmosphere is significantly slowed. *See* Climate Impacts Group, *Washington Climate Change Impacts Assessment* (2009).⁵² Construction and operation of a coal export terminal (or several coal export terminals throughout the region) is a large step in the wrong direction. The EIS must analyze the direct, indirect, and cumulative climate change impacts of this project and all other proposed coal export terminals in this region.

V. THERE IS AN OVERARCHING NEED FOR AN AREA-WIDE ENVIRONMENTAL IMPACT STATEMENT.

We are deeply concerned that Gateway Pacific and each of the other regional projects will go through environmental review without an opportunity to consider the bigger picture of what it means for the region if all the proposed terminals are built and operated. For example, while the Corps and other agencies will be required to consider the impacts of rail traffic on human health, traffic, and other system users in the context of individual projects, we think there needs to be a more robust public conversation around the cumulative and collective impacts of all of these projects. Specifically, we believe that the cumulative impacts of the various coal terminals should be evaluated in a single comprehensive area-wide environmental impact statement under the National Environmental Policy Act. Such a process will allow explicit consideration of the collective impacts of multiple, distinct decisions. It will also streamline individual environmental review by allowing site-specific EISs to tier to the area-wide EIS rather than conduct a cumulative impacts analysis anew for each project. As the Environmental Protection Agency noted, “[a]ll of these projects—and others like them—would have several similar impacts. Consider, for example, the cumulative impacts to human health and the environment from increases in greenhouse gas emissions, rail traffic, mining activity on public lands, and the transport of ozone, particulate matter, and mercury from Asia to the United States.” Exh. LR-1 (EPA Comment on Port of Morrow project (April 5, 2012) recommending a “thorough and broadly-scoped” cumulative impacts analysis of all proposed coal export facilities).

⁵² Executive summary and supporting papers *available at* <http://cses.washington.edu/cig/res/ia/waccia.shtml>.

NEPA expressly contemplates the preparation of an area-wide EIS for situations just like this one, where an agency is facing multiple independent permitting decisions that have overlapping, shared, or cumulative impacts. *See Native Ecosystems Council v. Dombeck*, 304 F.3d 886 (9th Cir. 2002) (“A single NEPA review document is required for distinct projects when ... the projects are ‘connected,’ ‘cumulative,’ or ‘similar’ actions ...”); 40 C.F.R. § 1508.25 (mandating single EIS for separate independent actions under some circumstances); 40 C.F.R. § 1502.4(a), (c) (requiring a single EIS where proposals are “related to each other closely”). Federal guidance and courts sometimes refer to these reviews as “programmatic,” while in other cases, they are called “area-wide” or “overview” EISs. The label is not important—it is the content of such an assessment that matters.

Courts have agreed that a single EIS is required for multiple discreet actions under some circumstances, for example, when the projects have common timing, geography, and/or impacts. *See, e.g., Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1215 (9th Cir. 1998) (multiple timber sales must be evaluated in a single EIS where the sales were reasonably foreseeable, in a single general area, disclosed at the same time, and developed as part of a comprehensive strategy); *Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291 (9th Cir. 2003) (confirming that “similar actions”—i.e., actions which have similarities, such as common timing or geography, that warrant comprehensive review—must be considered in a single EIS if it is the “best way” to consider their impacts). Such circumstances exist here. We have previously requested an area-wide environmental review,⁵³ as has the federal Environmental Protection Agency (Exh. LR-1) and Oregon’s Governor Kitzhaber (Exh. LR-36).

VI. THE CUMULATIVE IMPACTS OF ALL PROPOSED COAL EXPORT TERMINALS MUST BE CONSIDERED AND ANALYZED.

If an overarching, area-wide EIS is not undertaken, then each EIS for each proposed project must include review of the impacts of all other proposed projects. The courts have found that even where several actions were not “connected” or “similar” enough to warrant consideration in a single environmental impact statement, their impacts must still be addressed as cumulative impacts. *Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291, 1306 (9th Cir. 2003) (“Even if a single, comprehensive EIS is not required, the agency must still adequately analyze the cumulative effects of the projects within each individual EIS.”).

Under NEPA, an EIS must analyze and address the cumulative impacts of a proposed project. 40 C.F.R. § 1508.25(c)(3). A cumulative impact is defined as:

⁵³ *See* Exhs. 113 and 114 (Earthjustice letters to Corps requesting an area-wide environmental impact statement on cumulative impacts of new coal terminals in Washington and Oregon (April 12 and June 7, 2012)).

[T]he incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. In other words, cumulative impacts are the result of any past, present, or future actions that are reasonably certain to occur within the action area. Such effects “can result from individually minor but collectively significant actions taking place over a period of time.” *Id.* In the coal context, the U.S. Supreme Court has held that, “when several proposals for coal-related actions that will have cumulative or synergistic environmental impacts upon a region are pending concurrently before an agency, their environmental consequences must be considered together. Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action.” *Kleppe v. Sierra Club*, 427 U.S. 390, 409-410 (U.S. 1976).

VII. THE EIS MUST ANALYZE A REASONABLE RANGE OF ALTERNATIVES, INCLUDING A MEANINGFUL NO-ACTION ALTERNATIVE.

The range of alternatives “is the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. It is well understood that “NEPA requires that an agency ‘rigorously explore and objectively evaluate all reasonable alternatives.’” *Utahns for Better Transp. v. Dept. of Transp.*, 305 F.3d 1152,1168 (10th Cir. 2002) quoting 40 C.F.R. § 1502.14(a), modified on rehearing *Utahns for Better Transp. v. Dept. of Transp.*, 319 F.3d 1207 (2003). The alternatives discussed should provide different choices from which decisionmakers and the public can make an informed choice after considering the environmental effects of the alternatives. See *Westlands Water Dist. v. U.S. Dep’t of Interior*, 376 F.3d 853 (9th Cir. 2004). The range of alternatives should also “include reasonable alternatives not within the jurisdiction of the lead agency,” and “include appropriate mitigation measures not already included in the proposed action or alternatives.” 40 CFR § 1502.14.

In addition to the need for thorough consideration of the impacts of constructing the Gateway Pacific Terminal, the EIS must consider the option of not constructing the export facility at all. Among the alternatives that must be considered in an EIS is the “no action” alternative. 40 C.F.R. § 1502.14(d). Indeed, “[i]nformed and meaningful consideration of alternatives—including the no action alternative—is ... an integral part of the statutory scheme.” *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir.1988). The evaluation of the no action alternative cannot be a meaningless exercise. To satisfy NEPA, the EIS must consider this alternative without prejudgment of the outcome of its analysis. “[F]ull and meaningful consideration of the no-action alternative can be achieved only if all alternatives available ... are developed and studied on a clean slate.” *Bob Marshall Alliance v. Lujan*, 804 F. Supp. 1292, 1297-98 (D. Mont. 1992). The need to develop project alternatives, including the no action alternative, on a clean slate is especially important given the history of this project, including its

first controversial permit in the 1990s and its failure to date to complete the required mitigation for that first, much smaller, non-coal export terminal.

VIII. TRIBAL GOVERNMENT SOVEREIGNTY MUST BE RESPECTED.

Most proposed coal terminals, including Gateway Pacific, will be sited within the “usual and accustomed” fishing areas of Pacific Northwest Indian tribes, which have a sovereign government-to-government relationship with the U.S. federal government. Gateway Pacific Terminal would be built within historic shell-fishing areas of the Lummi and Nooksack tribes—and on top of the spawning grounds of a critically important population of Puget Sound herring, which in turn sustains the local salmon population on which the tribes rely. Under federal court precedent, the tribes are “co-managers” of these resources along with the state. *See U.S. v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974). Lummi Indian Nation leaders have publically announced their opposition to the Gateway Pacific Terminal. *See Lummi Nation leaders come out against Gateway Pacific coal terminal project*, The Bellingham Herald (Sept. 21, 2012), *available at* <http://www.bellinghamherald.com/2012/09/21/2700524/lummi-nation-leaders-come-out.html>.

The Cherry Point terminal site is also considered a significant cultural site and an ancestral burial ground by the people of the Lummi tribe. Their claim to the site’s historical significance extends back hundreds of years, as it was a village site where the Lummi have fished, gathered and lived for over 175 generations. Cherry Point (Xwe’chi’eXen) is listed on the Washington state heritage register of culturally significant places. Additionally, for thousands of years before European settlement, Lummi people fished at Cherry Point. The Lummi developed a unique reefnet technology to harvest salmon at the site while limiting bycatch, and the sites traditionally used for this purpose are protected by treaty and are considered both critical economic resources and historically significant areas. The Lummi people are also signatories to the Point Elliot Treaty of 1855, which guaranteed the Lummi and several other Coast Salish first nations access to traditional fishing and gathering sites. The threat posed by the coal terminal proposal to salmon habitat and fishery stocks has the potential to significantly impact the treaty and inherent rights of the Coast Salish tribes to their traditional way of life.

Other Northwest tribes have already expressed concern about proposed coal terminals. In a comment letter to the Corps regarding the Morrow project in Boardman, the Yakama Nation characterized coal export proposals in the Columbia as a “new front... in the war on the Yakama way of life,” describing in detail the risks to salmon, the safety of tribal fishermen, human health, water quality, and cultural resources. Exh. 29. The Nez Perce have also commented on the Morrow project, requesting that the Corps perform an EIS and assess cumulative impacts, citing concerns about “Tribal treaty rights, ESA-listed fish and lamprey and their habitat, Tribal traditional use areas along the coal transportation corridor, tribal cultural resources, and Tribal member health arising from coal dust and diesel pollution.” Exh. 30.

The Columbia River Inter-Tribal Fish Commission (CRITFC), which represents four Sovereign Tribal Nations (the Warm Springs, Confederated Tribes of Umatilla Indian Reservation, Yakama Nation, and Nez Perce) with treaty rights to salmon and other fish on the Columbia River, has also expressed opposition to the coal export proposals. In a comment letter on the Morrow Pacific Project, CRITFC stated that it has heard “significant concerns from our member tribes about the project’s potential effects on tribal treaty fisheries.” Exh. 31. CRITFC noted that “the proposed project area is currently used for fishing by tribal members exercising their treaty fishing rights” and the area “is also within lands designated as Traditional Cultural Property (TCP) and may contain significant cultural resources.” The Affiliated Tribes of Northwest Indians have called for full environmental review and government-to-government consultation with Indian tribes throughout the region. Exh. 27. The Northern Cheyenne Indian Tribe has expressed concern over the years about the impacts the proposed railroad and related coal-mining activities would have on the health, wellbeing, culture, and sacred sites of the tribe. Nine members of the Northern Cheyenne Tribe recently traveled 1,300-miles roundtrip to a public comment session in Spokane, Washington to voice their opposition to the mine, railroad, and Gateway Pacific Terminal. The concerns of these Indian nations and tribal members must be taken into account, and we request that the Corps initiate formal consultation to speak directly to all the affected tribes.

IX. ENVIRONMENTAL JUSTICE CONCERNS

All federal agencies are encouraged to consider environmental justice in their NEPA analysis, evaluate disproportionate impacts, and identify alternative proposals that may mitigate these impacts. The fundamental policy of NEPA is to “encourage productive and enjoyable harmony between man and his environment.” In considering how to evaluate progress in reaching these aspirational goals, the Council on Environmental Quality (CEQ) defined effects or impacts to include “ecological...aesthetic, historic, cultural, economic, social or health impacts, whether direct, indirect or cumulative.”⁵⁴ Recognizing that these types of impacts might disproportionately affect different communities or groups of people, President Clinton issued Executive Order 12898 in 1994,⁵⁵ directing each federal agency to, among other things:

- “Make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations,”

⁵⁴ CEQ, Environmental Justice: Guidance Under the National Environmental Policy Act, December 10, 1997, *available at* <http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf>.

⁵⁵ “Federal actions to address environmental justice in minority populations and low-income populations,” 59 Fed. Reg. 7629 (Executive Order 12898; February 11, 1994).

- “Identify differential patterns of consumption of natural resources among minority populations and low-income populations,”
- Evaluate differential consumption patterns by identifying “populations with differential patterns of subsistence consumption of fish and wildlife,” and
- “Collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence.”

CEQ’s Guidance for Environmental Justice under NEPA⁵⁶ called for agencies to consider specific elements when considering environmental justice issues:

- Agencies should consider the composition of the affected area, to determine whether minority populations, low-income populations, or Indian tribes are present in the area affected by the proposed action, and if so whether there may be disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or Indian tribes.
- Agencies should consider the potential for multiple or cumulative exposure to human health or environmental hazards in the affected population and historical patterns of exposure to environmental hazards. Agencies should consider these multiple, or cumulative effects, even if certain effects are not within the control or subject to the discretion of the agency proposing the action.
- Agencies should recognize the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed agency action. These factors should include the physical sensitivity of the community or population to particular impacts; the effect of any disruption on the community structure associated with the proposed action; and the nature and degree of impact on the physical and social structure of the community.
- Agencies should be aware of the diverse constituencies within any particular community. Agencies should seek tribal representation in the process in a manner that is consistent with the government-to-government relationship between the United States and tribal governments, the federal government’s trust responsibility to federally-recognized tribes, and any treaty rights.

The EIS must examine the environmental justice impacts flowing from this project. Several low-income or minority communities stand to be disproportionately impacted by the coal export terminal, the rail transportation of coal from the Powder River Basin, and the mining of the coal. As discussed above, traditional tribal lands will be affected by the Gateway Pacific project. The Lummi Indian Nation has stated that the terminal will fall completely within, and unreasonably interfere with, an area of active tribal fishing and gathering. Furthermore, the

⁵⁶ CEQ, Environmental Justice: Guidance Under the National Environmental Policy Act, December 10, 1997, *available at* <http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf>.

Lummi Nation will be impacted by coal dust and air emissions from the construction and operation of the terminal. Tribes along the rail route and in the area of increased mining will be impacted by the proposed railroad and the increased mining associated with this project.

The EIS must include demographic information for all communities at the Port and along the rail lines that would ship coal to the port, as well as at the mine sites. Communities closest to the port site, along the rail line, and near the mines—many of which are low income or have high minority populations—will bear a disproportionate impact of the air and water pollution caused by coal transportation and export, as described above. Some of these communities and neighborhoods might include: South Seattle, Spokane, Spokane Valley, Millwood, Cheney, WA, and Lame Deer, Ashland, Birney, Muddy Cluster, Hardin, Crow Agency, Billings South Side neighborhood, and Busby, Montana, among others. These environmental justice issues further underscore the need to conduct a health impact assessment of the project, as called for by health professionals in Whatcom County.

* * *

Thank you for your consideration of these scoping comments and the supporting materials in the enclosed CDs. There is an extraordinary level of public interest in this process; the harmful impacts caused by the proposed coal export terminal will occur at the local, regional, and global scale; and the federal and state laws emphasize a thorough, up-front review of all the environmental effects of proposed actions. We reiterate our request for an area-wide environmental impact statement to fully address the direct, indirect, and cumulative impacts of all proposed coal export projects in the Pacific Northwest. For the Gateway Pacific Terminal in particular, we look forward to a Draft EIS that the full direct, indirect, and cumulative impacts of the proposed Gateway Pacific Terminal from the mining of the coal in the Powder River Basin, the transport of coal by rail through several states and hundreds of communities, the loading and shipping of coal via large ocean vessels, to the burning of the coal in Asia.

Sincerely,

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