

Whidbey Environmental Action Network

Restoration Education Preservation

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*Dedicated to the preservation and restoration of the native biological diversity
of Whidbey Island and the Pacific Northwest*

Jan. 22, 2012

TO: EIS Co-Lead Agencies - Gateway Pacific coal export proposal
FROM: Steve Erickson
RE: EIS Scoping for Gateway Pacific coal export proposal

These comments for the Environmental Impact Statement (EIS) scoping for the Cherry Point coal export proposal are on behalf of Whidbey Environmental Action Network (WEAN). Please use the contact information in the letterhead above for any communication.

A. Introduction.

1. First, we address the State Environmental Policy Act (SEPA) (*ch.* 43.21 RCW) requirements for the scope of environmental review. These clearly require that *all* of the significant impacts of the proposal must be analyzed and disclosed.

2. Second, we list the impacts that we believe should and must be analyzed in the EIS. Because many of the proximate impact causal mechanisms affect multiple elements of the environment, we've listed these in outline form in an attempt to avoid redundancy. For example, coal contains mercury. In the context of this proposal, this highly toxic element will be released into and move through the environment in multiple ways:

- contact with water in active and abandoned mines
- coal dust blowing from mine sites
- coal dust escape during rail car loading, transportation, unloading, storage at Cherry Point, reloading onto ships, and during ship transport
- coal escape from accidental spills from trains and ships
- combustion
- deposition from air pollution

3. The releases in this example are initially into water, land, and air. Air releases are initially deposited onto both land, and into fresh and marine waters. Land releases and air pollution deposition onto land may then move into fresh and marine waters. Releases into fresh water may then move into marine waters. Because mercury is bioaccumulative it will concentrate up food chains, including humans, and thence cycle through the biosphere repeatedly. Hence, in this example, there are impacts to soil, air quality, surface water quality, ground water quality, public water supplies, habitat for and numbers or diversity of species of plants, fish, or other wildlife; unique species (i.e. rare species and endemics); environmental health (releases to the environment affecting public health, such as toxic or hazardous materials); agricultural crops;

and governmental services (i.e. public health services; schools).¹ Rather than listing all of these impacts individually, we've attempted to avoid redundancy.

B. State Environmental Policy Act (SEPA) requirements.

1. SEPA requires that proposals be properly defined.² This proposal is to mine, transport, and ship coal to Asia where it will be burned to produce power. The *proposal* encompasses much more than just the actual export facility where rail cars are unloaded, and ships dock and are loaded with coal. It includes the mining, transportation, shipment, and combustion of coal that will be caused by this particular facility and are necessary for this facility to justify its existence:

WAC 197-11-060 (3)(b) Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document . . .

Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

- (i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or
- (ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

2. Consideration of the significance of an impact shall not be limited to only those impacts within the lead agency's jurisdiction.³ Consideration must be given to "short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer."⁴ Impacts include direct, indirect, and cumulative impacts.⁵ "The range of impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts . . . may be wider than the impacts for which mitigation measures are required of applicants."⁶

3. Based on the above requirements the EIS must include analysis of the impacts of this proposal on the climate, including for the lifetime of the project (i.e. until coal reserves are exhausted), the atmospheric residence time of the emitted greenhouse gases, and the time period of oceanic impacts through acidification.

4. We recognize that it may not be possible to precisely quantify or predict all impacts. SEPA provides for this situation:

WAC 197-11-080 (2) When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists.

(3) Agencies may proceed in the absence of vital information as follows:

- (a) If information relevant to adverse impacts is essential to a reasoned choice

¹ These are all *elements of the environment*. WAC 197-11-144.

² WAC 197-11-060(3)(a).

³ WAC 197-11-060(4)(b).

⁴ WAC 197-11-060(4)(c).

⁵ WAC 197-11-792(2)(c).

⁶ WAC 197-11-060(4)(d).

among alternatives, but is not known, and the costs of obtaining it are exorbitant; or

(b) If information relevant to adverse impacts is important to the decision and the means to obtain it are speculative or not known;

Then the agency shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty. If the agency proceeds, it shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.

In this situation, the required “worst case analysis” for climate impacts in this situation should be based on the worst case scenarios and impacts projected in the peer reviewed literature.

5. Finally, because atmospheric greenhouse gas emissions are already recognized as a probable significant adverse environmental impact (i.e. the Supreme Court upholding of EPA’s regulation of them as pollutants regulated under the Clean Air Act) any additional emission is itself significant, no matter how incremental.

C. Impacts.

1. Cumulative analysis.

SEPA requires analysis of cumulative impacts. Impacts from both the Cherry Point proposal and the cumulative impacts of all coal export proposals on the west coast should be analyzed and disclosed.

2. Impacts from mining.

Coal consumption is in decline in the U. S. To supply the coal for this proposal, mining will continue that would not otherwise occur and new mines will be created that would otherwise not be. The full impacts of this activity need to be disclosed and analyzed. If reliance is made on other environmental documents, this needs to be disclosed.

3. Impacts on land and in the freshwater aquatic environment.

Impacts from:

- noise;
- air pollutant deposition, including that released from combustion in Asia;
- coal spills;
- fuel and lubricant spills.

Impacts to:

- lands along the railroad tracks;
- wetlands in the immediate project vicinity, including wetlands already illegally impacted;
- lands, wetlands, riparian, riverine, and lacustrine systems, both those directly impacted and those indirectly impacted, such as deposition of air pollutants released by combustion of this coal in Asia.

4. Impacts in the marine environment.

Impacts from:

- noise, both surface and subsurface, including vessel noise;
- air pollutant deposition, including that released from combustion in Asia;
- coal spills;
- fuel and lubricant spills;
- climate change (i.e. sea level rise; acidification).

Impacts to:

- Cherry Point Herring population;
- salmonid stocks (including, but not limited to, those listed under the Endangered Species Act); both direct and indirect impacts such as reduction in available prey (i.e. Cherry Point Herring population);
- Resident and transient Orca;
- Grey Whale.

5. Impacts in the atmosphere (air pollution) other than emissions of greenhouse gases.

Impacts from:

- combustion of this coal;
- coal train diesel emissions;
- coal train coal dust emissions;
- extra emissions from other vehicle traffic due to delays by coal train traffic.

Impacts to:

- Human and wildlife health particulate and mercury emissions transported back to north america; smog (ground level ozone).

6. Impacts to the climate.

Impacts from:

- Greenhouse Gas emissions from combusting the exported coal throughout the lifetime of the proposal (i.e. portion attributable to this project) as measured by atmospheric CO2 levels (i.e. ppm), ocean acidification (i.e. pH); sea level rise (i.e. mm)

Impacts to:

- climatic stability (extreme climatic event magnitude and frequency);
- coastal structures;
- coastal drinking water aquifers within Puget Sound;
- coastal wetlands;
- wild and farmed shellfish.

7. Impacts to human health.

Impacts from:

- mercury emissions;
- particulate emissions;
- other air pollution;
- noise;
- vehicle traffic delay, including emergency services.

Impacts to:

- human populations near direct concentrated impacts (i.e. people living near railroad tracks)
- more diffuse populations (i.e. school age and other discrete demographic segments).

8. Miscellaneous.

Impacts from:

- delay and displacement of other rail traffic.

Impacts to:

- rail passenger service
- health impacts from (i.e.) stress, air pollution from passenger displacement to other transportation systems, etc.