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Submitted via Email

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Care of: GPT/BNSF Custer Spur EIS Co-Lead Agencies
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Re: Scoping Comments on Proposed Gateway Pacific Coal Terminal Facility and Custer Spur Rail Expansion Project

To whom it may concern:

Columbia Riverkeeper (Riverkeeper) submits the following comments on the proposed Gateway Pacific Coal Export Terminal Facility coal export terminal and Custer Spur Rail Expansion Project. On September 21, 2012, the U.S. Army Corps of Engineers, the Washington State Department of Ecology, and Whatcom County Planning and Development Services (collectively "the Corps") announced their intent to prepare a Joint Environmental Impact Statement on these projects (hereafter "coal export project" or "project"). 77 Fed. Reg. 58531 (Sept. 21, 2012).

We are gravely concerned about the wide-reaching impacts of the proposed coal export project on the Columbia River and our members' use and enjoyment of the river. Riverkeeper submitted detailed comments and exhibits as part of a large coalition of public health and conservation organizations. We submit these additional comments to underscore the importance of disclosing fully the project's impacts on the iconic Columbia River, the Columbia River Gorge National Scenic Area, the Lewis and Clark Trail and other public areas impacted by the project's rail traffic.

The onslaught of coal export terminals proposed within designated critical habitat along the Columbia River poses one of the greatest threats in recent history to the river and endangered species recovery. Even if none of the Columbia River terminals move forward, rail impacts from

the Gateway Pacific alone would transform the Columbia River. Rail traffic, coal dust, and chunks of coal would be discharged to the river and its tributaries. Air pollution from miles of coal trains would threaten public health. River users—anglers, subsistence fishers, windsurfers, kiteboarders, kayakers, and swimmers—would face the prospect of diminished river enjoyment and impacts to river access. The science is overwhelming that coal is harmful to human health, our environment, and our climate. In a region committed to combatting the serious threats posed by climate change and recovering endangered salmon, the Corps must disclose fully the Gateway Pacific Terminal’s direct, indirect, and cumulative impacts on the Columbia.

Programmatic EIS for Northwest Coal Export Projects

Riverkeeper strongly recommends that the Corps deny permit applications for coal export projects because these projects, including three proposed projects on the Columbia River, are not in the public interest. We reiterate our requests to the Corps to prepare a programmatic or area-wide EIS, along with a Health Impact Assessment (HIA), assessing the threats posed by coal export.

The export of coal from the Powder River Basin threatens to impose a myriad of negative impacts on the natural resources and people of the Pacific Northwest. The Corps has a legal obligation to consider all of these impacts in determining whether the proposed coal export activities are in the public interest. The science has developed to the point where we now know that we cannot simply export coal to Asia and then close our eyes to the potential impacts of the ultimate combustion of that coal to power the foreign economies of developing countries. The exportation of Powder River Basin coal will inevitably subject the American public to toxic air pollution associated with well-known and harmful by-products of coal combustion, and the Corps must assume the responsibility of assessing these impacts on behalf of the American public. The best way to do so would be to prepare a programmatic Environmental Impact Statement in cooperation with other federal agencies, including EPA, so that the resources of the federal government can be brought to bear on these complex and important issues of public welfare and the protection of the environment.

Comments on the Scope of the EIS

Coal Pollution In and Around the Columbia River

The impacts of the Gateway Pacific Terminal on Whatcom County, alone, are staggering. This is no excuse, however, to give short shrift to the project’s staggering impacts on the Columbia River and Columbia River communities.

Existing coal train traffic on the Columbia River is already threatening water quality and aquatic habitat. Coal export will only exacerbate the existing problem. Uncovered coal trains traveling for miles over and adjacent to waterways discharge pollution in the form of diesel emissions, coal dust, and varying size pieces of coal. The EIS must disclose the direct and indirect impacts of coal trains on the Columbia and its tributaries. In addition, the EIS must

disclose the cumulative impacts of coal export and the ongoing and reasonably foreseeable future impacts of rail traffic.

In conducting this analysis, the EIS must account for the current state of the law: no oversight of dust control measures or alternatives by any government agency. The dust control measures on coal trains are merely voluntary. Essentially, Burlington Northern Santa Fe (BNSF) or Union Pacific (UP) makes the final decision as to whether coal dust reduction is adequate, which does not contain any measures guaranteeing compliance, and could likely result in excessive coal dust discharge into the ecosystem. The assumption that these control measures will be effective is therefore unsupported because there is not a clear plan for how coal will be handled and managed.

Additionally, these voluntary BNSF and UP surfactant tariffs are currently under challenge by coal shippers in a proceeding before the Surface Transportation Board.¹ In the absence of binding regulation, many coal companies are electing not to apply any sort of topping agent.²

In addition to little being known about the efficacy of surfactants, their safety for use on coal is unproven. Surfactants contain a myriad of unknown chemicals that 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.³

The Corps must assess the ecological impacts from coal dust in the event that no topping agent or mitigation measures will occur, and such coal dust impacts are significant. An average of 500 pounds of coal per rail car is lost during each trip. Each train is composed of 120 cars or more.⁴ In a dense rail corridor, such as the Powder River Basin where there are at least 70 trains per day containing 120 cars or more, 2000 tons of coal dust is being deposited each day. For

¹ 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/219d1ae5889780b85256e59005edefe/72355569b86fcf0485257950006d6966?OpenDocument>.

² Platt's Coal Trader, November 3, 2011, accessed: <http://www.wusa9.com/news/local/story.aspx?storyid=173329>. "AECC, as with many coal shippers, is not applying anything to the coal being shipped to us by the railroads," Steve Sharp, AECC principal engineer, wrote in an email. "There is currently no requirement that we do so."

³ Environmental Protection Agency, *Potential Environmental Impacts of Dust Suppressants: Avoiding Another Times Beach* (May 30-31, 2002), at Section 3.

⁴ According to Burlington Northern Santa Fe ("BNSF") studies, an average of 500 lbs of coal can be lost in the form of dust for each rail car. *See* Hearing, July 29, 2010, Arkansas Electric Cooperative Association—Petition for Declaratory Order, Surface Transportation Board, Docket No. FD 35305, at 42: 5-13.

example, the coal dust mitigation agreement for Ambre Energy's Morrow Pacific Project makes clear that rail cars do not have to be treated to begin shipping coal, and there is no clear indication of how much time may pass after the proposed shipments begin before they are treated with a topping agent. As part of this analysis, the EIS should include estimates of the amount of coal dust that could escape and its impact on fish habitat or populations under different coal export scenarios.

Impacts to River Access and Use

In addition to examining the impacts of coal pollution on habitat and endangered species, the EIS must assess the impacts of rail traffic on river users. This includes the project's impact on river access, noise pollution, light pollution, viewsheds, and general river enjoyment. The Corps' analysis of impacts to river access and use is relevant to both disclosing the project's environmental justice issues as well as the project's impact on the general public. For example, many popular river access sites are associated with at-grade crossings. How will the Gateway Pacific Project impact river access at these sites?

The EIS should also examine the project's impact on diminished use and enjoyment of the Columbia River. For example, how will coal dust from hundreds of coal trains impact the recreational experience of anglers? How will the combined impact of existing rail and barge traffic, in addition to coal train traffic, impact kayakers, birdwatchers, and other river users?

Federal and State Parks and the Columbia River Gorge National Scenic Area

The Council on Environmental Quality's (CEQ) regulations require consideration of adverse effects to significant scientific, cultural, or historical resources.⁵ Similarly, the Corps' regulations require consideration of historic, cultural, scenic, and recreational values.⁶ Under the Corps' regulations, "[f]ull evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on values such as those associated with wild and scenic rivers, historic properties and National Landmarks, National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, estuarine and marine sanctuaries, archeological resources, including Indian religious or cultural sites, and such other areas as may be established under federal or state law for similar and related purposes."⁷ In addition, with regard to historic or significant resource classifications, controls, or policies, Corps regulations provide that, "[a]ction on permit applications should, insofar as possible, be consistent with, and avoid significant adverse effects on the values or purposes for which those classifications, controls, or policies were established."⁸ The Corps' EIS must therefore disclose the project's impacts on the Columbia River Gorge National Scenic Area, the Lewis and Clark National

⁵ 40 CFR § 1508.27(b)(8).

⁶ 33 CFR § 320.4(e).

⁷ 33 CFR § 320.4(e).

⁸ 33 CFR § 320.4(e).

Historic Trail, and other public recreation areas impacted by rail traffic along the Columbia River.

Carved into the Cascade Mountains of Oregon and Washington, the Columbia River Gorge was formed by ancient volcanoes and floods.⁹ The Columbia Gorge is an environmental resource of enormous importance to the Pacific Northwest. Recognizing this, Congress passed the Columbia River Gorge National Scenic Area Act of 1986, establishing the Columbia River Gorge National Scenic Area (the “Scenic Area”). The purpose of the Act was “to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development...”¹⁰

The Scenic Area includes 292,500 acres of land along 85 miles of the Columbia River, from Troutdale, Oregon and Washougal, Washington in the west to the Deschutes River in the east.¹¹ The diverse geographic region contains rainforests, farmland, grasslands, rare plants and wildlife, streams, lakes, wetlands, riparian corridors, and more waterfalls than any other area in the country.¹² Cultural and historic sites, including Native American petroglyphs, trace a 10,000-year-old human history in the Columbia Gorge.¹³ The Columbia Gorge is currently home to over 55,000 people and is visited by over 2 million people each year, primarily due to its reputation as a world-class environment for recreation such as windsurfing, kiteboarding, kayaking, hiking, mountain biking, and fishing.¹⁴ The potentially affected area of the Columbia River Gorge contains many significant historic places and resources.

Coal export and its attendant environmental impacts are not consistent with the purpose of the Columbia River Gorge National Scenic Area Act. A purpose of the Scenic Act establishing the Columbia River Gorge National Scenic Area was “to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge...”¹⁵ As discussed above, the coal export project would jeopardize these resources and would be contrary to the purpose for which the Scenic Area was established.

Similarly, the EIS must analyze the project’s impacts on the Lewis and Clark National Historic Trail (the Trail). Congress established the Trail in an amendment to the National Trails System Act, 16 U.S.C. § 1244(a)(6), and the National Park Service administers the Trail and is

⁹ Columbia River Gorge Commission, About the Scenic Area. Accessed on November 26, 2012. Available at: <http://www.gorgecommission.org>.

¹⁰ 16 U.S.C. § 544(a).

¹¹ Columbia River Gorge Commission, About the Scenic Area. Accessed on November 26, 2012. Available at: <http://www.gorgecommission.org>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 16 USCS § 544(a).

charged with the identification and protection of the historic route, remnants, and artifacts of the Lewis and Clark Expedition for public use and enjoyment. The Trail extends from Wood River, Illinois to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Expedition. The Trail is rich in cultural history, unique and varied natural resources, and outstanding scenery. And many points along the Trail would be impacted by coal trains supporting the Gateway Pacific Terminal. The EIS must therefore disclose the coal export project's impacts on the Trail, including visual impacts to Trail users in Oregon.

Conclusion

Thank you for your consideration of these scoping comments. For the Columbia River and its iconic salmon and steelhead runs, the Gateway Pacific coal export project means a significant increase in rail traffic and toxic coal dust. We urge the Corps to assess the overwhelming public opposition to coal export and the project's impacts on Columbia River communities, habitat, and endangered species. We look forward to the opportunity to comment on the draft EIS.

Sincerely,



Brett VandenHeuvel
Executive Director
Columbia Riverkeeper