

Cascadia Wildlands
P.O. Box 10455
Eugene, OR 97440

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Mr. Randall Perry, NW Field Office
U.S. Army Corps of Engineers
1440 10th Street, Suite 102
Bellingham, WA 98225
Randel.J.Perry@usace.army.mil

Mr. Ted Sturdevant, Director
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
tstu461@ecy.wa.gov

Mr. Tyler Schroeder, Current Planning Supervisor
Whatcom County Planning and Development Services
5280 Northwest Drive
Bellingham, WA 98226
Tschroed@co.whatcom.wa.us

Via E-mail and U.S. Mail

RE: Docket number COE-2012-0016: Proposed Gateway Pacific Terminal coal export proposal draft EIS scoping comments

U.S. Army Corps of Engineers:

The following comments are submitted by Cascadia Wildlands. Cascadia Wildlands is an environmental non-profit organization based in Eugene, Oregon. We work to protect wildlife and wild places throughout the Cascadia bioregion, which stretches from northern California to Alaska. We have more than 6,000 members, who are concerned about threats to the environment in Cascadia from logging, the transport, mining, and export of natural resources, and other environmentally-harmful projects.

We urge the U.S. Army Corps of Engineers (“USACE”) to conduct a thorough, comprehensive environmental impact statement (“EIS”) for SSA Marine's proposed Gateway Pacific Terminal at Cherry Point. The proposed project would adversely impact Federally-listed endangered species, keystone species, air and water quality, local economies and public health and safety. Additionally, it would unreasonably interfere with navigation, transportation, fishing, and public recreation and accelerate the impacts of climate change.. The proposed project would see the export of 48 million metric tons of coal per year, which would have disastrous impacts on endangered fish species, water resources, navigation, fishing, and public recreation. The facility would be the largest coal terminal in the U.S. shipping up to 48 million metric tons annually and should not be authorized before a comprehensive EIS considers the impacts of mining coal in the Powder River Basin, transporting that coal to Washington, exporting it via the Gateway Pacific Terminal, and burning that coal in international markets. This analysis should also be cumulative in nature and consider this proposal in the context of the overall collection of Northwestern coal export proposals.

The proposed project would adversely impact Federally-listed endangered species. The Salish Sea is designated critical habitat for eight Federally-listed fish species, including threatened and endangered Chinook salmon, bull trout, and Puget Sound steelhead trout.¹ The

¹ See, e.g., Endangered Threatened Species: Designation of Critical Habitat for Threatened Lower Columbia River Coho Salmon and Puget Sound Steelhead, 76 Fed. Reg. 1,392 (Jan. 10, 2011); Endangered and Threatened

proposed project would impact these endangered species. In addition, Cherry Point herring located in the project area are a keystone species, providing food for many other species in the area at a critical time. The Cherry Point herring population has already vastly declined, likely due to industrial discharges in the area. Further threatening the herring's survival by allowing the construction of the Gateway Pacific Terminal could have disastrous impacts for many marine species in the Salish Sea. For example, Cherry Point herring constitute roughly two-third of the diet of Chinook salmon. Chinook salmon are an important food source for Puget Sound orca whales. Fisheries consultant Fred Felleman stated that “the proposed Gateway coal terminal would most likely be the dock that breaks the herrings' back.”² In 1999, under the terms of a settlement agreement between SSA Marine and a coalition of state agencies and environmental nonprofits, baseline studies of the status of Cherry Point herring were ordered. However, these studies have not been initiated.³ If there's no clear sense of what's caused the decline in herring population and what their current numbers are, it will be exceedingly difficult to evaluate the impact of a potential project on their numbers.

SSA Marine states that it will protect marine life by aligning the wharf to maximize the amount of natural light that reaches the water, using a cargo loading system that will minimize dusting as coal is transferred to barges, and requiring that incoming ships discharge their ballast 200 miles from shore to avoid introduction of invasive species.⁴ However, there is no assurance that SSA Marine will truly undertake these voluntary initiatives. For example, there is no Federal standard for ballast discharge. The increase in marine traffic, the potential for coal dust release, and disruption of natural light all pose significant dangers to local endangered and embattled species. The in-water construction for the Gateway Pacific Terminal in designated critical habitat would

Species: Final Listing Determination for Puget Sound Steelhead, 72 Fed. Reg. 26,722 (May 11, 2007); Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bull Trout, 70 Fed. Reg. 56,212 (Sept. 26, 2005).

- 2 Bob Simmons, Big Coal meets Cherry Point's tiny herring, Crosscut, Oct. 28, 2011. Available at <http://crosscut.com/2011/10/28/environment/21354/Big-Coal-meets-Cherry-Points-tiny-herring/> (last accessed Jan. 9, 2013).
- 3 Bob Simmons, Herring, Not Red, Cascadia Weekly, Nov. 28, 2012. Available at http://www.cascadiaweekly.com/entertainment/key_measure_of_coal_pier_little_studied_little_understood/ (last accessed Jan. 9, 2013).
- 4 SSA Marine, Marine – Gateway Pacific Terminal. Available at <http://gatewaypacificterminal.com/the-environment/marine/> (last accessed Jan. 9, 2013).

result in the loss of critical habitat. Over-water work would increase shading in designated critical habitat, which attracts species which prey on endangered salmon and steelhead. USACE must consider the scope of the project's impacts on endangered marine species and Cherry Point herring.

The proposed project would adversely impact water quality. Trains carrying coal from the Powder River Basin would arrive uncovered and be staged at the Gateway Pacific Terminal, where dust from the trains would surely enter the Salish Sea via process wastewater and stormwater. Most coal terminals are not enclosed, which further amplifies the risk that coal dust and other contaminants could enter the Salish Sea. SSA Marine states that it will use enclosed conveyor belts and enclosed unloading facilities in order to prevent the spread of coal dust,⁵ but has not included design specifics demonstrating the extent to which the terminal will be covered and the feasibility of constructing a covered coal terminal. Powder River Basin coal is particularly friable because of its low BTU content, which further increases the likelihood of coal dust entering the waterway if the terminal is not fully enclosed. USACE must consider the impacts the proposed project would have on water quality.

The proposed coal export project would vastly increase greenhouse gas emissions, because it would export 48 million metric tons of coal per year to be burned. This will result in an immense increase in greenhouse gas emissions, which have been demonstrated to contribute to climate change. Although the coal will be burned primarily in Asia, greenhouse gases are non-fixed and migrate globally. Climate change is an international issue blind to national borders. Additionally, the transport of coal in the U.S. via rail and barge will also result in greenhouse gas emissions. This increase in temperature is predicted to have disastrous impacts on Washington's waters and ecosystems. USACE must consider the climate change impacts resulting from the cumulative proposed project. There are similar concerns for ocean acidification which is a growing problem in the Pacific Northwest linked to global discharges of carbon dioxide and other fossil fuel emission such as sulfur and nitrogen compounds.

⁵ SSA Marine, The Environment – Gateway Pacific Terminal, available at <http://gatewaypacificterminal.com/the-environment/> [last accessed Jan. 16, 2013].

The proposed project would harm navigation, fishing, and recreation activities on the Salish Sea. The Salish Sea is used for recreational boating and fishing, as well as tribal fishing. The increased number of tugboats and barges on the Salish Sea as a result of the project will hamper the ability of individuals to use the River for recreational purposes. Tribes in the northwest, including the Lummi, the Swinomish, and the Tulalip, have expressed concern about impacts on their fishing rights as well as other tribal resources—the proposed project would result in air and water pollution, threaten tribal health and safety, and negatively impact tribal economic development.⁶ Tribal fishing rights are one of the few rights reserved by the tribes under the treaties entered into between tribes and the U.S. during the nineteenth century. The Puget Sound Area tribes, including the Lummi, Swinomish, and the Tulalip, were assured “the right of taking fish at usual and accustomed grounds” in the Treaty of Point Elliott of 1855.⁷ These tribes' fishing rights were upheld in 1974,⁸ and later affirmed by the U.S. Supreme Court in 1979.⁹ USACE must consider the proposed project's impacts on treaty-granted tribal fishing rights.

The proposed project has broad and significant impacts that must be considered in an Environmental Impact Statement. SSA Marine's proposed Gateway Pacific Terminal for the export of coal to China and South Korea is part of a broader scheme to transport coal from the Powder River Basin to ports in Washington and Oregon and then export this coal for use in Asia. The cumulative impacts of this comprehensive project, which would see the export of 155 million tons of coal each year from ports in Washington and Oregon, must be considered. Roughly 60 trains would come and go through Washington and Oregon each day. This cumulative project threatens disastrous impacts, including the acceleration of climate change, pollution of air and waterways, and public health and safety impacts. In addition to environmental, endangered species, and air and water quality impacts, operation of the Gateway

6 See, e.g., *Strong Opposition in Seattle For Gateway Pacific Terminal*, Oregon Public Broadcasting, Dec. 13, 2012; *Northwest tribes say no short cuts for coal export proposals*, Columbia River Inter-Tribal Fish Commission, Sept. 27, 2012.

7 The Treaty of Point Elliott art. 5, Jan. 22, 1855.

8 U.S. v. Washington, 384 F.Supp. 312 (W.D. Wash. 1974).

9 Wash. v. Wash. State Commercial Passenger Fishing Vessel Ass'n, 443 U.S. 658 (1979).

Pacific Terminal would also create traffic, noise, dust, and public health and safety concerns. These considerations cannot be pushed off to a later date. The USACE must consider the cumulative impacts of the overall project to export 155 million tons per year of coal from Oregon and Washington to Asia.

The USACE should also consider that there is no public need for the proposed project. The coal exported via the terminal will not be used to generate energy in Washington or even in neighboring states. Instead, the coal will be exported for use in China and South Korea. Foreign “need” for a U.S. natural resource is not a “public need.” The only individuals who will benefit if the proposed project moves forward are a handful of industry executives, as well as Asian purchasers. Furthermore, because Powder River Basin is from a de-certified coal-producing region, the coal is sold at a far lower price than fair market value, so the project is a disadvantageous sale that will not benefit the people of Washington financially. The state of Washington and its citizens have already decided that coal isn't a worthwhile energy source; Washington's final remaining coal-burning power plant is slated to close by 2025 after campaigns from environmental groups and the passing of state legislation setting climate change goals.¹⁰ USACE must consider the lack of public need for the proposed project.

SSA Marine points to the creation of jobs as a major justification for the proposed Gateway Pacific terminal. However, because of the volatile nature of the coal market, jobs are not guaranteed, and Pacific Northwest residents are rightfully skeptical after the collapse of the Port of Portland coal export project in the 1980s. A developer began constructing a terminal, but never completed it when Asian demand for U.S. coal plummeted, and the Port of Portland and private investors lost millions of dollars as a result of the failed deal.¹¹ There is no guarantee that the same will not happen again. In 2008, Kinder Morgan, a pipeline and terminal company considering constructing a coal export terminal at the Port of Vancouver, stated in an internal e-mail that coal is “the most-risky bulk mineral market” and that the volatile prices for coal create

¹⁰ Phuong Le, *Deal shuts down state's last coal-fired power plant*, Komo News, Mar. 5, 2011, available at <http://www.komonews.com/news/local/117468054.html> [last accessed Jan. 14, 2013].

¹¹ Scott Learn, *Coal clash: Proposed Northwest export terminals face the risky business of global energy markets*, Oregonian, June 30, 2012.

“a real danger in losing investment.”¹² The jobs and economic benefit that SSA Marine insists the Gateway Pacific Terminal project would create are too risky to rely on.

We are also concerned about the scoping process for the Gateway Pacific Terminal. The e-mail for submitting comments was phished by a pro-coal organization which sent e-mails to other supporters of the project soliciting comments.¹³ SSA Marine paid day laborers to stand in line at scoping meetings and comment favorably on the project, depriving those who wished to comment verbally of the chance to do so.¹⁴ Both of these events demonstrate a lack of fair play by those supporting the project and, more importantly, a deprivation of the chance to comment for those who are concerned about environmental, health, and public safety impacts of the project.

The proposed project threatens disastrous consequences for the Salish Sea's endangered fish species, the environment, and recreational and tribal uses of the Sea. There is no demonstrated public need or benefit from the proposed project. Cascadia Wildlands urges USACE to undertake a comprehensive Environmental Impact Statement evaluating the environmental impacts of the coal export project as a whole, including the mining of coal in the Powder River Basin, the transport of this coal to Cherry Point, the export of coal from Cherry Point to Asia, and the burning of coal in Asia, in order to ensure that the proposed project does not cause permanent and irreparable harm to Washington's environment, endangered species, and citizens.

¹² Id.

¹³ Kie Relyea, *Cherry Point coal terminal comment deadline extended to Jan. 22*, Bellingham Herald, Jan. 15, 2013.

¹⁴ Terry Weschler, *Coal Terminal Scoping Meetings Heat Up*, Whatcom Watch, available at http://www.whatcomwatch.org/php/WW_open.php?id=1508 [last accessed Jan. 16, 2013].