

December 13, 2012

TO: Seattle District, U.S. Army Corps of Engineers
Washington State Department of Ecology

FR: David E. Ortman, 7043 22nd Ave N.W., Seattle, WA 98117

RE: Scoping Comments: Gateway Pacific Terminal bulk-cargo shipping terminal and rail spur improvements at Cherry Point, Whatcom County, Washington

GENERAL COMMENTS

IN COAL WE TRUST? NO



This project is not about coal. It is about dollars and profits for a very select few and environmental impacts for the many. For those here who support this project, think of the impacts to our spaceship earth and the impacts to you and your children in the future. Most of you here will never have a coal export job but you will all suffer the adverse impacts from climate change.

IN ECOLOGY WE TRUST? NO

In the Yakima Basin, the Department of Ecology jointly issued a draft and final EIS with the Bureau of Reclamation that includes building two new massive irrigation dams costing billions of dollars that would destroy endangered species habitat for spotted owls, bull trout and sage grouse. Ecology refused to consider a range of alternatives in the EIS and added environmentally damaging elements to the proposal AFTER the close of comments on the draft EIS. We cannot trust Ecology to comply with the State Environmental Policy Act.

IN THE SEATTLE CORPS WE TRUST? NO

In Willapa Bay, the Seattle Corps is constructing a \$7 million two-mile long 25-foot high sand berm that will destroy endangered species habitat for nesting Western Snowy Plovers. The Seattle Corps refused to prepare an environmental impact statement for this project. We cannot trust the Corps to comply with the National Environmental Policy Act.

SPECIFIC SCOPING COMMENTS

Under the National Environmental Policy Act (NEPA) the Seattle District Corps of Engineers (Corps) (NEPA), and under the State Environmental Policy Act (SEPA) the Washington Department of Ecology (Ecology), have requested scoping comments to be addressed as part of any draft EIS on the proposed development of a proposed Gateway Pacific Terminal bulk-cargo shipping terminal and rail spur improvements at Cherry Point, Whatcom County, Washington. According to the Corps and Ecology, the proposal is for a shipping terminal with the capacity to export and import approximately 54 million metric tons per year of dry bulk commodities including, but not limited to, coal, grain products, potash, and calcined petroleum coke.

The following are specific scoping comments and issues to be addressed in the Draft Environmental Impact Statement (DEIS):

1. Alternatives

* The DEIS should evaluate other alternative sites in the Northwest, including Oregon and British Columbia, that may have less adverse environmental impacts.

* Because the Applicant has indicated a very broad request to export and import a wide variety of dry bulk commodities, the DEIS must evaluate the probable significant adverse impacts from each alternative type of dry bulk commodity including, but not limited to: coal, grain products, potash, calcined petroleum coke. The DEIS should also analysis environmental impacts from the export of pulps (cellulose, chem wood, sulfite); iron (steel, waste, scrap); aluminum (waste, scrap) and similar commodities.

* The DEIS should include a cumulative impact analysis of all proposed bulk shipping terminals proposed for Oregon, Washington and British Columbia.

2. Earth Resources

* How will the DEIS evaluate the project's potential impacts and identify potential mitigation measures for those impacts such as impacts of upland discharge, including soil contamination and erosion; impacts of surface water discharge, including bank stability along Cherry Point and other proposed bulk export terminal sites; and potential impacts of conveyance and upland discharge resulting from earthquakes?

3. Air Resources

* How will the DEIS evaluate the project's potential impacts on existing air quality?

* How will the DEIS evaluate potential odor impacts of the project?

* How will the DEIS evaluate compliance with the requirements of the Clean Air Act for construction and operation phases?

* What would be the project's contribution to climate change gases?

* What would be the project's carbon footprint?

* What methodology will be used to assess the impacts of air pollution on surrounding residents, towns and cities?

- * How extensive will the assessment of air quality and visibility impacts be? Will emission sources to be studied include emergency generators, and other secondary sources? Will the DEIS evaluate the impacts on air quality and visibility caused by fugitive and exhaust emissions from construction, traffic, and bus emissions, and all point source emissions? Will the DEIS analysis include airborne pollutants associated with the project's day-to-day operations?
- * Will effects to air quality, visibility, and regional haze in Olympic National Park and the North Cascades National Park be assessed? Will the DEIS discuss how the proposed project will impact Class I and Class II airsheds and maintain attainment of air quality standards?
- * Will the DEIS address any contribution to acid rain from the project?

4. Water Resources

- * How will the project control wastewater? Will the DEIS evaluate the capacity and effectiveness of any local water quality treatment plant that would be used?
- * Will the DEIS evaluate the impacts of metals and other toxics in any discharges?
- * Will the DEIS evaluate the effects of a 100-year and 500-year flood on the project site? Will the DEIS evaluate the effects of sea-level rise on the project site?
- * What water quality monitoring would be proposed?
- * Will the DEIS include a description of the potential for spills of commodities and contaminants into waters of the United States and the measures such as an emergency response plan to mitigate impacts?
- * The DEIS should analysis water quality impacts along the entire bulk commodity transport route, including any crossing of water bodies listed on the State's current 303(d) list.
- * What is the scope of the water quality analysis? Will the DEIS disclose which water bodies may be impacted by the project, the nature of the potential impacts, and the specific pollutants likely to impact those waters? Will it also report those water bodies potentially affected by the project that are listed on the State's current 303(d) list and whether the Washington Department of Ecology has developed a water quality restoration plan (Total Maximum Daily Load) for the water bodies and the pollutants of concern? If a Total Maximum Daily Load (TMDL) has not been established for those water bodies on the 303(d) list, in the interim will the DEIS demonstrate that there will be no net degradation of water quality to these listed waters?
- * Will the DEIS explain how anti-degradation provisions of the Clean Water Act would be met for the proposed project?
- * Will the DEIS address the effects on water quality from the runoff of hazardous materials from landscaping and from storm water associated with additional impervious surfaces? What are the plans for storm water containment?
- * How will runoff into Puget Sound be prevented? What type of containment system for road and parking lot run-off will be constructed?
- * In the analysis of potential transportation improvement alternatives, will impacts on Puget Sound and surrounding water bodies be considered, including any stream crossings needed, maintaining the natural stream flow, and connectivity of riparian habitat?
- * Will any damage to the shoreline or other waterfront impacts result from the project and associated uses in the area?
- * Will the DEIS discuss how avoidance of wetland impacts is the highest priority?
- * Will the DEIS discuss how Clean Water Act (CWA) Section 404 requirements for wetlands would be met and evaluate potential impacts to adjacent wetlands or indirect impacts to wetlands such as hydrologic changes due to increases in impervious surface? Will the DEIS disclose

where there are known waters or wetlands that would be directly or indirectly affected by the proposed project?

- * Will the proposed project incorporate any riparian/wetland restoration in the Cherry Point area, or other proposed bulk export terminal sites?

- * Will the DEIS address compliance with Executive Order (E.O.) 11990, Protection of Wetlands?

- * Will the DEIS address impacts of endocrine disrupting chemicals on salmon?

- * Will the proposed project require any additional dredging?

5. Marine/Estuary Habitat

- * Will the DEIS address impacts to the marine habitat from vibration, sound, shading, wave disturbance, alterations to currents and circulation, water quality, scouring, sediment transport, shoreline erosion (landfall) and structural habitat alteration?

- * Will the DEIS address impacts to marine mammals and turtles including the northern right whale, humpback whale, fin whale, harbor seal and grey seal, loggerhead sea turtle, Kemp's Ridley sea turtle and leatherback sea turtle?

- * Will the DEIS address physical and acoustical impacts during construction and operation?

- * Will the Biological Assessment required for compliance with Section 7 of the Endangered Species Act be a clearly identifiable section?

- * Will an assessment of fisheries and benthic impacts specifically address the requirements for an Essential Fish Habitat Assessment per the Magnuson Stevens Act?

- * Will studies for all final sites include an assessment of: 1) species type, life stage, and abundance; based upon existing, publicly available information, 2) potential changes to habitat types and sizes; and 3) the potential for marine or estuarine population reductions.

- * Will the DEIS assess potential indirect impacts to fish, mammals, and turtles that may result from changes in water movement, sediment transport, and shoreline erosion?

- * Will the DEIS include an assessment of potential impacts to fishing techniques and gear types used by commercial and recreational fishermen? The DEIS should identify all potential conflicts with existing fishery use patterns and the potential for fishery elimination due to the consequences of the proposed project. The DEIS should include a review of existing literature and databases to identify and evaluate commercial and recreational fish data and abundance data in north Puget Sound and all water bodies crossed by bulk commodity transport. Data to be reviewed should include: National Marine Fisheries Service (NMFS) Commercial Data, NMFS Recreational Data, Washington Department of Fish and Wildlife Commercial Data, and supplemented with intercept surveys.

- * Will the DEIS include benthic field studies to provide sufficient information to compare between alternative marine sites and to provide a general characterization of the benthic habitat of the final sites? The DEIS should include a Benthic Macroinvertebrate Community Assessment.

- * Will the DEIS comprehensively address the interconnections between the benthic, fisheries and avian resources? The predator-prey interactions are important considerations in fully understanding the potential impacts in siting a project within the Cherry Point area, or any other proposed bulk export terminal site, and all water bodies crossed by bulk commodity transport.

6. Biological Resources

- * Will the DEIS analyze potential impacts on fish, wildlife and their habitats from every element of the project, along with identification of mitigation measures?
- * The proposed project would be located within a significant marine resource at Cherry Point. Will the DEIS address the unique biological value of this area?
- * How will the DEIS consider ecological objectives? Will ecological objectives be designed to protect water quality and to maintain and/or enhance the natural habitats in the Cherry Point area, and other proposed bulk export terminal sites, as well as all water bodies crossed by bulk commodity transport for the benefit of fish and wildlife resources and the public?
- * Will the DEIS address measures that compensate for the loss of habitats of value to fish and wildlife?
- * Will the DEIS identify species protected under the Marine Mammal Act?
- * Will the DEIS identify the endangered, threatened, and candidate species under the Endangered Species Act (ESA), and other sensitive species within the proposed project area, including all water bodies crossed by bulk commodity transport, for each alternative? In addition, will the DEIS describe the critical habitat for these species and identify any impacts the proposed project will have on these species and their critical habitat?
- * Will the DEIS specifically address impacts to Orca whale populations, salmon runs, and herring populations in northern Puget Sound?
- * Will the DEIS describe the current quality and potential capacity of habitat, its use by fish and wildlife on and near the proposed project area, and identify known fish and wildlife corridors, migration routes, and areas of seasonal fish and wildlife congregation?
- * Will the DEIS evaluate effects on fish and wildlife from habitat removal and alteration, aquatic and terrestrial habitat fragmentation caused by roads, land use, and management activities, and human activity? How will endangered species and habitat, including steelhead and salmon in the Cherry Point area, all other proposed bulk export terminal sites, and all water bodies crossed by bulk commodity transport be protected ?
- * Will field surveys be conducted to determine whether the project will have an impact on fish and wildlife resources, and shorebird migrations in the Cherry Point area, all other proposed bulk export terminal sites, and all water bodies crossed by bulk commodity transport be protected?
- * How will the Corps ensure that its decision complies with the Migratory Bird Species Act of 1918, as amended? Will the DEIS describe the migratory birds and migratory bird habitats to be impacted (removed and/or degraded) during project construction, the time of year that removal of existing vegetation would take place, the migratory bird species that may be affected or occur within habitats affected by construction and ground disturbing activities, and measures (e.g., seasonal restrictions and/or habitat restoration) that will be used to avoid short and long-term impacts to nesting migratory birds?
- * What major plant communities are present and affected? Will the DEIS consider impacts on sensitive plant species, particularly those endemic to the Cherry Point area, all other proposed bulk export terminal sites, and all water bodies crossed by bulk commodity transport? How will sensitive plant species in the vicinity be protected?
- * What will be the impact of developing new impervious surfaces on the Cherry Point area and all other proposed bulk export terminal sites?

7. Avian Impacts

* How will the DEIS describe the impacts to the Cherry Point area and all other proposed bulk export terminal sites, particularly on migratory birds? How will the DEIS establish a baseline data set? The species, number, type of use, and spatial and temporal patterns of use should be described. Information derived from other studies, which provides a three-year baseline data set, should be included if available. Information should be based on (1) existing, published and unpublished research results, especially research that describes long-term patterns in use, and (2) new field studies undertaken for this DEIS. Data on use throughout the year, especially in spring and fall for migratory species, and under a range of conditions should be collected. Data collection should allow a statistically rigorous analysis of results. Issues needing to be addressed include: (1) bird migration, (2) bird flight during storms, foul weather, and/or fog conditions, (3) food availability, (4) predation, and (5) benthic habitat and benthic food sources.

* Will the Biological Assessment required for compliance with Section 7 of the Endangered Species Act be a clearly identifiable section?

8. Noise and vibrations

* How will the DEIS address the potential for underwater noise and vibrations associated with construction and operation of the facilities?

* The DEIS should include an assessment of the magnitude and frequency of underwater noise and vibrations, and the potential for adversely affecting fish and mammal habitats and migration. It should also include an assessment of fish and mammal tolerance to noise and vibrations, with particular emphasis on noise and vibration thresholds that may exist for each of the species. The DEIS should also include the potential of noise impacts to human activity at any of the final sites.

* How will the DEIS address identification of existing noise levels and evaluation of the project's potential short-term and long-term noise impacts along with potential mitigation measures?

* Has a noise contours map been developed for the project and does it show day-night average sound level (DNL)? How will any DNL's that are in excess of local ordinance requirements be mitigated?

* Will the DEIS evaluate noise generating activities associated with construction and ongoing operations, including traffic to and from the project site?

* Will noise effects from increased traffic on county, city, and state roads in Whatcom County and other communities along the route crossed by bulk commodity transport?

* Will the cumulative effects analysis include effects on existing noise levels in Whatcom County, including noise associated with railroad and truck operations?

9. Environmental Health

* How will the DEIS address impacts of hazardous materials and identification of mitigation measures?

* How will the DEIS address human health impacts from the proposed project and all communities along the bulk commodity transport route?

10. Land and Shoreline Use

* How will the DEIS address compliance with land use laws, plans and policies?

* If this project is developed on these industrial lands, how much land will remain

available for industrial development in Whatcom County? Will Whatcom County be able to maintain a 20-year supply of industrial lands?

* How will the DEIS address compliance with the State Shoreline Management Act?

11. Aesthetics

* How will the DEIS address visibility of the proposed project and need for landscaping or buffers? How will the EIS assess effects of light and glare from the project site on adjacent properties and communities?

* How will visual effects, including views from surrounding properties be assessed?

* How will the visual impacts be mitigated?

12. Recreation

* How will the DEIS address the project's impacts on recreational use in Whatcom County?

13. Transportation

* How will the DEIS address the project's potential transportation impacts and identification of mitigation measures?

* Will the DEIS identify existing traffic levels and transportation infrastructure, impacts of the project on both, potential increases in traffic accidents, additional maintenance, and minimization of traffic impacts?

* Will any additional transportation or railroad improvements be required?

* How many vehicle trips will be generated, including trips by employees and service and delivery vehicles?

* How will the positive effects of alternative fuels and hybrid cars be factored into trip generation projections?

* Will the DEIS evaluate the level of service and overall traffic generation from various activities at the site including: construction traffic; and the level of service and overall traffic generation reasonably expected from project-associated growth in the surrounding communities? Will this evaluation be made on a daily, weekend, and seasonal basis?

* Will the traffic impacts analysis consider trips to/from Bellingham?

* What additional rail shipment and railroad traffic would be expected?

* Will the traffic study calculate road maintenance costs attributable to the project?

* What is the scope of mitigation of traffic impacts that will be considered in the DEIS?

* What is the capacity of local highways and local streets to accommodate additional traffic associated with the project and induced development? Will there be congestion at the interchanges serving the project or along the bulk commodity transport route?

* Will the traffic analysis take into consideration that Cherry Point is extremely sensitive to congestion and traffic blockage?

* What improvements to local streets would be required for this project?

* How would this project affect other industrial users in the area?

* How will railroad conflicts, i.e., noise, access, and safety, be addressed?

* Will the DEIS evaluate all transportation modes including truck, rail and barge for this project?

* How will pedestrian and bicycle access and safety be addressed?

14. Public Services and Utilities

- * What will be the need for additional public services, including public safety and emergency services, and for infrastructure improvements to be met?
- * What impacts to local school systems in Whatcom County can be expected?
- * What are the plans for sewage and solid waste disposal? Do local systems have the capacity to handle the additional demand?
- * What water usage is projected? Does Whatcom County have sufficient water rights to meet projected needs? In a drought situation, will there be adequate water to serve all needs? Will fire suppression needs be considered?
- * Can the demand for power be met without adversely affecting local homes, businesses, and industries?
- * How will housing needs for employees be addressed? Where will employee housing be developed?
- * Will the effects of induced development, including pressure for urban growth boundary expansions, be considered? What will be the scope of such an analysis, i.e., what communities in Whatcom County will be included in the analysis?
- * What types/how much induced growth has occurred with other similar projects?

15. Cultural Resources

- * How will the DEIS address requirements to comply with federal and state laws concerning cultural resources?
- * Will the scope of the cultural resources analysis include identifying all historic properties or cultural resources potentially impacted by the project or associated offsite development, including traditional cultural properties, other Native cultural resources, and non-Native historic properties? Will the DEIS evaluate the impacts to any identified historic properties and cultural resources, i.e., what are the impacts of the project and associated off-site development (e.g., housing, amenities)?
- * How will historical tribal uses of this area be factored in, including effects on sacred sites and fishing grounds?
- * How will the project affect the cultural heritage of the area?
- * Will the DEIS consider Tribal fishery impacts?
- * How will the DEIS fulfill the requirements of Section 106 of National Historic Preservation Act including coordination with the State Historic Preservation Officer?

16. Environmental Justice

- * Will the DEIS consider, based on the experience of such projects elsewhere, effects on levels of poverty?
- * Will the DEIS assess whether low income or people of color communities will be impacted by the proposed project and disclose what efforts were taken to meet environmental justice requirements consistent with Executive Order (EO) 12898?

17. Socio-Economics

- * Will a comprehensive economic analysis be undertaken to identify potential effects of the proposed project on Whatcom County?
- * What will be the time frame for the assessment of economic and social impacts; 10, 20, 50 years?

- * For comparison purposes, will the socioeconomic effects of other similar projects on other communities in the state be examined?
- * Will the demand for hotel rooms in Whatcom County be calculated?
- * How many jobs will be created; at what wage levels? What percentage of work will be reserved for local contractors?
- * What will be the consequences on property values and property taxes in Whatcom County?
- * How will the project impact existing restaurants, hotels, motels, RV facilities, and other overnight tourism lodging facilities? Will the DEIS assess whether there will be a loss of workers from existing businesses? What nationally accepted professional or scholarly data will be used to evaluate the potential impacts over the next ten years?
- * Will the DEIS assess the current social and economic impacts of not having adequate public and essential commercial services (e.g., housing, medical, emergency) for current and future workers?
- * How will effects on quality of life, including community character, demographics, and small town atmosphere, be assessed?
- * Will the potential dislocation of current residents due to an increased cost of living be considered?
- * How will the DEIS address safety considerations during construction?

18. Other Issues

- * Will tribal consultation occur with nearby Indian tribes in a manner consistent with Section 20(b)(1)(A) of IGRA, the Department's trust responsibilities to tribes, and the 1994 Executive Memorandum entitled Government-to-Government IGRA Section 20?
- * How will Washington communities be consulted with and involved in the NEPA process?
- * What consultation with school districts and other service providers will occur?
- * What other permits and approvals are required?
- * Has a geo-tech study been done for the project site? Because the proposed project is located in a severe earthquake zone, what extra structural precautions will be taken for potential earthquake liquefaction? How stable is the filled area for development?
- * How would the project be affected by seismic faults or fractures?
- * Will the project affect or be affected by nuisance odors? What mitigation is proposed?
- * Does the project proposal include a full inventory and assessment of all hazardous materials associated with the project? Are there any unresolved hazardous materials issues at surrounding properties?
- * What additional level of fire hazards can be attributed to this project?
- * Will the DEIS address the thermal effects of paving and buildings?
- * Will the DEIS address the potential for increased litter?
- * Will the DEIS address the disposal of solid waste?
- * Will the DEIS address adverse environmental impacts from accidents that dump bulk commodities into Puget Sound or other water bodies?
- * Will the DEIS address environmental impacts from bulk cargo collisions with other vessels in Puget Sound?
- * Will the DEIS address traffic vessel management in Puget Sound?

- * Will the DEIS address the need for rescue tugs and other marine spill preventative and cleanup measures?
- * The DEIS should specifically analysis the environmental impacts of bulk carriers calling at bulk carrier terminals that require cleaning the cargo holds before loading. It has been reported that such ship cargo hold cleaning takes place without any inspections and results in the discharge of contaminated water into Washington waters without a permit.

Please send me a copy off the DEIS when it becomes available.