Recd 12/10/12
By KSKent

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December 10, 2012

GTP/Custer Spur EIS c/o CH2M Hill
1100 112th Ave NE Suite 400
Bellevue, WA 98004

re: Gateway Pacific Projects/Oregon & Washington & Rail Corridors & Shipping Lanes

Dear Gateway Pacific Project Planners, Public Agencies & CH2M Hill:

Attached documents (33 pages)per December 6, 2012 electronic submittals as noted sent to Whatcom County, U.S. Army Corps of Engineers/Seattle; and Department of Ecology are presented separately in order to receive a "dated/time stamped receipt" for contents.

Importance of transparency and disclosures of critical information presented to the public cannot be overemphasized. Legal requirements for such projects must be carefully and meticulously followed and adhered to throughout the process. Review agencies for such projects cannot expect public comments to be thorough and meaningful unless the public has sufficient information with which to provide a full-range of viable comments; and "Decision Alternatives" action's allowed.

Concerns raised in the attached Public Comments are broad and far reaching. They address legal matters, codes, operational factors, specifications, standards/ethics of carrying out project reviews:

a. In past, many public comments for such projects have been deemed ("thrown-out") as Out-of-Scope. This practice must be carefully assessed for Gateway Pacific (Custer Spur EIS).

b. No collusion; no violation of public ethics policies and standards; nor payoff's to public officials; or so-called "donations" to public-offices or those seeking election or reelection to public offices should be allowed in carrying out decisions regarding subject project reviews. Past records of coal-interests, oil-interests and rail-interests in seeking permits is abysmal.

c. Failure to assess the full range of impacts of multiple/near simultaneous projects by coal and chemicals, oil, rail transport, marine shipping business interests WILL result in bypassing or overlooking critical aspects of damages and impacts on Northwest lands, waters and air.

d. Attempts to carry out "piecemeal" permitting reviews for similar projects will create fatal flaws in analyses that cannot be overcome either technically or by process or procedures. No such isolated and independent reviews should be allowed by public agencies.

e. Consideration for permits must include assessments of operational factors for safety, fires hazards, explosions, toxicity and equipment, derailments, vessel sinkings, collisons, factors to protect public plus workers involved in handling/transport or loading/unloading operations.

f. In last week's public forum, televised question-answer session with Governor Gregoire, she provided public assurances and commitments to full and complete transparency for the Gateway Pacific Projects (plural). This must absolutely be done and carried out for all aspects of reviews by local, county, state agencies and public agencies. To do any less will result in strong legal and technical challenges in Washington State (likely Oregon, too).

Please act accordingly in carrying out decisions and permitting reviews. Taxpayers and impacted public (businesses, individuals, workers, Native tribes, and agencies) demand and require your thorough, ethical and professional investigations into ALL likely impacts of these projects.

Sincerely, Dwight Schrag Dwight Schrag 12/10/2012 encl - 33 pp. Comments/EIS

ATTN: EIS Comment Review/Planners: GTP/Custer Spur EIS c/o CH2M Hill, 1100 112th Ave NE Suite 400, Bellevue WA 98004
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Subject: Docket number COE-2012-0016: Proposed Gateway Pacific Terminal coal export proposal draft EIS scoping comments

From: Dwight Schrag, 1106 108th Ave NE #302, Bellevue, WA 98004 12/6/2012

Comments are provided below (and in SCHRAG-Appendix) to fully support and justify **Gateway Project cancellation at this time**; and without allowing use of public expenditure to fund preparations for a fatally flawed EIS document for Gateway Pacific Project(s) of which the Cherry Point Terminal in Whatcom County is only one of many.

Reasons for conclusions and request for IMMEDIATE CANCELLATION are many :

- **Mitigation of risks are not practical or feasible. These include damages to health and safety, toxic pollution to air/waters/land; impacts on state and local businesses; wildlife harms; ecological harms; derailments; accidents and operational deficiencies; long record of illegal practices by applicants; private property devaluations; and many other factors are listed in attached.**

- **Public expenditure of funds by U.S. Army Corps of Engineers and local permitting agencies is wrongful, inappropriate and probably illegal for the proposed scope of projects to be reviewed. No public dollars expenditures are merited for such flawed, unsafe and harmful operations or projects.**

- **EIS Process itself is not suitable for assessing the wide-ranging geographic and environmental impacts or consequences of the projects. In totality these projects represent potential for irreparable harm to financial resources of the public, public health and safety, environmental and ecosystems damages; attempting to bypass rights of Sovereign Nations, Native lands and peoples.**

- **Hundreds of State and local officials, review agencies, jurisdictions and government bodies have already submitted overwhelming, ample evidence that these projects are too complex, excessively risky and impacts cannot be overcome by project applicants. Mitigation is financially impractical and/or impossible to protect citizens and governments from certain harms.**

- **Impracticality for U.S. Army Corps of Engineers or any other taxpayer funded agency to properly, professionally or adequately assess or evaluate permits or full extent of risks and harms, including many examples contained herein.**

- **Importantly and critically, the "Alternatives" presented for public comment were wrongful, devious and allegedly designed to deceive and misrepresent the facts for submitting "Scoping Comments" in public hearings. Essential and legally required facts and data were not presented for comment. Many of these data are included in attachments. Full disclosures and transparency is required for all of the projects; including those involving public information and right-to-know. One "Alternative", the DO NOT PROCEED option has not been presented for public comment. Therefore public and agency comments have been focused on proceeding now to EIS Scoping only. This is wrong.**

- **Certain damage to critical, publicly essential infrastructure, transportation systems due to railroad derailments, landslides, mudslides, bridge damage, and emergency cleanup or recovery operations has not been "spelled out".**

- **Toxic nature and explosion/fire risks to human life and property have not been disclosed to the public or to State and local regulatory agencies. Proposed mixed products to be handled by rail and in proposed Port facilities are incompatible for protection against fires and explosion for public safety.**

- **Most likely outcomes of explosions, fires, derailments, toxic pollution's, permanent environmental and ecosystems disasters and the like have not been considered in permit applications. This is immoral, unethical and illegal. All permits for such facilities and products should be denied; and no EIS conducted due to inability for suitable mitigation's.**

- **Public information (some contained herein) shows the wide-ranging violations of Codes, Regulations and Standards by the Project Applicants and their financial backers. Department of Justice, EPA and State Attorneys General have filed lawsuits in attempt to force compliance. Often these were completely disregarded and violations continued unchecked. Heavy fines were levied after many years of illegal activities and harms to public and the environment.**

- **Members of Congress, State officials and U.S. Army Corps of Engineers are/were involved in serious errors including assessing scope of damages. Most egregiously, public comments on the order of 50,000 in number were disregarded by U.S. Army Corps of Engineers in 2011 approvals of permits for a Virginia Coal project. EPA stepped in to VETO the 2011 permit action.**

- **Lists and public records of total disregard of public interests and lack of protections for harms to people, wildlife, animals, sea life, water/air/land**

pollution's, toxic releases, financial harms, business disruptions, taxpayer impacts, health costs and so forth have not been disclosed fully or adequately for comment. Gateway Pacific projects should not be further considered until full disclosure and transparency is provided to public; and public officials.

- **Moreover, U.S. Army Corps of Engineers and State Permitting agencies have wrongfully or illegally designated (valid and correct) public comments as "Out of Scope" for EIS assessments. Such devious and unethical practices must not be used without sufficient oversight by regulatory agencies of the Federal Government. ATNI (Affiliated Tribes of NW Indians) have already filed a petition asking for such additional oversight protections for their Sovereign Nation rights under the law, regarding Gateway Pacific Project permitting.**

We are Here: - *Scoping - deciding what factors to analyze and what geographic area to consider:* *"The co-lead agencies ask other agencies, tribes and the public to comment on what the environmental impact statement should analyze. Examples of **possible factors to consider** include stormwater, wetlands, air emissions, noise, and traffic. After considering comments, the lead agencies will decide what should be included in the environmental impact statement."*

ALTERNATIVES:

#1- Most Preferred Option/Alternative - DO NOT PROCEED WITH EIS/NEPA/SEPA ANALYSES FOR PROJECT(S) IN WASHINGTON STATE (same issues in Oregon).

Multiple Ports-WA-OR-Interstate Railway transport projects are NOT just compliance for Whatcom County shoreline permit as per notices re:
"Whatcom County issued a shoreline substantial development permit and a major development permit for construction and operation of the terminal. Because of changes to the size and scope of the proposal, the county has determined that a new shoreline permit is required for the project. The project must undergo a full environmental review before the company can obtain a new shoreline permit or other permits required for the project."

The Army Corps of Engineers nor Washington State Environmental Agencies (both) DO NOT have adequate professional qualifications for technical evaluations, design engineering, systems engineering, monitoring, design specifications, international legal-qualifications sufficient for broad overarching authority or expertise to make suitable EIS Scoping Determinations; nor Sovereign Nations of ATNI Tribal entities.

Whatcom County facilities DO NOT operate in isolation or independently from transport, operational, environmental, ecological and population centers impacted by multiple projects (Ports, rail, barges, shipping, transfer, trucking, infrastructure (e.g.

bridges/roads/tunnels, rail systems, so forth) to move and distribute the wide-range of products listed in the permit submittals. No agency can circumvent these facts.

CONCLUSION: Gateway Pacific Projects are fatally flawed & MUST NOT PROCEED. Considering information already provided herein (plus, by many city, county, state officials and regulatory agencies, ATNI and other Sovereign Nation Native Tribes) outlining complexities, unknown factors, and legal issues for these projects, the **Gateway Pacific Project(s) MUST BE CANCELED** and/or indefinitely postponed. Unless and until following critical factors are fully and completely resolved, **NO EXPENDITURES of public funds** should be spent in attempting to justify approvals.

REQUIREMENT: Unless and until reasonably well-developed, high quality technical analyses, full disclosures and complete documentation can be accomplished in a timely fashion (following items below; and as submitted by agencies, public inputs and others for this project) the entire project should **immediately be canceled or indefinitely delayed** for an indeterminate period until such time as Project Owner-Applicants provide and submit suitable disclosures, but not limited to the following:

MINIMUM EIS SCOPE - Typical Business Documents, estimates, licenses, permit types, technical analyses for all five (5) port projects

Must include Alternatives for rail/transportation routes - equipment, transport, products-chemicals, handling & transfer, health and safety, environmental, monitoring-testing, emergency & operational factors

EIS must NOT be evaluated in piecemeal, one-at-a-time, haphazard, unprofessional or illegal fashion. Taxpayer money CANNOT LEGALLY be needlessly squandered for reckless, flawed, unethical preparation of poorly defined, incomplete, dangerous or faulty Project Submittals. Full and complete project documentation is essential and required to properly analyze and prepare the EIS. **No EIS can be commenced without appropriate project definition, details of design, construction, infrastructure and operability standards.** Operability MUST include all health-safety, controls, codes, specifications, standards, equipment and environmental protection measures.

No EIS can be proper or sufficient in executions without suitable definition of project scope and operability (including transport methods, equipment, local conditions (for all cities and developments) along transport routes.

Full disclosures (below) are legally required before expenditure of public funds. See codes of Federal Regulations. See Washington State, King, Pierce, Snohomish counties; and other impacted district codes, permitting and planning standards (Seattle, Tacoma, Vancouver, Bellevue, Edmonds, Mukilteo, Everett, so forth).

Special Note:

Gateway Project Proposals are incomplete, sketchy information, poorly defined specifications, full of errors, lacking sufficient engineering analysis or definition of scope. Insufficient to proceed in conducting a legally viable EIS Scope.

I. **Broad Legal Issues & Technical Complexities** - cannot be overcome as defined.

- Interagency Risk Analyses, availability of funds and professional resources to evaluate, scope, comment, resolve conflicts or disagreements between jurisdictions e.g. Ports, Cities, Tribes, County, DOT, Shipping Lanes, various State, County & Local Jurisdictions (see hundreds of comments already submitted by above entities)

II. **Requires Full Disclosure & Transparency Before EIS**
Taxpayer impacts for public funded or tax-funded agencies; Army Corps of Engineer costs; EIS, NEPA/SEPA costs; State & County; Cities; Planning Agencies; Tax/Business Tax incentives; Tax write-offs; Federal Funds; Hedge Funds; Banks; Environmental Agencies Tracking. Monitoring; Federal Standards; State Standards; State Attorney General Reviews; Ability to Tax; Private Property Tax Implications/Loss or Profit; Audits/Auditors Agencies and Oversights (or lack thereof).

III. **Requires Full Business Disclosure & Transparency Before EIS**
All Principals involved in funding, managing, and operating all elements of the "Export and Transport Businesses".

- Requirements: ethical standards; public officials; conflicts-of-interest; criminal records; financial records; past history on similar projects; pending lawsuits; out-of-court legal settlements; professional background checks; deaths and injuries of similar projects; derailments/deaths/injuries; derailment cleanup costs; violations of codes, standards or regulations; fines levied; investigations by state or federal agencies; disclosures re: company affiliations Board Members, investors & officers

IV. **Requires Full Disclosure & Transparency Before EIS**
Volumes and safety/health risks; hazards; shipping and handling standards; MSDS; regulations for various products to be stored/handled or co-mingled.

- Terminal providing storage and handling of wide varieties of exported and imported dry bulk commodities, including coal, grain, iron ore, salts, alumina, potash & calcined petroleum coke.

- Specific explosive/fire/chemical releases/human hazards/disasters for various mixed commodities at same terminal load & offload/reload e.g. grain (fire-explosion-dust) versus coal (fire-explosion-dust) versus chemicals (spills, fire, explosion, dust, airborne/waterborne); daily-yearly limits for air, water, soils, oceangoing; river-going; animal and plant exposures; toxic's; remediation measures; medical treatments for human or animal exposures (land, sea, air).

- Gateway Project owners have failed to disclose how such a wide variety of products could conceivably be handled from a single facility unload/reload site.

V. <u>Requires Full Disclosure & Transparency Before EIS</u>

Corporate entities participating, levels of accountability (legal, insurance, engineering, operations) of all "Proposing Businesses" - Bankruptcies, Investors, Management & financial role (percentage ownership); Insurance companies providing policies; Risk capital; Hazard insurance policies; Foreign interests or investors; Rail, Shipping, Production/mining/agricultural interests; Tax advantages or loopholes sought or allowed; Legal obligations; Lawsuits pending or filed (and status of lawsuits).

- This information is essential. For example, if foreign interests or bankrupt or corrupt U.S. interests are financing/sponsoring Gateway Pacific Projects there will be little or no recourse for accidents, deaths, toxic poisonings, fires, explosions, code violations, harmful pollutants and similar disasters. Public entities (taxpayers & government) will be stuck with mitigation, remediation and recovery costs while litigation grinds through (potentially corrupt) international courts; appeals and counter-appeals.

- For example, 1999 in Bellingham an underground natural gas pipeline explosion in the city caused deaths of three children playing in a park. Criminal charges were filed against the owners and managers; and fines or jail-imprisonment sentences were carried out against executives and officers. **Even today, risks of further tragic explosions remain. In other cities, similar explosions occur on an ongoing basis. 2011 and 2012 explosions in several locals were catastrophic.**

- As a result of Bellingham's pipeline explosion, operating companies and other firms were hit with fines, penalties and other settlements totaling more than $187 million, reported the Executive Director of the Pipeline Safety Trust in Bellingham. This includes $61 million in penalties for further safety and inspection improvements, plus $75 million in a wrongful death lawsuit to the families of two of the youths killed in the explosion. The defendants also reached a private settlement with the family of the third youth killed in the disaster.

Foreign companies (BP) purchased a majority of the pipeline assets and it passed through several foreign owners to this day.

Read more here: http://www.bellinghamherald.com/2009/06/10/943808/what-happened-to-key-players-in.html#storylink=cpy

- Public examples-lists per website Arch Coal details (and Gateway Projects):

www.sourcewatch.org/index.php?title=Arch_Coal

- Appendix pages (15) attached for **examples of Full Disclosures Required.**

VI. National & International Safety & Health Risks and Operating Standards
Codes, standards, monitoring, treatment, reporting, and agency requirements and reviews/testing for all chemicals export-commodities/products handled at Port(s).

- Permit authority cannot be considered until scope of business operations, tonnage, types of products, associated risks, handling systems, transport systems, equipment types, power requirements, availability of utility supply (long-run) and hundreds of other unknown factors are resolved and presented. **An EIS without knowing the operational requirements is worthless and illegal in scope.**

- Without knowing what the products volumes (not just coal) and safety standards for handling, explosion and fire control, emergency procedures and operational requirements are, ... no permit can be considered or evaluated by an EIS process. **Therefore, no permitting request is valid, nor should it be acted upon by public agencies.**

VII. Impacts & Emergency Response for Natural Disasters, Explosion, Fire, Shipping Lane Collisions, Derailments or Truck-Train Vehicle Impacts
Funding and availability of personnel for Regional Emergency Plans for Earthquake; Mudslides; Tsunami; Volcanic Eruptions; Flooding; Emergency Resources; Budgetary ; Environmental Disasters; State Agency Response Teams; Federal Agency Response Teams is an essential consideration.

- Recent budget cuts for emergency response personnel at City, County & State levels has devastated fire, ambulance, EMT and public safety services/equipment.

- Depending on Coal/Railroad emergency staff and response for emergencies, fires, explosions, train-vehicle collisions, and saving public lives is a fool's errand. Time and time again the local services are drawn in due to the scope of industrial disasters. State taxpayers and agencies should not pay for such business deficiency.

- Coast Guard and sea rescue services are similarly underfunded. Taxpayers funding for local Sheriff boats that provide compliance or rescue services, helicopter services for hospital evacuations are insufficient in a major disaster.

- **No EIS should be commenced until the public safety agencies** can attest to sufficient personnel, equipment and availability to provide emergency response.

VIII. Requires Full Disclosure & Transparency Before EIS Commences
Address current or foreseen **inadequacies of EIS process** to determine how to resolve lack of suitable monitoring, equipment, sampling, testing, record-keeping, medical or health evaluations for air/water/land; or to assess plant & animal pollution or ecological damages; plus all forms of potential Human Health impacts; diseases;

poisoning; vital organ damage; risks to children, elderly or people with current diseases (e.g. pulmonary, allergies, emphysema; skin sensitivities; so forth)

- List all human or animal and plant/crop factors, ecosystems, codes, standards, requirements, public agencies, accountability/responsibility, training, personnel qualifications/skillsets, emergency, FDA, EPA oversights and so forth.

- Address how all State and Local governmental comments and concerns, including DOT and Regulatory, can be addressed with EIS framework and process.

- Address how lack of disclosures and project scope documents for permit requests can be accommodated and resolved before EIS commences. **When full disclosure and project details are in-hand, RESTART the public comment process** and schedule all over again. Public must know what they're commenting on; as must State agencies and all taxpayer funded city, county, ports and other review agencies impacted by scope of Gateway Pacific Projects, in totality (not piecemeal permitting).

IX. Growth Management, Development & Livability Planning - Long Range City Development Plans, Funding & Potential Conflicts

Address City-County Business Plans, Permits, DOT, Ecological Projects impacted; and future Planned Developments along or near all potential or likely railroad routings for Rail Routes/City/County/State; bridges; overpasses; drainage zones; environmentally sensitive zones/restrictions (e.g. rail routing through Bellevue and Kirkland, WA).

- Many cities along rail routes (such as Tacoma, Bellevue, Seattle) are planning major developments, infrastructure changes, Light Rail expansion, Seawall repairs, and other Commercial Business expansions adjacent to railroad corridors.

- Coal trains, chemicals transport, grains and other products moving through the new, planned developments could render them impossible or double/triple costs for construction, permitting complications, traffic revisions, and loss of property value or cancellation. Business losses for existing properties along the route could be enormous and end up with years of legal challenges, lawsuits and appeals.

- All such local costs to businesses, city properties, developers, and so forth that would result by increase in rail traffic/hazardous goods transfers must be compensated before any approvals for Gateway Pacific Projects. This could delay actions for many years and result in many lawsuits against the Gateway projects.

X. Hospitals & Healthcare Facilities along Rail Transport Corridors

Many medical facilities and businesses are in immediate proximity to rail corridors to be utilized for Gateway. This presents a particularly severe hazard which cannot realistically be monitored

- Specific to Bellingham railroad corridors for coal and pet coke products, hospitals and medical providers/physicians have already presented formal comments raising significant and overriding concerns over dust, noise, pollution, inhalation, pulmonary/respiratory ailments to hospital patients and residents along the route. Mitigation for such issues cannot be realistically provided. Costs and financial losses to these facilities, jobs, community, tax revenues will be severe.

- Specific to Seattle (see **Schrag Summary in Appendix**) and "Open Letter to Regional Leaders re: Coal Trains to China" (also **in Appendix**).

- Specific to Bellevue Schrag's Summary comments have been earlier provided for Gateway Pacific Projects & accepted into the public comment records.

- Specific to hazards and health risks to the "General Population" within (say) 2,000 meters East to West of the downtown rail corridors in (for example) Seattle's high-density business and waterfront locations for an approximate 5 + miles length rail distance (see **Schrag example "Coal Dust Hazard Test" per Appendix**).

XI. Emergency Access (Delayed Response Times for Vehicles & EMT Personnel/Fire & Rescue/Natural Catastrophes) and potential fatalities due to Blocked Rail Crossings re: Coal Train Passage

Mere minutes of response time often means life or death to people in a fire situation, vehicle accidents, explosions, emergencies or floods/natural disasters.

- Numerous community leaders, Mayors, City Councils, Fire Departments and other public officials have provided written statements expressing outrage and concern over potential loss of human life due to rail-crossing delays for coal trains.

- There is **no way to mitigate such risks** due to almost impossible variables, locations, situations, and routes that Emergency Vehicles must take in an emergency.

- Response times and lack of staff are already at unacceptable levels of delay due to traffic congestion, density of businesses and people in downtown corridors. This is expected to grow considerably worse and more difficult to provide as rapid development continues in downtown areas.

- For cities like Tacoma and Seattle, the problems are becoming acute due to lack of funding available for Fire Department staffing and equipment. For cities like Bellevue, high priority is ongoing to add new Firehouse locations to improve speed or response. This is especially acute in downtown areas where high-rise buildings and apartment buildings can be destroyed (as occurred in November, 2012) and lives lost if emergency vehicles are blocked access. There is **no way to mitigate such risks** if heavy rail traffic makes passage impossible.

XII. Derailments & Terrorism - Insurance Bonds for Damage/Litigation/Cleanup $ B

Coal train derailments have been an ongoing, rolling disaster for decades

- Recent deaths to innocent passersby have recently occurred 2009-2012 during coal train derailments. Victims were crushed, suffocated or trapped in vehicles/unable to escape and dying gruesome deaths. A simple "Google-search" highlights and provides ample evidence of growing frequency of such disasters involving coal trains or dangerous heavy chemicals as proposed for Gateway Pacific ports.

- There seems endless numbers of excuses and theories of why this happens. Likely problems include settling or rail beds, failures to inspect or repair loose or damaged tracks, faulty equipment and lack of personnel to inspect loads or railcar maintenance quality. Dangers are far too great to rely on **pitiful, unethical claims "we can't afford to do this right any more."**

- Potential derailments in heavily populated areas and nearby major business centers, hospitals and medical treatment centers is inexcusable. Most track along rail routes are not in Industrial Zones. Risks cannot be mitigated.

- Northwest states are a hotbed of environmental activism like "tree huggers"; whale watchers; pure water and air activists; save-the-salmon groups; wildlife and Puget Sound protectors; Native tribes-nature conservancy advocates; far-right, violent militarist "skinheads"; and outspoken anti-coal activists throughout Oregon and Washington. It's almost impossible to deny likelihood and major risks of activism causing derailments, damage to tracks and railroad equipment, trestles, and blockades of rail routes taken against coal trains. No mitigation for activist damages are likely to be practical. Who pays for costs, delays, damages, cleanup, so forth?

- It must NOT fall on taxpayer's to bail out the railroads and coal interests. Insurance protection must be permanent, paid for and not be the responsibility of public agencies or tax dollars of citizens of Washington or Oregon or Federal dollars. **No EIS can be commenced without appropriate project definition for such likely events and damages.**

XIII. Poor Management Skills, Lack of Safety Know-how & Reckless Operational Behaviors of Petrochemical and Coal-Mine Owner-Operators

Codes, regulations, specifications & facility operations processes/procedures are meaningless and worthless without commitment and focus on compliance.

- Decades of reckless safety and operational violations, needless death and injuries of employees, and open defiance of good business practices to safeguard the public are well-documented and widely published during recent 2008-2012 time period (see Appendix).

- Some of the worst disasters on record have occurred in the United States due

to irresponsible management practices and illegal acts by Coal and Petroleum interests. These practices are enabled and promoted by corrupt public officials.

- Violations are ongoing every month. No permits or EIS document can protect the public health and safety when management personnel are ill-trained, driven by greed and unwilling to follow protective guidelines and regulatory policies. Such businesses entities have **no right to expect permits for new facilities or operations until their present businesses operate legally, ethically and responsibly.**

- **No publicly funded EIS process should be commenced** until such coal/oil corporations can be managed in a safe and responsible manner. Recent acts by Arch Coal, BP and other U.S. permitted companies have caused monumental cost to public taxpayers, business and government entities. Washington and Oregon do not have such resources to waste. **Request for permitting actions should be denied.**

XIV. Unacceptable Facility Design Quality & Specifications; Operational Controls & Hazards; Designs of Rail System to Reduce Derailments, Deaths, & Environmental Damages; Costs of Site Remediation for Natural Disasters and Accidents

See APPENDIX (Schrag Comments for Port of Morrow Permit Request in Oregon)

XV. Open Rail Cars; Unloading of Railcars; Loading of Barges and Ocean-going Ships; Hazardous Spills/Remediation; Operational Risks & Lack of Suitable Health & Safety; Lack of Required (Legal) Policies/Procedures at Local Level (Environmental, Emergency, Communications) and Public Safety, Health Impacts on State Residents

Washington and Oregon are not just an open prairie, desert, or wasteland zone. Population densities along major rail corridors and on Puget Sound are heavily developed for both business, tourist, island homes, waterfront homes, and parks.

- Major ecosystems and sensitive areas are widely distributed along rail corridors; wildlife refuges; sensitive marshlands; salmon spawning areas; and protected zones. It's impossible to enter Western Washington or Oregon by rail without being in direct relation to nearby sources of drinking water, streams and rivers teeming with wildlife, freshwater and seawater species and bird habitats.

- Long-Term impacts on Property values & ability to develop private Land Parcels; State & Local Property Tax losses due to devaluation of properties; and loss of future State & Local Revenues due to Business Relocation's & Closures will result.

- Financial insolvency of major project owner/investors in major economic or natural disaster such as tsunami; or cargo ship sinking in Puget Sound or Straits of Juan de Fuca shipping lanes or major rail collision in metropolitan city or next to/into a major riverway's channel via bridge collapse or derailment.

- Current example: Port of Morrow (Oregon) on Columbia River - Fatal Flaws, Errors, Omissions, Lacks engineering Quality documentation and Specifications; lack of specificity; and "comic-book" quality of design data and operability standards.

- All Scoping Issues for Port of Morrow should also be further included and added/addressed for Cherry Point/Bellingham Project, plus similar equipment, operational, controls issues like ecology and human health; OSHA factors.

- Current example: Seattle Coal-Train corridor impacts cannot be resolved nor impacts properly or financially mitigated (see Appendix - "Open Letter to Regional Leaders" - Seattle City Mayor, City Council, King County Council, Port Authority, et al)

- Same issues for similar unresolved City-County-Port-Tribal issues (Tacoma, Auburn, Kent, Renton, Edmonds, Mukilteo, Everett, so forth) documented in Council Resolutions and letters to Washington State Governor.

XVI. Toxins Released from Deadly Export Products Cannot be Properly Controlled
Toxic metals, poisons, carcinogens, and organic pollutants present deadly health risks to workers, nearby residents, wildlife, sea life (air, sea, land and water).

- *See Appendix*: Petroleum Coke example (a listed Cherry Point Terminal export product) is a far greater potential pollution source than coal when burned.

- Petroleum Coke from Tar Sands residuals (quote): **"When it is burned in power plants or factories, it emits 38% more carbon by weight than conventional coal; and significantly more toxic pollutants as well. Essentially, wherever pet coke is used as fuel it generally is making a dirty process even dirtier." Source: Pollution Watch**

- Coal toxins, heavy metals, health risks from dusts and inability to mitigate or control coal dust hazards are well-documented and published in scientific literature.

- EPA has delayed a decision to **list coke product and fines released** into the environment as hazardous waste. However, if/when a final EPA decision is reached, lawsuits can be commenced per RCRA guidelines.

- **American Petroleum Institute v. EPA, 261 F.3d 50 (D.C. Cir. 2000).**
Quote: "Finally, the court addressed the environmentalists' complaint that EPA had decided to defer a decision to **list coke product and fines released into the environment as hazardous waste**. The court noted that only three types of lawsuits against EPA are allowed under RCRA: lawsuits against final rules, lawsuits against repeal of final rules, and lawsuits against denials of petitions to issue, amend or repeal rules or requirements. RCRA has no provision for lawsuits challenging a decision by EPA to defer, or essentially delay, issuing a new rule. Therefore, barring a **challenge of EPA's decision to delay issuing a rule declaring coke fines to be**

hazardous waste."

"In conclusion, the Court ordered EPA to reexamine its rule labeling petroleum refining wastewater's as "solid waste," but found EPA's decision to limit the hazardous waste exclusion for petrochemical recovered oil lawful. EPA's approach in basing a decision to list certain refinery wastes as hazardous waste despite negligible risk posed by the wastes to the general population **is allowed when an individual exposed to the waste would suffer significant health risk."**

- Environmental petitioners' complaints that EPA should have listed certain petroleum derived wastes as hazardous wastes could not be heard by the Court because the petitioners had not shown that they suffered any harm as a result of EPA's decisions. Finally, EPA cannot be sued under RCRA for delaying a decision to list materials as hazardous wastes re: American Petroleum Institute v. EPA, 261 F.3d 50 (D.C. Cir. 2000).

- An egregious coal transfer/transport example of extremely poor engineering, design, and equipment specification for recent **(Port of Morrow, OR) 2012 coal handling facility** on the Columbia River was reviewed (See comments in Appendix - Schrag Evaluation). Permits had earlier been requested for construction of Morrow's Coal Export Facility at the time of documentation review. Documentation for mitigation of known risks was pathetic in quality, or misleading. Serious errors in the analyses was noted for record:
Schrag Quote: *".... my recent experiences with reviewing Project documents submitted and provided for Port of Morrow coal-transport rail projects in Oregon, then to be unloaded and barged to Vancouver, WA. This was a complete fiasco with unprofessional engineering and analysis; and the worst I've ever come across in 30 + years of such reviews. There's no conceivable way it can safely or operationally work as described in the flawed analyses and error-filled documents. The Engineering firm and coal-owner's who prepared it should be embarrassed and ashamed of their work quality."*

Furthermore, (re: the Port of Morrow coal-transit project in Oregon) .... *"I've never seen such a poorly scoped project plan. It reads like a "comic book" with rudimentary cartoon-like sketches, no specification or equipment proposed. Documents were fictitious. I found their proposal offensive, failing to meet even rudimentary engineering standards. They're requesting permits to break ground on the Port facility."*

XVII. Risks - Co-mingled Explosive Products/Materials, Fires and Explosive Events Cannot be Properly Mitigated or Avoided. Lives will likely be lost and serious injuries result. Evidence for decades across the nation demonstrates this fact.

- Both coal dust and pet coke dust can generate explosive mixtures

- Dust from Grains (e.g.. wheat) are known to explode violently in a wide variety of conditions and storage. Often explosions occur without known sources of ignition.

- Fire risks at storage and handling facilities are listed as special hazards in recent 2009 studies (per pdf file copy noted below EIS scoping comments) and OSHA compliance standards for design, related to handling/storage of Pet Coke products. Specifically at website address following :

www.bakerrisk.com/pdf/newsletter/BakerRisk_Newsletter_Nov_2009.pdf

- Design and equipment specifications to mitigate impacts of explosions and fires must meet new standards of safety for OSHA compliance. Industry has avoided (especially coal/coking) such vital analyses. Since the Gateway Terminals are to be used for handling and transport/load/reload of "Mixed Products" chemicals, pet coke, coal, grains and yet to be defined products, **no EIS process is capable of accurately evaluating full extent of such risks, mitigation's, or impacts on workers, emergency crews, general public, air, water and land; plus wildlife of air, sea and land. Ecological and ecosystem damage cannot be estimated or forecast.**

XVIII. Ongoing Landslides Occurring along Rail Corridor Transport Lines to Cherry Point/Bellingham; Bridge Failure over Waterways; or Accidental Discharge of Toxic Chemicals, Coal, Petroleum Coke into Puget Sound, Columbia River or other waters along rail routes or Port loading sites/piers extending into Deep Waters of Puget Sound, Harbors and Riverways

- Further heavy-load use such as coal and coke trains along rail routes through unstable Tacoma landslide areas; and failure-prone Edmonds-Mukilteo mudslide zones will cause major clay and/or glacial till soil failures, increasing risk s for triggering major collapse of the hillsides onto tracks. As this worsens over time the risk of multiyear reconstruction efforts to shore up the ground above the tracks will limit any further rail use and deny use of essential rail transport. **No EIS process is capable of evaluating extent of such damages.**

- Almost certain (90 +% probability) mudslide/landslides will occur during wet conditions of ground saturation (as now frequently occurs) and collapse will happen during heavy vibration and rail-bed shifting under Coal Train loads moving through these problematic zones. There is no technically feasible way to properly mitigate such risks. No EIS process is capable of evaluating the extent of such damage.

- Likelihood of a major Coal Train or Petroleum Coke or chemicals derailment resulting from these landslides is very high (almost certain) and ground movement plus momentum will carry the coal into Puget Sound with severe environmental damage. **No EIS process is capable of evaluating the extent of such damage.**

- Such recovery efforts could take months, requiring barges and dredge

equipment not now stationed on the West Coast in Puget Sound. It would be extremely costly to purchase or relocate such equipment to be on "permanent standby" for such emergency recovery eventualities. In Coal Train river accidents (along the Columbia River) or at a bridge failure over other rivers in Washington State where Coal, Petroleum Coke or other Chemicals are dumped into moving waterways a full recovery is impossible and cannot be be satisfactorily mitigated. **No EIS process is capable of evaluating the extent or impacts of such damage.**

- Similar risks and likely occurences for large barges (river or seagoing) to dump enormous volumes of coal, chemicals, petroleum coke into the waterways and harbors associated with shipping operations for the Gateway Pacific Projects. Staging of immensely costly barge and dredge equipment is required to effect timely recovery in such emergency conditions. Likelihood of such discharges is highest in storms and high tide conditions when recovery efforts are nearly impossible to carry out. Ecological disasters and pollution of waterways will be severe in such instances. **No EIS process is capable of evaluating the extent or impacts of such damage.**

- To protect the public entities and taxpayers of WA and Oregon from financial impacts of emergency recovery and damage to ecosystems, sea life, animal life and toxic pollution consequences a "Recovery Superfund" must be set up in advance. All costs of recovery must be set aside in separate funding deposits with emergency access by State and local officials who must respond to such ecological disasters.

- Full financial burden must be carried (and set aside in escrow accounts) for such disaster or accident-recovery operations. Civil penalties must be defined in advance similar to BP's legal judgments to avoid the risks of grave damage, years of public and business impacts; and provisions for **"blocking Coal Companies" from further conduct of transport business in Washington/Oregon (such as Federal decision to stop BP's further oil-exploration in the Gulf).**

XIX. Failure of U.S. Army Corps of Engineers to Properly Evaluate Sound Scientific Evidence, Project Conditions, Permitting Standards, Codes and Public Comments

- As recently as 2011 EPA acted in a legal decision **against U.S. Army Corps of Engineers approval of permits for Coal interests** citing (among other errors) a failure to consider approximately 50,000 public comments presented for safety and health of citizens and taxpayers. By disregarding obvious dangers to the public which cannot be properly mitigated, the U.S. Army Corps of Engineers failed to carry out it's role in evaluating such endeavors. **The Corps has disqualified themselves as a credible agency for such EIS reviews. This ruling indicated a collusion or conflict of interest in Corps of Engineers use of public funds in assessing future "Coal Operations" in the United States.**

- "EPA vetoes U.S. Army Corps of Engineers water permit" - On January 13, 2011, it was announced that the EPA had vetoed the water permit for the mine, the

largest single mountaintop removal permit in West Virginia history. In making its decision to veto the U.S. Army Corps of Engineers' approval of the 2,300-acre coal mine, **EPA issued a final determination:**

- ***"Final Determination of the U.S. Environmental Protection Agency Pursuant to § 404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, West Virginia"***, EPA noted that it reviewed more than 50,000 public comments and held a major public hearing in West Virginia. EPA officials said their agency is "acting under the law and using the best science available to protect water quality, wildlife and Appalachian communities who rely on clean waters for drinking, fishing and swimming."

RECOMMENDATION: Delay/Discontinue indefinitely any EIS considerations or analyses of the Gateway Pacific Projects in Washington State. Stated requirements below HAVE NOT been satisfactorily carried by responsible agencies. Requested "Public Comments" based on incomplete data, lacking full disclosures, and failure to clearly define specific alternatives available is wrongful and misleading. Value of such comments will be incomplete and suspect. Legal challenges will surely be mounted, further delaying and wasting valuable resources and public funds needed for assessing viable projects.

Stated Requirements: "The joint NEPA/SEPA EIS process enables the co-lead agencies to avoid duplicated efforts where the two laws overlap, while meeting each statute's separate requirements. Parts of the joint EIS process described on the website apply to both statutes and parts apply to one or the other.

In scoping, the lead agencies seek comments that will guide their decision on how the EIS will address:

- A reasonable range of alternatives for the proposals.
- Potentially affected resources and the extent to which the EIS should analyze those resources.
- Identifying significant unavoidable adverse impacts.
- Measures to avoid, minimize and mitigate effects caused by the proposals.

The scoping process does not address whether the proposal should receive permits. Scoping only helps define what will be studied in the EIS. Decisions about issuing permits to construct the proposed projects will not be made until after the EIS is complete."

APPENDIX TO
SCHRAG SCOPING COMMENTS

Following public-record disclosures provide overwhelming evidence of criminal actions, public officials payoffs, violation of permits, failures to report toxic damages to water, land, air and creating/causing of major, needless risks to public health.

Taken in total, such illegal and unethical actions reflect complete disregard for public harms caused by the project(s) coal business activities in pursuit of profits.

No business with such an ongoing record of violations and illegal activities, disregard for protection of public health and safety can be expected to properly or safely operate export or transport a wide range of toxic, harmful and deadly, chemically reactive, hazardous products within Washington State. Arch Coal, Peabody Energy & Patriot Coal have interests in Gateway Projects, as do China, Goldman Sachs, PNC Bank and other financial interests.

No public agency (Washington State or U.S. Army Corps of Engineers) has capability nor a legal right, responsibility to preemptively assess such projects using public funds without adequate documentation, operational factors, or sufficient technical and engineering definition for controlling and protection of public safety and health from such questionable business interests.

No EIS for Gateway Pacific Projects is merited; nor should any permits be considered or approved based on factors described herein. Risks are untenable and cannot be properly or technically mitigated. EIS process cannot measure the viability or contain sufficient protection for the public safety and protection of the environment.

See the following critical information, disclosures, assessments, news reports, and analyses as examples which provide justification to IMMEDIATELY HALT THE EIS PROCESS. Cease and Desist regarding any further effort or reviews.

Source for portions of following data: www.sourcewatch.org/index.php/Patriot_Coal

- Note: **Source Watch** lists specific references for website information on-line

Patriot Coal Corporation - A Bankrupt coal-mining company based in St. Louis, Missouri. The company is a 2007 spin-off of most of the Eastern U.S.A. operations of Peabody Energy. Patriot had 14 mining complexes in Appalachia and the Illinois Basin. The company had 13 active mining complexes in Appalachia and the Illinois Basin, ships to domestic and international electric

utilities, and controls approximately 1.9 billion tons of proven and probable coal reserves.

On November 14, 2012 it was announced that Patriot Coal was going to stop all mountaintop removal in Central Appalachia under a historic agreement with Sierra Club, Ohio Valley Environmental Coalition and West Virginia Highlands Conservancy.

At the end of first quarter 2011, Patriot Coal said the Company expects to export 25 percent of its total 2011 shipments to **meet growing international coal demand in China and India.**

- Patriot Coal's 2012 Bankruptcy protection filing - Citing lower thermal coal prices, rising costs for environmental liabilities, and canceled customer contracts from a milder winter and growing use of natural gas, Patriot Coal filed for bankruptcy in July 2012, saying coal demand was at a 24-year low.

The company's Chapter 11 petition listed $3.57 billion in assets and $3.07 billion in debts. **The company arranged for $802 million of financing to continue mining and shipments during the reorganization.**

- Patriot Coal, workers, and health care policies - In 2007 Peabody spun off its union mines and some other operations into Patriot Coal. The spin-off left Patriot with more than $600 million in health care liabilities for over 10,000 Peabody union retirees plus their spouses.

The 2012 bankruptcy of Patriot Coal now threatens that health insurance and other benefits. According to UMW President Cecil Roberts, Patriot will use the Chapter 11 bankruptcy reorganization to try to stop insuring its aging retirees; Roberts said in 2007 that the spin-off "was just a paper trick ... Peabody intentionally created this." Miners say that while Patriot is bankrupt, Peabody has a lot of money, with record net profits of $1 billion in 2011.

- Congressional Lobbying in 2010 by Patriot Coal - Corporation spent $2.15 million on lobbying through the firm American Freedom Innovations, **primarily on bills related to greenhouse gas regulations: the American Clean Energy and Security Act of 2009 and the Clean Energy Jobs and American Power Act. Other bills included the Coal Accountability and Retired Employee Act (CARE Act),** sponsored by Nick Rahall, which would amend the Surface Mining Control and Reclamation Act of 1977 to "provide for use of excess funds available under that Act to provide for other benefits," specifically funding shortfalls in the United Mine Workers of America (UMWA) Pension Fund.

- Political Contributions to Congressional candidates - In 2010, Patriot Coal

reported highest contributions to the following politicians:

- Nick Rahall (D)
- Roy Blunt (R)
- Todd Akin (R)
- Alan Mollohan (D)

Rahall is a staunch opponent of legislation designed to end mountaintop removal mining, saying that a 2010 the bill that would prohibit companies from burying Appalachian streams under mining waste would have passed long ago except that his seniority on several key committees has allowed him to block it. Rahall also voted against the American Clean Energy and Security Act and voted to block the Environmental Protection Agency from reducing greenhouse gases linked to global warming.

Roy Blunt opposes federal cap and trade legislation and supports drilling for oil on the U.S. coastline. On March 10, 2010, Blunt was named by the League of Conservation Voters as one of the "Dirty Dozen" lawmakers who had "consistently sided with Big Oil and other dirty polluters over a cleaner, more sustainable future".

- West Virginia hearings on Patriot Coal's violations of selenium levels. On September 1, 2010, **Patriot Coal was found in contempt of court by Judge Chambers and ordered to clean up selenium pollution at the two mines** in West Virginia. Chambers ordered Patriot subsidiary Apogee Coal to install treatment systems and comply with discharge limits by March 1, 2013, and ordered Patriot subsidiary Hobet Mining to submit a selenium treatment plan by Oct. 1, 2010, and comply with pollution limits in its operating permit by May 1, 2013.

The coal producer estimates the it will cost $50 million to comply with the judgment, plus $3 million in annual operating costs. Chambers also **ordered Patriot to post a $45 million letter of credit to guarantee the treatment systems are installed.**

According to Patriot Coal's 2010 10Q report: **"The lack of proven technology to meet selenium discharge standards creates uncertainty as to the future costs of water treatment to comply with mining permits."**

On January 18, 2012, Patriot Coal agreed to a settlement that will end litigation over selenium pollution from West Virginia mountaintop removal mines. The settlement covers 43 different water pollution outlets at Patriot's Hobet 21 Surface Mine complex along the Boone-Lincoln border, the Samples Mine complex in the Cabin Creek area, and the Ruffner Mine in Logan County.

Under the deal, Patriot would treat pollution from the 43 outlets, and its Jupiter

Holdings LLC would **surrender permits it got from the Army Corps of Engineers** in 2007 to build four valley fills at its Jupiter Callisto surface mine in Boone County.

The deal also **requires Patriot to pay $7.5 million in civil penalties**, to be allocated between the federal government and the West Virginia Land Trust for land preservation projects within the Kanawha River and Guyandotte River watersheds.

Business Proponents of Projects Must Disclose Involvement and Financial Liability

- **Arch Coal's Government affiliated Board of Directors** - Former Wyoming Gov. Dave Freudenthal (2003-2011), who heavily courted China as a trading partner for Wyoming's Powder River Basin coal during his tenure, is a director at **Arch Coal**. He was elected to the board in February 2011.

- **Public Debate on Australia's Ambre Energy Cherry Point Coal Terminal-** On April 27, 2011 a debate on the proposed port terminal at Cherry Point was held at the Bellingham City Club drew a crowed of supporters of the proposed $400 million project addressing job creation — up to 280 permanent longshore jobs they stated.

"We have established an industrial area for a reason, to generate high wage jobs that fuel our economy," said Craig Cole, a **Bellingham business leader, University of Washington regent and consultant to the terminal's builder SSA Marine.**

Gateway Project Business Interests Choose to Violate Code/Permits for Roads

- SSA Marine builds illegal coal terminal road - It was reported on August 1, 2011 that Washington State's Whatcom County prepared to fine Seattle-based company SSA Marine after it claimed the company built a series of roads through sensitive woodlands without a proper permit.

The company stated two miles of dirt road it built was necessary to allow heavy equipment to conduct environmental impact studies in the area of the proposed terminal.

A company spokesman says SSA Marine stated it was permitted to build the roads based on a permit it received for a separate terminal in 1997.

In August 2011 the Department of Natural Resources confirmed that crews worked for **SSA Marine had illegally cleared forest land without a permit**, Whatcom County must impose a six-year development moratorium on the property, according to environmental attorneys opposed to the project.

SSA Marine's crews cleared land there without permits recently, and the company apologized. It was fined by Whatcom County. **The DNR recently issued a notice to comply, saying the company didn't have the required Forest Practices**

Application/Notification before doing the work.

According to a letter from an attorney for Earthjustice to Whatcom County planners, the **county must impose a development ban on the SSA project for six years.** Earthjustice stated that **county code requires the ban** after forest clearing is done without a permit. The result of the ban is that the **county cannot accept an application for a project.**

Opposition to Cherry Point Terminal Based on Questionable Claims of Developers

- Bellingham Mayor opposes Gateway Pacific Terminal project in a press release in early June 2011. Bellingham Mayor Dan Pike stated that he was coming out in opposition to the Cherry Point port expansion. Mayor Pike wrote:

"My team and I met recently with representatives of SSA Marine and their main business partners, the Burlington Northern/Santa Fe Railroad. I hoped they would bring to the conversation recognition that their proposed project would have multiple downsides for our community. **I hoped they would make a commitment to provide meaningful mitigation's — or even better – a willingness consider other commodities, and not rely exclusively on coal exports for the terminal's financial engine.**

Coal Export Threatens the Northwest - Instead, **business developer-proponents brought denial of any potential harms and blatant defiance that they should change their plans in any way.**

In fact, it has become public knowledge that **they have signed a multiyear deal with Montana's Peabody Coal to ship at least 24 million tons of coal as their major focus of business for the foreseeable future.**

"That is not a future that I want to see. By any calculation, the proposed coal-dependent terminal at Cherry Point does not add up."

- Thirteen (13) Washington State Senators ask State to look at coal train impacts - In November 2011, 13 Washington State Senators wrote a joint letter to the Washington State DOE and Whatcom County. In their letter the senators point to potential problems including health related and adverse economic impacts that could be felt by the communities along the rail corridor which includes most of the states population. The senators explicitly request that the process examine these issues.

- Oregon's Governor calls for review of coal export impacts - At a Coal rally against exporting coal through the Pacific Northwest, on April, 2012 **Oregon Governor John Kitzhaber stated that he wants an extensive federal government review of exporting coal to Asia through Northwest ports.**

The Governor said that coal exports could clog barge and train routes, increase diesel and coal dust pollution and boost amounts of toxic mercury drifting back to Oregon when Asian countries burn the coal. However, Kitzhaber didn't take a stand for or against exporting coal, which supporters say would increase rural jobs and tax revenues in Oregon and Washington. His letter asked the Federal Government to address how increasing exports to Asia will "fit with the larger strategy of moving to a lower carbon future."

- **Seattle City Council opposes coal export ports -** On May 29, 2012 the Seattle City Council **unanimously passed a resolution opposing the development of coal-export terminals in Washington State** after raising concerns about increased train traffic and potential harm to health and the environment.

- **Washington state Democrats pass export resolutions -** In May 2012 Democrats in Washington passed two resolutions on coal exports in the state. One, submitted by San Juan County, **asked Democrats to oppose construction of the Gateway Pacific Terminal at Cherry Point.**

The second resolution passed, calling for a programmatic environmental impact statement to be conducted to **study the potential impacts of building coal-exporting terminals throughout the Pacific Northwest, rather than one project-specific study looking at the Gateway Pacific Terminal project.**

PROPOSED EXPORT PRODUCTS GATEWAY TERMINAL - HAZARDOUS MATERIALS

- MSDS - MATERIAL SAFETY DATA SHEET (TESORO) - PETROLEUM COKE

- Note: Metallic components which are present in the crude oil carry over into the coke, ... such as vanadium and nickel. (Source: "Petroleum Coke Handling Problems" by H. W. Nelson of Great Lakes Carbon Corporation)

SECTION 2. HAZARDS IDENTIFICATION

Classifications : ***Combustible Dust***
Pictograms None

Signal Word WARNING

Hazard Statements May form combustible dust concentrations in air. Excessive exposure may cause skin, eye or respiratory tract irritation.

Precautionary Statements

Prevention Avoid accumulations of finely ground dust.

- Keep away from flames and hot surfaces. No smoking.
- Wear gloves, eye protection and face protection as needed to prevent skin

and eye contact with liquid.
- Wash hands or liquid-contacted skin thoroughly after handling.
- Do not eat, drink or smoke when using this product.
- Do not breathe dust.
- Use only outdoors or in a well-ventilated area.

Response In case of fire: Use dry chemical, CO2, water spray or fire fighting foam to extinguish.

- If on skin (or hair): Rinse skin with water or shower. Remove and wash contaminated clothing.

- If in eye: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.

- If inhaled: Remove person to fresh air and keep comfortable for breathing.

SAFETY DATA SHEET Petroleum Coke Page 2 of 7

Immediately call or doctor or emergency medical provider.
If skin, eye or respiratory system irritation persists, get medical attention.

Storage Avoid generating heavy concentrations of airborne, finely-ground petroleum coke dust. Avoid accumulations of finely ground dust on surfaces of equipment or buildings.

Disposal Dispose of contents/containers to approved disposal site in accordance with local, regional, or national regulations.

EXTREME POLLUTION GENERATED BY PETROLEUM COKE FROM OIL RESIDUES

Source: Polluter Watch
(www.polluterwatch.com/category/freetagging/petroleum-coke)

"Koch'ed up: Petcoke's political pollution"

BY cgibson | **18 October 2012**

PHOTO - Bill Koch, CEO of Oxbow Carbon and billionaire brother of Charles and David Koch of Koch Industries

Written by David Turnbull, cross posted from Oil Change International

If there is a statistical correlation between dirty oil and dirty politics, we have yet to fully quantify it – but you can add this to the growing pile of anecdotal evidence that the dirtiest political players are responsible for some of the dirtiest energy on the planet.

William Koch – the "other" Koch brother along with David and Charles – was recently sued by a former senior executive at his Oxbow Carbon & Minerals Inc. for false

imprisonment. The allegations are that Koch lured the former executive to his Colorado ranch and then held him against his will to intimidate him. The executive was allegedly being pressured not to go public with concerns over an illegal tax avoidance scheme being pursued by Oxbow.

Of course, **Koch denies that such an event took place and, rather, claims that the lawsuit is intended to draw attention away from another scandal at the corporation involving the executive in question.** Koch claims that the executive was part of a scheme to defraud Oxbow, by taking bribes from competitors and participating in various other unsavory business practices.

So let's get this straight: Either William Koch held an executive hostage in order to **intimidate him from exposing an illegal tax scheme...OR...a substantial number of Oxbow executives were taking bribes and colluding with competitors.** Or, perhaps both stories are true. Either way, there's some shady business going on at Oxbow. Now, other than being shady, what kind of business is Oxbow in, you might ask?

Well, it's about as dirty as it gets. Oxbow hails itself as "the largest distributor of petroleum coke in the world with annual shipments of nearly 11 million tons." What is this petroleum coke (or "pet coke") that Oxbow is distributing all around the world? Petcoke is a byproduct produced through the oil refining process that is coal-like in composition, yet dirtier and more carbon heavy than coal. In other words, when you refine really dirty oil such as tar sands oil (aka bitumen), what's left over is pet coke. And it's extremely dirty.

..... But that's actually only part of the tar sands story – with tar sands oil also comes **pet coke, and this stuff is ugly. When it is burned in power plants or factories, it emits 38% more carbon by weight than conventional coal and significantly more toxic pollutants as well. Essentially, wherever pet coke is used as fuel it generally is making a dirty process even dirtier.** And Oxbow makes its millions in moving this dirty fuel around the world.

Aside from dealing in dirty fuels, Oxbow also deals in dirty politics as well. According to the Center for Responsive Politics, Oxbow and its executives have contributed over $3 million this election season – the second most of any energy company, more than $1 million more than even Exxon. **Add that to the $1.6 million in lobbying this Congress, and Oxbow is clearly one of the Beltway heavyweights buying votes and favors left and right**

Source: U.S. Energy Information Administration, Petroleum Supply Monthly

U.S. net exports of petroleum coke, a byproduct of oil refining —continued at higher levels over the combined January-February 2012 period. Demand for U.S. petroleum coke, or sometimes called "pet coke," is strongest in Asia, where it is used for generating electricity, making steel, and manufacturing cement.

U.S. petroleum coke net exports averaged about 470 thousand barrels per day (bbl/d) during January-February 2012, the highest volume ever for that two-month period, according to the most recent trade data from EIA's April Petroleum Supply Monthly.

On an annual basis, the U.S. net exports of pet coke averaged a record 479 thousand bbl/d during 2011, second among petroleum products only to distillate fuel. Average pet coke net exports last year exceeded volumes for gasoline (374 thousand bbl/d), residual fuel oil (78 thousand bbl/d), fuel ethanol (69 thousand bbl/d), and jet fuel (28 thousand bbl/d).

A byproduct from refining crude oil, the heavier a particular crude oil is, the more petroleum coke it will generally yield. **Because heavier crudes often have a high sulfur content, pet coke also tends to have a high sulfur content.** Although it comes from liquid oil, pet coke is a solid rock-like material similar to coal.

Petcoke is used as fuel at power plants to generate electricity, by the smelting industry to create aluminum and steel, and as a fuel for cement making. While it may sound similar, **coking coal is coal that is superheated to drive off impurities and is used as a fuel and reducing agent** in smelting iron ore in a blast furnace to make iron and steel.

Petcoke is one of several petroleum products U.S. refiners make from crude oil and it was a major contributor to the United States becoming a net exporter of petroleum products in 2011 for the first time since 1949.

EIA categorizes three types of pet coke from refineries:

- **Catalyst Petcoke** is used in the petroleum refining process. It is usually burned as fuel at the oil refinery and does not contribute to exports.

- **Marketable Fuel-Grade Petcoke contains higher sulfur and heavy metals content than most coal** and is used mainly as a fuel at cement plants and power plants.

- **Marketable Calcined Petcoke** has the highest carbon purity and is used to make electrical components, such as capacitors.

The United States provides over one-half of the pet coke traded in the global market. China buys more U.S. pet coke than any other country; shipments averaged 86 thousand bbl/d during the January 2012 to February 2012 period, double the volumes from a year earlier.

PORT OF MORROW PLANNING DOCUMENTS FOR COAL TERMINAL DOCK

Re: Comments Provided Regarding Quality & Completeness of Documentation for "Environmental Review for the Coyote Island Terminal Dock at the Port of Morrow" June 2012 (as Updated August 2012)

By Dwight Schrag - Chemical Engineer; Construction Management Executive; Engineering Design & Project Management Executive and Senior Development Projects Advisor (1965 to 2006)
Resident of Washington State, Bellevue, WA 98004

Port of Morrow Documentation Quality Summary:

This document is a "Planning Disaster" obviously developed, "engineered" and designed to circumvent required safeguards and avoid costs of reasonable mitigation of risks. Reference document disregards and fails to address obvious requirements for project.

- **Uses shoddy, unprofessional approach bordering on false representation of facts.**
- **"Comic-book quality" of technical analyses without any professional references to key studies or environmental impacts (Public Comment Section 4.0 - list many items as "Out of Scope" e.g. Tables pdf pp 534 to 539).**
- **Utilizes fictitious "Concept Diagrams" of unproved, unsafe, non-specified/no specifications proposals lacking reference to design specifications or standards, Engineering code requirements (e.g. Concepts pdf pp 52 & 53 and pp. 104 to 107).**
- **Most egregiously and wrongfully requests permits (after 60-day Public Comment) to proceed with Port construction (including rail, land and water sited facilities) based on an over 100-years old, non-applicable, outdated, improper Rivers and Harbors Act of 1899. No consideration is given to existing/current or future development to population centers along the Columbia River or Longview, WA site.**
- **Includes bizarre, misleading, incorrect statements for Operational control factors of railcar unloading and barge loading/offloading facilities at Point Morrow. No basis in fact, no technical references nor calculations provided to substantiate claims.**
- **Faulty, unsafe placement of proposed Coyote Island coal transfer (rail-to-storage-site-to-barge) immediately adjacent to "Ethanol Loading" facility with associated explosive, fire hazard proximity along Interstate Highway and city of Boardman. No mention of hazard risks to population, explosions, or proper mitigation.**

- Failure to provide Design Standards for any of the facilities listed as proposed.

- Avoids and bypasses most critical environment issues of accidental coal discharges into the Columbia River channel. Sinking of coal barges due to storms, navigation errors and/or collision with bridges or other river-going vessels.

- Fails to disclose suitably proven or certified methods of coal site cleanup at loading or offloading points. Fails to disclose statistical likelihood for accidents and derailments along rail routes which will spill hundreds of coal railcars onto soils, into the river, cities and ports.

- Disregards and wrongfully, unethically minimizes potential risk to human health by incomplete or morally reprehensible statements about safety risks involved. Provides totally false, unproved documentation of theoretical coal-dust release and operational port, rail and load/unload safety and health risks.

  Note: An example of a ridiculous, error-filled disregard for accurate estimates is shown on pdf p. 346 (document # 3-140, Table 3.6-7) falsely stating: "There ar no combustion sources at the facility. .... annual coal dust emissions PM10 are less than 0.1 ton" (200 lbs). There are likely 100 or more other falsehoods and purposeful misstatements.

- Immediate proximity (pdf p. 215 map) of Port of Morrow and direct encroachment on Umatilla National Wildlife Preserves and Crow Butte State Park has not been adequately assessed or publicly reviewed in the permit application. This is a fatal flaw which must be reversed and corrected.

- Lastly, this Environment Review seeks to totally, wrongfully and illegally disregard State and/or Tribal rights to regulate environmental damage, safety risks and human health impacts of Oregon, Port of Morrow; and Washington, Port Westward Terminals (see pdf pp. 333 & 334). The document "brushes aside" the significance of other active coal transport projects overlapping the same routes and associated, severe environmental impacts (see pdf pp. 487 thru 490). These projects further increase environmental risks shown on a wide range of factors to a great degree. Documents show blatant disregard for future developments of homes, recreation, wineries and businesses along the Columbia River corridor.

RECOMMENDATIONS:

Immediately seek Summary Judgment in WA & OR District Courts to block permits until full, complete and adequate public hearings address the range of issues/examples

shown above. Delays of moving to seek court action puts people & environment at risk.

END OF SCHRAG'S PORT OF MORROW PROJECT SUMMARY - APPENDIX

SCHRAG'S NOVEMBER 5, 2012 OPEN LETTER TO SEATTLE MAYOR, KING COUNTY & REGIONAL LEADERS

OPEN LETTER TO OUR REGIONAL LEADERS

November 5, 2012

To: Seattle City Council Members, Seattle Mayor, King County Executive & Council, & Port Authority

cc: Regional Tribal Leaders, Sierra Club, and Climate Solutions

From: Dwight Schrag, Bellevue, WA 98004

Subject: Coal Trains for 50 years - Expectations of Regional Leaders to ACT NOW - Gateway Pacific Terminal Project

Attn: Mayor Michael McGinn & City Council (plus separate letters to above entities)

Dear Mayor McGinn, Seattle City Council Members and King County Regional Leaders:

Seattle Hearings are scheduled (November 13th) next week for obscenely harmful Coal Projects disastrous to our health, quality of life and the environment. Thousands of your constituents and impacted citizens will have no voice at these hearings because they don't have a clue what is about to happen to them. But you DO know what will happen if the coal trains begin rolling.

City of Seattle Resolution # 31379 (May 3, 2012) lists some of the flawed thinking but does nothing to stop this project going forward. We request and expect your leadership in these matters. As leaders and as caring citizens with responsibilities to your own family members and ours, you MUST NOT let these error-filled, totally flawed and disastrous plans proceed any further in our State.

We urge you to act immediately to put a stop to it NOW. Shut in down for good. King County and Seattle must become the "Absolute Firewall" to end this ridiculous scheme which will destroy our communities, our county's future economic growth and do permanent, irreversible damage to our entire Northwest region, our cities, our health and our State's fragile environment and economy.

Please don't fail us! An impending economic and human-health disaster will occur if you don't act quickly. Tell our Governor, Gateway Pacific and Army Corps of Engineers to "Cease - and - Desist".

CITIZENS DEMAND ACTION TO CANCEL & STOP THESE PROJECTS GOING FORWARD

Who is so foolish as to dream this stuff up? It's disrespectful of American citizens and we ask you to take immediate action. Seattle's Council "issued a resolution" but NO DEMANDS TO STOP WORK.

It's reckless to transport billions of tons of coal during the next fifty (50) years using poorly designed rail systems and faulty, unsafe river barges and cargo-ships within heavily populated Northwest lands and waters. And it borders on insanity to recommend moving it through downtown Seattle, directly along shores of Puget Sound waterways, past our ports and into the Straits of Juan de Fuca.

We insist (demand) this totally unsafe routing be dropped before it's given serious consideration in a formal EIS process. Notify Army Corps of Engineers such projects must NEVER BE ALLOWED TO HAPPEN!

As residents of King County who live, work and enjoy recreation in Washington State's highest-density population neighborhoods; Puget Sound's waterfront communities and Ports; our State's most profitable, growth business centers; our largest Universities, research centers, hospital centers, public and private schools; travel visitor center for millions via tourist cruise line ship; convention centers and fast-growing tourism industries; busiest State Ferry system; and thriving export center .... you represent millions of unsuspecting, uninformed people of Washington State who need YOU to be our voices.

Please Note: Already, over 160 elected officials – including U.S. Senators Murray and Cantwell, plus about 600 health professionals, over 400 local businesses, 220 faith leaders, close to 30 municipalities and Tribal Councils, Affiliated Tribes of the Northwest Indians (ATNI) including the Lummi Nation have either voiced concern or come out against coal export from the West Coast.

See copies of resolutions, memoranda and positions taken by dozens of State and local leaders and communities (at www.powerpastcoal.org). Fortunately, many citizens and POWER PAST COAL formed an alliance of health, environmental, clean-energy, faith and community groups working to stop coal export off our West Coast.

IMPROPER PLANNING LEADS TO ECONOMIC AND HEALTH DISASTERS

Washington State, Puget Sound and especially King County businesses and residents will be tragically, severely harmed by negative financial and public health aspects of these proposed coal-trains. The projects pose impending environmental disasters. UNSAFE, irresponsible and immoral planning failures are clearly evident for all to see and read in published proposals by Gateway Pacific. Severely impacted communities along the route are speaking out against the atrocity. But who listens? This is a "cram-down". Neighborhoods will be severely harmed. Health will suffer. Be warned, you are being "steamrolled" by dirty coal and a politically-driven EIS process.

The Project Planning process does not address most harmful, unhealthy, and deadly impacts to our population, immoral risks and toxic pollution to our environment; nor severe economic penalties that dwarf any imaginary, unproved financial benefits by many orders of magnitude.

For the State's and Seattle's rail corridor to Cherry Point, we're positive this EIS planning process will be error-filled, contain hundreds of mistakes, devious language, wrongful statements, and be so unprofessionally engineered, designed and poorly prepared that the proposed King County, Puget Sound waterfront corridor and Downtown Seattle route must never be considered:

- Flawed coal-train projects are underway now (construction permit requests) for OR and WA that violate the entire region ecology, health and lives of residents, voters and taxpayers who live and work along the route. Design failures reflect total disregard for State laws.

  A glaring example of coal-transport planning failures is Morrow Pacific's Project Plan for coal-train routes in Oregon, Port of Morrow; and barging on Columbia River to proposed coal ports in WA. Corps of Engineers is fully involved in this debacle, as well.

- Who's protecting our public interests? Such projects don't belong in an EIS planning process. The Gateway Pacific projects appear to be a poorly conceived Hedge Fund or Investment Banking schemes. Also politically-motivated interests with complete disregard for regulatory safeguards or risk-mitigations. National security and environmental disregard, too.

- King County will be most severely damaged of all state business interests. Tourism will dwindle. Downtown streets and businesses will be impossible to keep clean of coal dust. Storm drains will carry a mixture of exhaust oils from vehicles and coal dust into Puget Sound. Water pollution and water quality will suffer. Saline will be harmed or destroyed.

- Value of prime waterfront property along the new Seattle Seawall district will collapse with "Coal-Train" dust, noise, and traffic congestion. Billions of dollars in city revenues and investments will be lost. Tax revenues will disappear in our most promising future business districts.

- Coal train project is UNSAFE for pedestrians, vehicles, visitors, and residents along downtown rail routes. This routing will be far too dirty with noxious coal dust; congested traffic; stop ferry traffic from reaching piers; create noisy conditions round-the-clock; and add to already unacceptable levels of traffic backups; and block critical bus routings through these same streets. Tourists will be appalled and never return to Seattle.

- Gateway Pacific Project planning disaster is not just an inconsequential "EIS Exercise". Washington State's and Seattle's health and environment are at risk. Puget Sound is at risk. Fisheries will be damaged. Out of control global greenhouse gases are at issue, too.

- <u>Sending coal to China is immoral and unethical.</u> China is a cesspool of pollution already. Unregulated coal-fired emissions will harm millions of innocent people. Many fatalities will result from air pollution and climate change. Washington State should have NO PART in such a disaster. Seattle and Puget Sound region should reject it. We are better than that!

- This is a coming <u>50-Year frontal-attack on our cities</u>, communities and environment. It should NEVER MOVE FORWARD into EIS reviews where Millions of public dollars will be wasted. If

approved for construction and operation, millions will be spent defending and attempting to protect citizens, ecology, schools, hospitals and businesses of our state. Health costs and burdens on our state hospitals for coal-dust related diseases and illnesses will be enormous.

LEGAL ACTION VIA CITY OF SEATTLE AND KING COUNTY

Legal action should be promptly initiated by Seattle and King County if instigators of this dangerous project persist in public planning or an EIS evaluation process.

- Coal trains create an unacceptable level of health and safety risk for residents, pedestrians, vehicles, and business people downtown. Health and safety risks cannot be properly or realistically mitigated.

- Certain damage and destruction of the environment, ... air, water, land, ecosystems and animal life will occur. Once this occurs it cannot be reversed.

- Heavy coal-dust pollution will coat Seattle city streets, sidewalks, hospitals, schools, homes, businesses of our cities and countryside. Diseases of the lungs and harm to children, the elderly and the sick will be greatly aggravated.

- Toxic pollution will enter Puget Sound via storm drains and directly from coal dust in the air.

- None of these poorly designed, error-filled proposed mitigation's will be effective or sufficient to avoid disasters (see Port of Morrow Coal Project, OR on Columbia River for example).

UNACCEPTABLE HEALTH & SAFETY RISKS TO CITIZENS

As county and state residents, as taxpayers and citizens we urge and demand you to take prudent, immediate and reasonable actions to protect our safety, our health, our economy and the environment of our State.

To spend taxpayer money and time to conduct a fatally-flawed EIS review for such a harmful, ridiculous project will be illegal, unethical and immoral. We believe and assert that NONE, ... NOT EVEN ONE of the most dangerous SAFETY HAZARDS can be properly mitigated or corrected for Downtown Seattle's routing, ... much less at Edmonds, Mukilteo, Everett or at Cherry Point.

Even worse damages will occur along other parts of the route up and down the coast and in the Columbia River, Puget Sound's or Pacific Ocean ecosystems. Because of this, severe accidents and deaths, unforeseen illnesses and breathing difficulties could occur on a regular, ongoing basis. Wildlife will be destroyed; plus environmental and economic damage to Washington and Oregon will be permanent or irreversible. Coal dust is a noxious, severely harmful health issue. Children and the elderly or those in hospitals will be most at risk. No amount of statistics or engineering studies can "wash away" the true facts and serious harms to our citizens.

You have a moral and ethical ..... AND LEGAL obligation to protect people in Washington. State

and Federal laws require it. Where are your Planning Staffs on these safety matters? Why haven't our officials acted already to put a STOP to this Project? We want to know.

We ask you to inform us of your plans to end any further consideration for coal trains through downtown Seattle. We appreciate some of the mediocre efforts you made so far, but they are unlikely to have any impact on the terrible end-result facing all of us.

Please speak up at next week's public hearings on our behalf. We need you to stand firm and represent all of us. These five (5) projects in WA and OR should never be allowed to happen. Sincerely yours, Dwight Schrag Bellevue, WA 98004

END OF SCHRAG'S OPEN LETTER TO REGIONAL LEADERS - APPENDIX

SCHRAG'S MEMORANDUM FOR SEATTLE CHAMBER OF COMMERCE REVIEW

Seattle Chamber of Commerce - "Downtown Coal-Trains Considerations"

- Bankrupt Patriot Coal seeks to run open-top railcar coal-trains through Seattle

- Major business risks & damages + **50-year life of Patriot's Project "Coal to China"**

Recommendation: (1) Chamber Membership join Mayor's effort to block the project

(2) Submit "open-letter of opposition" signed by membership

Risks & Damages to Seattle's business community, profits and future growth

Major traffic disruptions day & night. Trains are one and a half miles long

Heavy vibrations & noise along the waterfront rising up to Fifth Ave

Open-top railcars leak coal dust to air, streets, sidewalks, businesses & Puget Sound

Property devaluation along the route expected to be $250 Million - $300 Million dollars

Destruction or cancellation of future development for high-value real estate in Seattle

Blocking Ferry traffic, Cruise ship access & waterfront businesses (up to 2 hours/day)

Stifling waterfront development, adding costs of construction & cost of doing business

Impacts & risks to tourism visitors, business personnel & citizens along the waterfront

Noise, pollution, pulmonary diseases, allergies & health complications of coal dust

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Loss of city and county tax revenues due to reduction of property values

No financial benefits to Seattle-King County from Coal Train Project (s) - Only Losses

Note: December 2012 is last month to submit concerns about Scope & Impacts/Risks

END OF SCHRAG'S MEMO FOR SEATTLE CHAMBER OF COMMERCE - APPENDIX

SCHRAG'S CHEMISTRY "COAL DUST TEST" CHALLENGE TO REGIONAL LEADERS

Take the "Coal-Dust Test" for your personal awareness & education: This duplicates testing Coal, Petrochemical and Railroad interests ask ALL Washington residents to take for the rest of our lives. See what you discover? ..... Multiply your TEST Results times one-Billion teaspoons per fifty years in your home, business, neighborhoods, streams, air, forests, city streets and in Puget Sound.

EXPERIMENT AT YOUR OWN RISK USING EXTREME CAUTION. THIS TEST MAY BE ILLEGAL & UNSAFE. DO NOT EXPOSE PETS, CHILDREN, OR FAMILY MEMBERS, (ESPECIALLY) ELDERLY OR ANYONE IN POOR HEALTH OR WITH BREATHING DIFFICULTIES, ASTHMA OR EMPHYSEMA.

HOME DISASTER EXPERIMENT FOR COAL DUST POLLUTION
(PERFORM AT YOUR OWN RISK - Designed by a Chemical Engineer)

We wonder if ANY citizens of Washington State would knowingly, willingly submit to an uncontrolled scientific experiment to examine potential health risks and pollution hazards for Coal Dust. Test requires buying a face mask; pair of rubber gloves; plus face shield and goggles to protect your eyes. Disposable paper coveralls and booties is recommended protective wear.

Soiled clothing and gloves, rugs or furnishings resulting from the experiment may be disposed of at a Toxic Waste Site for a fee. Your home test site is at risk. ASK YOUR LOCAL HAZMAT CLEANUP TEAM TO STAND BY.

COAL-DUST TEST RECIPE : WARNING - HOME & NEIGHBORHOOD IS AT RISK !!

(1) Mix one-teaspoon of fine coal dust in a blender with one quart of water and two-tablespoons of road oils (or motor oil as substitute).

(2) Blend for Four-minutes at high speed to create emulsion.

(3) Spill one cup onto your floor in a home or private business office (it will be Against-the-Law to put it on streets or in a public places due to toxicity & health hazards).
HOW MANY WEEKS DOES IT TAKE TO CLEAN UP THE MESS, ... IF EVER?