

DATE: January 22, 2012

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FROM: Charles Pace  
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RE: Scope of environmental impact statement for proposed Gateway  
Pacific Terminal and Custer Spur Modification projects

I am responding to the request for public comment re the appropriate scope of an environmental impact statement being prepared by Whatcom County, the state of Washington's Department of Ecology, and the U.S. Army Corps of Engineers ("co-lead agencies") for the proposed Gateway Pacific Terminal and Custer Spur Modification projects.

By way of background, I am a resident of the City of North Bonneville, Washington, and currently serve as an elected member of the City Council. As you may know, the proposed projects will utilize existing railroad lines owned by the Burlington Northern Santa Fe, LLC ("BNSF") bisecting our City to deliver coal to the proposed Gateway Pacific Terminal for export abroad. If approved, this will have direct adverse impacts on the City of North Bonneville.

For example, residents of, and visitors to, our City will be subjected to the noise created, and emissions of diesel particulates emitted, by as many as 18 additional trains passing through North Bonneville each day. This will adversely

impact the quality of life for our residents, as well as hinder the efforts of North Bonneville to attract tourists, which is a key component of our efforts to enhance economic activity over time.

Because the proposed projects are likely to have direct impacts on our city, as well as trigger concerns on a statewide, national and global basis, on January 8, 2013, North Bonneville's City Council enacted Resolution #453 calling for a comprehensive environmental assessment of the impacts of the proposed projects for submittal to the co-lead agencies. Resolution #453 is incorporated here by reference and this comment, submitted on my own behalf, supplements and expands thereon.

First, note that Resolution #453 suggests the co-lead agencies should assess the impacts of coal exports from the Gateway Pacific Terminal, as well as all other proposed export facilities on the West Coast and, in particular, that the environmental analysis address the global impacts on air quality when the coal is combusted for power generation.

For your consideration, this expansive approach is required by the National Environmental Policy Act of 1969, as amended ("NEPA"), 42 U.S.C. § 4321 *et seq.*, and NEPA implementing regulations, and the State Environmental Policy Act of 1971 ("SEPA").

More specifically, NEPA requires consideration of the cumulative effects of any action, where regulations promulgated by the President's Council on Environmental Quality for implementing NEPA define cumulative effects as impacts on the environment that result from

the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency ... or person undertakes such actions[,noting that such impacts/effects] can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. And, as set forth in section 43.21C.030(f) RCW, when discharging their duties under SEPA, WDEQ and Whatcom County must

[r]ecognize the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

Emphasis added.

My other concern has to do with the potential that the proposed projects have for degradation and/or adverse modification of habitat for species of anadromous fish, which are listed as threatened or endangered under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Specifically, the transport of coal by rail thru the City of North Bonneville carries with it the increased probability that species of salmon and steelhead returning to the Columbia River basin could be harmed by any accidental spill of coal dust directly into the mainstem of the Columbia River and/or tributaries thereto, such as Hamilton Creek, which flows thru the City of North Bonneville.

There are eight “evolutionary significant units” (“ESUs”) of salmon that may be impacted, which your analysis should address:<sup>1</sup>

- Snake River sockeye ESU listed as endangered on Nov. 20, 1991, 56 Fed. Reg. 58,619; critical habitat designated on Dec. 28, 1993, 58 Fed. Reg. 69,543; and endangered status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160.
- Snake River spring/summer Chinook ESU listed as threatened on Apr. 22, 1992, 57 Fed. Reg. 14,653; status corrected on June 3, 1993, 57 Fed. Reg. 23,458; threatened status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160; critical habitat designated on Dec. 28, 1993, 58 Fed. Reg. 68,543; and critical habitat designation revised on Oct. 25, 1999, 64 Fed. Reg. 57,399.
- Snake River fall Chinook ESU listed as threatened on Apr. 22, 1992, 57 Fed. Reg. 14,653; status corrected on June 3, 1992, 57 Fed. Reg. 23,458; threatened status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160; and critical habit designated on Dec. 28, 1993, 58 Fed. Reg. 68,543.
- Upper Columbia River spring Chinook ESU listed as endangered on Mar. 24, 1999, 64 Fed. Reg. 43,308; endangered status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.
- Lower Columbia River Chinook ESU listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 14,308; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,488.

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<sup>1</sup>Available online, <http://www.nwr.noaa.gov/ESA-Salmon-Listings/Salmon-Populations/>.

- Upper Willamette River Chinook ESU listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 14,308; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.
- Columbia River chum salmon ESU listed as threatened on Mar. 25, 1999, 64 Fed. Reg. 14,507; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.
- Lower Columbia River Coho ESU listed as threatened June 28, 2005, 70 Fed. Reg. 37,160, protective regulations issued June 28, 2005, 70 Fed. Reg. 37,160, and designated critical habitat proposed on Jan. 18, 2013.

There are also five of distinction population segments (“DPS”) of steelhead that might be adversely affected by the proposed projects:<sup>2</sup>

- Upper Columbia River steelhead DPS listed as endangered, Aug. 18, 1997, 63 Fed. Reg. 43,937; status upgraded to threatened on Jan. 5, 2006, 71 Fed. Reg. 834; critical habitat designated Sept 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630; status reinstated to endangered per U.S. District Court for the Western District of Washington’s decision on June 13, 2007, in *Trout Unlimited v. Lohn*, C06-0483-JCC (2007); and status upgraded to threatened by U.S. District Court per order on appeal and remand by the U.S. Court of Appeals for the Ninth Circuit, June 18, 2009.
- Snake River basin steelhead DPS, listed as threatened on Aug. 18, 1997, 63 Fed. Reg. 43,937; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan 2, 2006, 70 Fed. Reg. 52,630.
- Middle Columbia River steelhead DPS listed as threatened on Mar. 25, 1999, 63 Fed. Reg. 13,347; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.
- Lower Columbia River steelhead DPS, listed as threatened on Mar. 19,

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<sup>2</sup>Available online, <http://www.nwr.noaa.gov/ESA-Salmon-Listings/Salmon-Populations/Steelhead/>.

1998, 63 Fed. Reg. 13,347; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat on designated Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.

- Upper Willamette River steelhead DPS listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 43,308; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,360.

Thank you for your review and consideration of these concerns.