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GPT/Custer Spur EIS
c/o CH2M Hill

Via Electronic Transmission: comments@eisgatewaypacificwa.gov

RE: Comment: Alternatives

Dear Agency Co-leads:

Protect Whatcom is a grassroots organization the objective of which is to educate the public about the regulatory process governing permitting the Gateway Pacific Terminal. We believe a vigorous and thorough Environmental Impact Statement can and should result in decisions that will not have unforeseen and unintended consequences. That requires, particularly, a thorough analysis of alternatives.

The Public Trust Doctrine

Both SEPA and NEPA incorporate the Public Trust Doctrine. SEPA states:

The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal.

Wash. Admin. Code (WAC) sec. 197-11-440(5)(c)(vii). This principle overarches, therefore, the notion that an alternative is "reasonable" only if it "could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." *Id.* sec. 197-11-786.

"No Action" = "Status quo" = a Reasonable Alternative

First, it is important to note that the GPT permit application currently pending presents regulators the unique opportunity to choose the "no action" alternative without leaving the proponent with no economic benefit. They received Major Project and Shoreline Substantial Development permits from Whatcom County in 1997, and in recent decisions, the County determined those permits are still active. They must, of course, obtain other permits and, ultimately a lease from the Department of Natural Resources, in order to build that terminal.

The Current Proposal's Objectives

The JARPA application filed with the state, dated February 28, 2011, in sec. 3.2, defined three principal needs justifying the project:

1. The need to ship bulk cargo to and from Asia and other markets to meet current and future market demand;
2. The need for deepwater, bulk marine terminals in the Puget Sound region; and
3. The need for community and economic development in Whatcom County consistent with the Whatcom County Comprehensive Plan for the Cherry Point Industrial UGA.

The third need was shortened to “community and economic development” in the March 2012 permit application. That document, in sec. 1.2, states the terminal would advance “important federal, state, and local governmental objectives” such as

- Growth in global demand for dry bulk commodities;
- Whatcom County’s interest in the further industrial development of the Cherry Point Industrial UGA; and
- Continuing economic development initiatives undertaken by both the federal government and the State of Washington that seek to expand exports from Washington to rapidly developing foreign markets in Asia and elsewhere.

“Dry Bulk Commodities”

The term “dry bulk commodities” is code for coal, of course. The Project Information Document describes two separate terminals, with a coal terminal built in Stage One, shipping up to 48 mmta of coal. A second “other commodities” terminal would be built, if at all, in Stage Two, after about ten years of operations, if market conditions warrant, and initially handle only up to 6 mmta of Canadian potash and calcined coke – a byproduct of BP Cherry Point operations.

The Terminal Permitted in 1997

Pacific International Terminals (PIT) has county permits to build a terminal to export up to 8.2 mmta of Canadian potash, calcined coke, wood chips, sulfur, and wheat. The purpose and need for that terminal, further, was

to provide waterfront access and facilities for the existing and future shipping needs of ***local*** developed ***and undeveloped industrial areas***. The facility will also serve as a transfer point for import/export marine cargo with truck and rail traffic. The project site is centrally located to large industrial tracts both to the southeast and northwest of the proposed dock. ... As a multi-user facility, the terminal will be able to handle a variety of products which may be imported to, or exported from any existing or future user.

FEIS sec. I-1, February 1997 (emphases added). That facility required a little over 100 acres for the terminal of the 1200 acres zoned heavy impact industrial owned at that time by SSA Marine through its subsidiary, PIT. Today, SSA or PIT owns the adjoining Cherry Point Industrial Park, for a total of 1500 acres of undeveloped land zoned HII, the last such acreage available in Whatcom County.

The Purpose of the HII District

The County Code states the Comprehensive Plan designated a HII District for uses

primarily related to producing, distributing and changing the form of raw materials; whereby, product demand and industrial employment are predominately basic, that is, serving nonlocal markets. In addition, the purpose of this district is to encourage the siting of industrial uses which will optimize the limited resource of land available for heavy impact industry. A further purpose of this district is to minimize the scope of impacts generated within the HII District and to provide protection for nonindustrial districts situated outside thereof....

Whatcom County Code sec. 20.68.010. Permitted uses of land in an area zoned HII are

.051 The manufacture and processing of food including meat, dairy, fruits, vegetables, seafood, grain mill, large scale bakery, sugar and beverage products.

.052 Manufacturing and processing of textiles including weaving cotton, synthetic, silk or wool fabrics; knitting yarn and thread mills; textile bleaching, dyeing and printing; and carpet manufacture.

.053 The manufacture and processing of lumber and wood including sawmills; planing mills; millwork; veneer, plywood and prefabricated wood products; wooden containers and cooperage.

.054 The following are permitted uses except as otherwise prohibited:

(1) The manufacture and process of paper including pulp, paper and paperboard mills; and building paper and board mill products.

(2) The manufacture and processing of chemicals and allied products including industrial inorganic and organic chemicals; synthetic resins, rubber, fibers and plastic materials; soap, detergents and cleaning preparations; paint, linseed oil, shellac, lacquer and allied products; chemicals from gum and wood; and agricultural chemicals.

(3) Refining and storage of petroleum and asphalt.

(4) The manufacture and processing of rubber and plastic products.

(5) Leather tanning and finishing.

(6) The manufacture and processing of cement and glass; and concrete, gypsum, plaster, abrasive, asbestos and nonmetallic mineral products.

(7) Primary metal industries including blast furnaces and steel works; mills for primary smelting, secondary smelting, refining, reducing, finishing, rolling, drawing, extruding, and casting of ferrous and nonferrous metals; and the manufacture of miscellaneous metal products.

.055 The fabrication of metal products including metal cans, hardware, hand tools, cutlery, heating apparatus, plumbing fixtures, structural metal and stamping.

.056 The manufacture of machinery including engines; turbines; farm machinery and equipment; construction, mining and materials handling equipment; machine tools and dies; and special and general industrial equipment.

.057 The manufacture of electrical machinery including transmission and distribution equipment, and industrial apparatus.

.058 The manufacture of transportation equipment including automobiles, trucks, buses, airplanes, boat building and repair, railroad equipment, bicycles and motorcycles.

.059 Bulk commodity storage facilities, and truck, rail, vessel and pipeline transshipment terminals and facilities.

.060 Stationary thermal power plants with generating capacity of less than 250,000 kilowatts, floating thermal power plants with generating capacity of less than 50,000

kilowatts, and other power plants utilizing renewable resources from solar, wind (Chapter [20.14](#) WCC) or water sources.

.061 Heavy construction contractors.

.062 Public uses and community facilities including police and fire stations, libraries, activity centers, community centers, park and recreation facilities identified in an adopted city or county Comprehensive Plan or Park Plan, and other similar noncommercial uses, excluding state education facilities and correction facilities.

.063 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed 200 square feet and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

.064 Uses allowed in the Light Impact Industrial zone as permitted uses, WCC [20.66.100](#), shall be permitted outright within Areas 1A, 1B, and 1C of the shoreline industrial area designated on Map 1 of the Urban Fringe Subarea Plan.

.065 Trails, trailheads, restroom facilities and associated parking areas for no more than 30 vehicles.

.081 Freight railroad switching yards and terminals.

.082 Marine port facilities.

.085 Type I solid waste handling facilities.

.086 Type II solid waste handling facilities.

Id. sec. 20.68.050 (emphasis added).

It is significant that a long list of things that involve, primarily, making “stuff,” perfunctorily ends with tagged on uses allowing a shipping terminal.

The Current Terminal Proposal

Today’s proposed terminal includes an unlined, open-air storage area covering 80 acres with coal stacked 60 feet high. In addition to the 5.33 million gallons of water per day required, on average, for suppression of fugitive coal dust,¹ the site is designed to set back the coal “patio” one-half mile from the shore. This distinguishes the site from Westshore Terminals, but a key component of the proponent’s “state-of-the-art” dust suppression system is the “wind buffer” – e.g., the trees on the property.

At just over 300 acres, if the terminal were constructed as designed, PIT would still be in possession of 1200 undeveloped acres of land zoned HII in the county. But presumably there could be no further development of the property for manufacturing and processing facilities because a) the trees must remain, and b) most processing plants probably could not be situated in an environment subject to intermittent fugitive coal dust storms.²

¹ See Terry Wechsler’s comment of November 30, 2012, at <http://www.eisgatewaypacificwa.gov/get-involved/comment/3621>, incorporated herein by reference.

² See Michael Riordan’s comment of Jan. 10, 2013, at <http://www.eisgatewaypacificwa.gov/get-involved/comment/7362>, incorporated herein by reference.

Today's Proposal's Objectives Satisfied by 1997 Terminal

All of the stated needs in the current permit application can be met and exceeded by the terminal proposed in 1992 and permitted by the County in 1997:

1. The need to ship bulk cargo to and from Asia and other markets to meet current and future market demand

As discussed above, the currently proposed terminal is dedicated to coal for the foreseeable future, and the property would not be amenable to manufacturing and processing facilities. Asia is a strong market for Washington's products, not the least of which are food products including seafood, milk products, fresh and processed berries, processed milk products, and wheat and other grains. Even were PIT to build the second terminal for **Canadian** potash and BP's calcined coke by-product, this is barely exporting "Washington products." Those may be the only feasible commodities that could be shipped from a pier shared with the largest coal terminal in North America, however. In considering the terminal permitted in the 90s as a reasonable alternative, particular attention should be paid to the possibility of shipping local and state food products through that terminal compared to that which is proposed today.

If the analysis focuses at all on Asian demand for coal, there are many alternatives to building a coal terminal at the Cherry Point Aquatic Reserve. There are numerous existing coal terminals on the Gulf and East Coasts and new terminals have been proposed elsewhere.

2. The need for deepwater, bulk marine terminals in the Puget Sound region

Check.

3. The need for community and economic development in Whatcom County consistent with the Whatcom County Comprehensive Plan for the Cherry Point Industrial UGA

As discussed above, the proposed terminal forestalls economic development by precluding building manufacturing or processing plants due to the presence of the coal pile and, presumably, lack of access to the pier. If the reason to build a terminal is to provide jobs, then the alternatives analysis must take into account the following facts.

a. Jobs/Acre

According to sec. 1.2 of the GPT permit application of March 2012, the terminal would "sustain[] approximately 1,230 jobs in the regional economy, including approximately 430 permanent, family-wage jobs at the Terminal and in the rail and shipping industry during operation of the Terminal...." The first critical point is that those numbers (or whatever numbers one chooses to use) will probably be stagnant at best. That is, unless more coal is shipped, there won't be new jobs being created at the terminal, and as new operational efficiencies are introduced, jobs will be eliminated. Second, because PIT owns 1500 undeveloped acres zoned H11 at Cherry Point, it is offering **less than one job per acre**. For land use planning, commercial classes such as commercial, business park, and mixed use categories assume 20 employees per acre; industrial classes assume 9 employees per acre. **Warehouses** provide 4 jobs per acre, on average. In short, building **anything** other than a coal terminal at Cherry Point would provide more jobs per acre.

b. Jobs/Ton of Commodity Handled at Terminal Facilities

Coal terminals provide the lowest number of jobs per ton of commodity handled: ¼ the jobs produced moving other commodities; 1/5 the jobs moving containers. In short, moving **any commodity other than coal** would produce more jobs per ton of commodity.

c. Negative Impact on Other Job Sectors

Whatcom County enjoys one of the lowest unemployment rates in the state and steady growth in employment. From January 2012 to January 2013, non-farm private sector employment increased 6.1% with 3,800 new jobs, for a total of 69,800. Manufacturing jobs (currently 8,900 locally) are nearly back to pre-September 2008 financial meltdown numbers. And this strong job position is expected to continue to improve, according to Reinhold Groepler, a regional labor economist for the state. The EIS must calculate the net impact on jobs in all sectors in all areas directly and indirectly impacted by terminal operations if it handles coal.³

d. Tax and Other Economic Contributions

The 8.2 mmta terminal proposed in the 90s not only didn't ship coal, it required so little rail activity, the number of trains calling per day was not a subject of its FEIS, the permits, or the Settlement Agreement. PIT touts tax contributions of the currently proposed terminal, but those would be totally wiped out by the need for communities to fund grade changes at rail crossings and quiet zones. And those will not be the only public costs borne by the public. What is lost is the ability to ship **Washington** products so all sectors that might otherwise export – farming, manufacturing, processing, etc. – would **not** benefit economically.

Conclusion

Given NEPA and SEPA's mandate to agencies to act as trustees of the environment, eliminating coal from the current proposal must be a threshold determination given that all stated objectives can be met with other commodities. Further, in giving "[p]articular attention ... to the possibility of foreclosing future options by implementing the proposal," WAC sec. 197-11-440(5)(c)(vii), the EIS must discuss in the alternatives section the relative merits of exporting a raw natural resource **through** our state versus that which we can grow, process, and/or manufacture **in** our county and state.

The U.S. Department of Fish and Wildlife provides this guidance on conducting a NEPA alternatives analysis:

Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

³

See Protect Whatcom's Jobs Comment submitted this date, and incorporated herein by reference.

Those words have very particular meaning in the context of the current proposal. **All** objectives are met by building the terminal permitted by the County in 1997, with far more potential for other economic activity if an industrial park were developed, and Whatcom County/Washington State agri- and aquacultural products were being exported in their original or processed states. That is not to say Protect Whatcom believes the terminal permitted in the 90s will receive other necessary permits or a lease from the Department of Natural Resources if determinations are based on the 1999 settlement agreement and good studies, particularly of the decline in herring biomass and vessel traffic risks. We are simply arguing that the new permit applications filed with the county were required because of the enormous difference in volume proposed, and the new commodity, coal, with no real justification for those changes. Granted, under the current proposal there is the potential for billions of dollars in profits for non-local national and international mega-corporations BNSF and Peabody Coal, but that should be wholly irrelevant in the GPT EIS analysis. Rather, the economic issue of relevance to the County is the fact that we have only 1500 acres of undeveloped land zoned heavy impact industrial, and limiting the uses of that land to those described in WCC sec. 20.68.081-086, to the exclusion and preclusion of uses described at WCC sec. 20.68.051-.065, is, in a word, unreasonable.

Thank you very much for your consideration of this comment.

Sincerely,

Protect Whatcom

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