

June 13, 2016

Ms. Sally Toteff, [sally.toteff@ecy.wa.gov](mailto:sally.toteff@ecy.wa.gov)  
Ms. Diane Butorac, [diane.butorac@ecy.wa.gov](mailto:diane.butorac@ecy.wa.gov)  
Washington Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

Elaine Placido, [placidoe@co.cowlitz.wa.us](mailto:placidoe@co.cowlitz.wa.us)  
Cowlitz County Building and Planning Department  
207 4<sup>th</sup> Ave. North  
Kelso, WA 98626

Re: Millennium Bulk Coal Terminal Draft Environmental Impact Statement

Dear Ms. Toteff, Ms. Butorac, and Ms. Placido:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources (DNR) appreciates the opportunity to comment on the joint Draft Environmental Impact Statement (DEIS) from the Washington Department of Ecology (Ecology) and Cowlitz County (County) for the Millennium Bulk Coal Terminal proposed for Longview, Washington. The DEIS is a generally thorough and effective assessment of the planned Terminal and identifies most of the potential impacts and risks associated with the facility. Some additional impacts could be noted. Some changes in emphasis about the nature or extent of impacts are needed, including a more expansive focus on tribal Treaty Rights and resources. The CTUIR DNR remains concerned regarding the potential impacts of the Millennium Bulk Coal Terminal on Treaty Rights and resources due to coal mining, transport and ultimate burning for energy. Further, there has not been a regional impact analysis done evaluating comprehensively the fossil fuel projects proposed for the northwest as well as any risk assessment for spills on the Columbia River. Approval of the Millennium Bulk Terminal should await such an environmental review to ensure all potential cumulative impacts are addressed.

The CTUIR is a federally recognized tribal government with rights and interests in the Columbia River Basin secured under the Treaty of 1855, 12 Stat. 945. That Treaty, between the Cayuse, Umatilla and Walla Walla peoples, reserved the preexisting rights of the Tribes to fish, hunt, gather, and graze in our ancestral territory in exchange for ceding millions of acres of land in what are now the states of Oregon and Washington. The Treaty Rights of the CTUIR and members are threatened by the unprecedented level of fossil fuel shipment that has escalated in recent years and threatens to increase even more if projects such as the Millennium Bulk Coal Terminal are approved and operational. More rail traffic will result in additional air pollution from dust and train exhaust, greater risk of derailments and spills, and magnified dangers to tribal members accessing fishing sites along the river. Dramatic increases in fossil fuel shipments (coal, crude oil, natural gas and others) are already underway without any comprehensive analysis of their effects on the region's citizens, environment and economy.

Individually, the Millennium Bulk Coal Terminal would be a major project with multiple serious consequences, environmental and otherwise. As the DEIS notes, 23 resource areas were analyzed, with “potential significant impacts” identified for 18 areas, and 8 areas with “unavoidable” significant impacts listed.<sup>1</sup> While 30 mitigation measures are proposed “to reduce or offset” impacts, it is not certain how effective many of them will be, or whether they will receive all necessary support or funding to be implemented, both near- and long-term. In our experience, much harm to natural resources has been authorized in the past based on unduly optimistic scenarios and proposals for mitigation that turned out to be either unfunded or woefully insufficient. Mitigation for environmental harm that is not in-kind, in-place often fails its intended purpose.

According to the DEIS, unavoidable significant impacts include pushing certain rail line segments beyond their capacity, diminished rail safety, increased noise along the rail line, additional delays and backups, increased greenhouse gas emissions, and increased risks of vessel spills in the Columbia River and the estuary. Many of these impacts would be annoying, some dangerous, and some possibly catastrophic. And, to emphasize, they “may be *unavoidable*.” See Ecology Powerpoint.

The DEIS purports to find more “limited” impacts related to coal dust and spills, fish, wildlife and vegetation, vessel traffic management, stormwater, and groundwater. We question the use of the qualifier “limited” for many of these impacts, and would argue that from our perspective, effects from these aspects of the facility and on these resources and activities could have serious, cumulative implications for ecological and human health in the Columbia River Basin and its waterways.

The CTUIR DNR believes that the unavoidable, *inescapable* results of increasing ship traffic—including some large Panamax-size vessels—in the lower Columbia River and the estuary may be dire, or, at minimum, counter-productive. The Columbia River estuary is critical to the recovery and restoration of salmon listed under the federal Endangered Species Act (ESA) and others. The CTUIR and other tribes have Treaty Rights to harvest fish that pass through the estuary, going to and from the ocean. The estuary has already been greatly altered by human activity. Now, many efforts are underway to repair some of the damage; substantial resources have already been expended to improve the estuary.<sup>2</sup> Additional expansive ship traffic—840 more vessels per year, 1,680 more transits—cannot but undermine all the recent good work that has occurred in the estuary, and raise the specter of greater risk of accidents. The DEIS should also include in its analysis impacts beyond the river and the estuary—i.e., the Pacific Ocean and west coast.

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<sup>1</sup> See attached PowerPoint Millennium Bulk Terminals – Longview: Coal Export Proposal Draft Environmental Impact Statement Department of Ecology/June 2016 (hereinafter Ecology PowerPoint).

<sup>2</sup> See June 13, 2016 comments of Columbia Riverkeeper et al.

Potential impacts to tribal resources are identified in the DEIS as:

- Delays or other effects on tribal access to Columbia River fishing sites;
- Vessel traffic impacts to fish habitat; and
- Coal dust from rail and terminal operations.

The CTUIR DNR believes there are many additional potential impacts. The DEIS found that mitigation “may” reduce impacts to tribal resources “*but would not eliminate them.*”<sup>3</sup> There is a legal obligation to maintain certain habitat conditions necessary for the survival and health of viable Northwest salmon populations that are the subject of more than 160-year-old treaties with multiple Indian tribes. This legal obligation applies to not just the federal government, but to the individual states as well. Thus it would appear that approval of the Millennium Bulk Coal Terminal, impacting tribal resources—and, consequently, tribal rights—that no mitigation can eliminate, would be questionable and highly problematic, at the very least.

The CTUIR DNR is also concerned about ballast water intake/discharge; we believe it requires further analysis than that provided in the current DEIS. This has been an issue with earlier proposed projects (e.g., Bradwood Landing LNG Terminal), and it would appear that many outstanding questions and uncertainties remain. Questions presented by ballast water include:

- Would vessels traversing the river and using the facility’s docks be perpetually discharging and/or withdrawing ballast water?
- What measures would be taken to ensure that no invasive or otherwise unwanted species enter the Columbia River?
- What measures would be taken to ensure salmon or other species would not be entrained in intake water or impinged on screens, if that is an issue?
- Would vessels be foreign-flagged, and if so, how would provisions requiring ballast water measures be monitored or enforced?
- Has the Washington Department of Fish and Wildlife made any findings or recommendations on this subject?

Water temperatures in the mainstem Columbia River frequently exceed applicable water quality criteria—temperature standards are often violated. Water temperatures are critically important to salmon survival and health; excessive temperatures can be devastating to salmon, as we witnessed in 2015 when the overwhelming majority of endangered Snake River sockeye died in-river. Climate change promises to only make matters worse. The CTUIR DNR would like to see further exploration of water temperature aspects of the project—specifically, whether operations at the site and the infrastructure supplying it will result in more water temperature problems and associated threats to tribal resources. Will all water discharged from the site meet water quality criteria, for temperature and all other constituents? Will there be enforceable measures to contain on-site all substances and materials that do not meet environmental standards?

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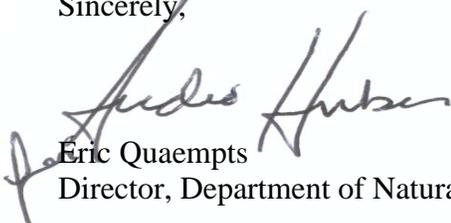
<sup>3</sup> Ecology PowerPoint, slide 9.

The CTUIR DNR also questions the financial soundness and integrity of the project's proponents, who have, in fact, repeatedly changed into different entities or even gone bankrupt, leaving us with little assurance of their execution of their promises and commitments. There have also been legitimate reports of less-than-forthright claims and representations by the proponents in the ongoing process to authorize the project from the earliest days of the project, a fact that cannot be casually disregarded in the overall decision on whether or not to issue an approval.<sup>4</sup>

Finally, as noted above, there are numerous fossil fuel projects proposed across the northwest. To date no regional environmental impact analysis has been conducted to examine cumulative impacts of the projects comprehensively. These projects are being pursued individually and impacts are being done on a case-by-case basis. This approach prevents a cumulative analysis being conducted. Such a review should be conducted, as well as coordination with other regulatory processes and analyses such as the "Vessel Traffic Safety Evaluation and Assessment for the Columbia River," being prepared by the Department of Ecology to comprehensively examine all mainstem shipping activity.<sup>5</sup> The information intended for that risk assessment seems critical for the full and thorough evaluation of the potential impacts of approval of the Millennium Bulk Coal Terminal. Due to the important, relevant information being developed, approval of the Millennium Bulk Coal Terminal should be held in abeyance until such time as it can be informed by the results of a regional environmental analysis and the Columbia River spill risk assessment by Ecology.

The CTUIR DNR again thanks you for soliciting our input and considering our initial comments. In part because our attentions were recently concentrated on a serious train derailment and fire in the Columbia River Gorge (the rail corridor that would be shared by trains supplying the Millennium Terminal), we have had less time than we would have desired to develop our comments by today's deadline. We appreciate your willingness to allow us to supplement them in the future should the need arise. If you have any questions, please contact Audie Huber, Inter-Governmental Affairs Manager, at (541) 429-7228.

Sincerely,



Eric Quaempts  
Director, Department of Natural Resources

Enclosure: PowerPoint: Millennium Bulk Terminals – Longview: Coal Export Proposal  
Draft Environmental Impact Statement Department of Ecology/June 2016.

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<sup>4</sup> See New York Times, February 14, 2011, In Northwest, A Clash Over a Coal Operation, by William Yardley. Available at: [http://www.nytimes.com/2011/02/15/us/15coal.html?\\_r=0](http://www.nytimes.com/2011/02/15/us/15coal.html?_r=0)

<sup>5</sup> See <http://www.ecy.wa.gov/programs/spills/OilMovement/RiskAssessment.html>

# Millennium Bulk Terminals – Longview: Coal Export Proposal



## Draft Environmental Impact Statement

Department of Ecology / June 2016

# Millennium Bulk Terminal-Longview Project Snapshot

16  
Trains per Day  
(8 loaded & 8 empty)

125  
Rail Cars per Train  
(1.3 miles long)

75  
Acres of Coal Stockpiles

190  
Acre Project Area

Dock 3

Dock 2

2

New Docks with  
Shiploading Equipment

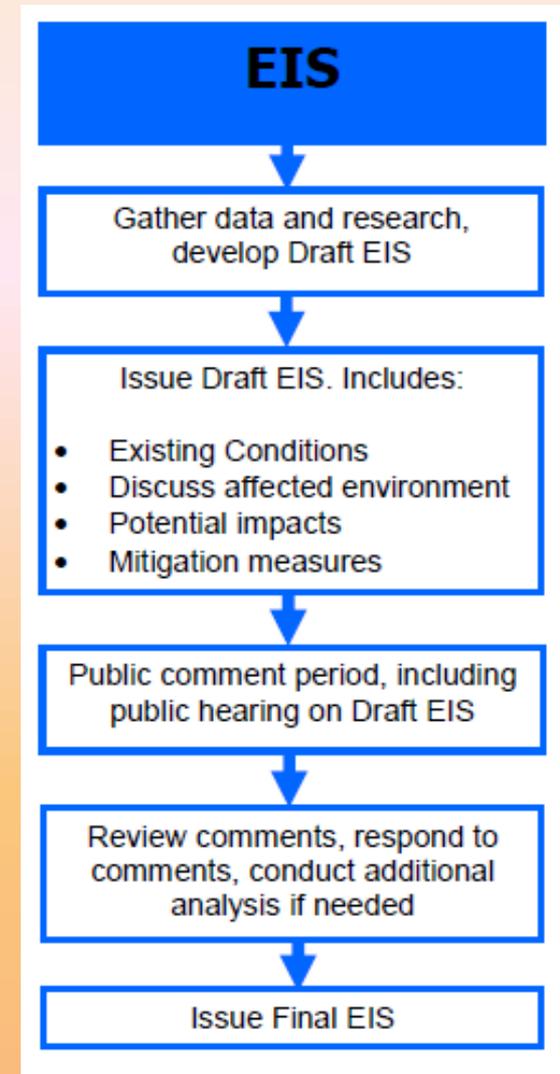
840 Vessels per Year

44 Million  
Metric Tons of Coal  
Export per Year



# Environmental Impact Statement (EIS)

- Co-lead agencies:
  - SEPA: Cowlitz County and Ecology
  - NEPA: US Corps of Engineers
- EIS is a prerequisite for permits
- Impartial and comprehensive report for agency decision makers to use during their permitting process
- Provides information about the potential effects of a proposal



# The Draft SEPA EIS



- Developed following state law and county code
- Scope of study for SEPA different than for NEPA
- Prepared by 3<sup>rd</sup> party contractor, reviewed by state agencies with expertise
- Not a “Yes” or “No”
- Prerequisite to permitting processes – a factual information source

# 45-Day Comment Period

**April 29 to June 13**

- Online 24/7
- By mail
- At 3 public hearings
  - Verbal testimony
  - Extra court reporters
  - Written comments
  - Open House
  - Longview, Spokane, Pasco



# Resource Areas

- Analyzed 23 resource areas
  - Potential significant impacts identified for 18 areas
  - 30 mitigation measures proposed to reduce or offset impacts
  - Tribal resource impacts identified
  - 8 areas identified with potential unavoidable and significant impacts

# Findings: Significant Impacts



Rail line segments over capacity

Rail safety



Increased noise along rail line in Cowlitz County

Rush hour delays and back ups



Greenhouse gas emissions increase



Vessel spills – low likelihood, significant impacts

Study found these potential impacts may be unavoidable

# Findings: Limited impacts



Coal dust and coal spills



Fish, wildlife and vegetation



Vessel traffic system

Stormwater



Groundwater

# Tribal Resources

Potential impacts from operations:

- Rail traffic could cause delays or affect access to fishing sites in the Columbia River
- Vessel traffic impacts fish habitat
- Rail and facility operations generate and disperse coal dust

Study found mitigation may reduce impacts to tribal resources but would not eliminate them.

# Tribal Resources

Describes fishing and gathering practices for Cowlitz Indian Tribe and CRITFC member tribes



# Tribal Resources

- Impacts from coal dust on fish, wildlife and vegetation in separate sections.
  - Proposed mitigation discussed in those sections.
- Corps continues to conduct formal consultation with tribes for the NEPA EIS process.
- The SEPA co-leads seek comments on the Draft EIS to better describe tribal resources

# Fish, Plants & Animals

- Construction impacts from pile-driving, dredging, spills, removing piles
  - Removes 202 acres of habitat, including 24 acres of wetlands
  - Loss of 4,312 ft<sup>2</sup> of habitat to install 630 piles for the docks
  - Removes 500,000 cubic yards of sediment from the Columbia River (affecting 48 acres of deepwater habitat) from dredging
  - Loss of 11 acres of aquatic habitat (ditches and ponds) on site
  - Removes 225 feet of creosote-treated piles
- Operations impacts from shading at the docks, ship movements, rail traffic, coal dust, coal spills
- Impacts are similar to existing conditions for ships and rail
- Coal dust would fall within and adjacent to rail line and facility
- Increased risk of ship strikes due to additional vessels

# Fish, Plants & Animals

- Permits required for the proposed project:
  - Cowlitz County Shoreline Substantial Development and Conditional Use Permit
  - Local Critical Areas and Construction Permits from Cowlitz County.
  - Notice of Construction from Southwest Clean Air Agency
  - Clean Water Act Section 401 certification Ecology
  - Hydraulic Project Approval from WDFW
  - Clean Water Act Section 404 authorization from Corps
  - Endangered Species Act Consultation with USFWS and NMFS
- Proposed mitigation
  - Bubble curtains or noise reduction technology
  - Monitor fish and wildlife while pile driving and dredging
  - Surveys for smelt, rare plants and aquatic plants
  - Coal dust monitoring at the site and reducing coal dust from rail cars
  - Wetland mitigation plan (developing with Corps)

# Water Quality

- Proposal would be required to have NPDES stormwater permits for construction and operations and 401 and 404 certifications
- Proposed site is inside levee area and in diking district
- Construction, dredging, soil compaction, pile driving and pile removal could cause turbidity or spills
- Coal dust from the facility or rail cars could affect surface water but would not be expected to exceed water quality standards
- Ship transits could cause erosion from wakes or propellers but would be similar to current traffic

# Rail Traffic and Safety

16 additional trains daily at full operations

1.3 trains a day for construction

Analysis: with --and without --rail improvements

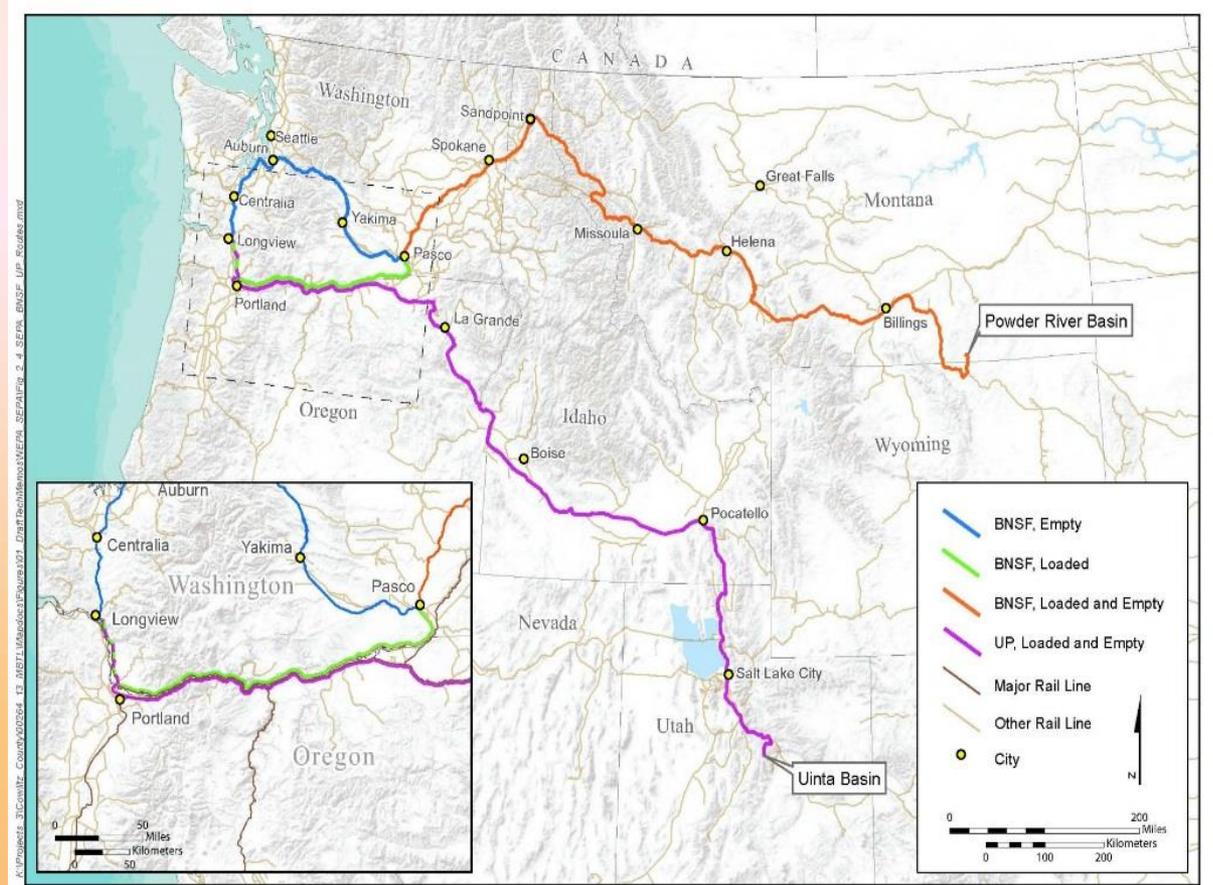
Improvements are planned but not permitted or funded



# Rail Routes

Loaded trains are expected to go through Spokane along Columbia River Gorge to Longview.

Empty trains would likely return via Yakima through Stampede Pass.



# Rail Traffic Impacts

Additional trains from the proposal could lead to **significant and unavoidable impacts** in Cowlitz County and Washington state

Rail Capacity Exceeded:

- Local rail lines into Longview
  - Reynolds Lead and BNSF Spur in Cowlitz County
- Main Line Routes in Cowlitz County
- Main Line Routes in Washington State
  - Idaho/Washington State Line – Spokane
  - Spokane – Pasco
  - Pasco - Vancouver
- Main Line Routes beyond Washington State



Photo: WSDOT

# Vessel Traffic

- Proposal would add 840 ships a year
- Vessel traffic study
  - Indicates existing navigation infrastructure capable of managing additional vessel traffic
  - Includes vessel incident analysis
- No significant impacts on vessel traffic system
- While likelihood of an oil spill from a vessel incident is low, if a spill occurred, the impacts would be **significant and unavoidable**

# Coal Dust Control from Rail

## Rail cars

- Coal shaped to reduce wind loss
- Topping agent (surfactant) applied at mine
- For BNSF trains, surfactant also applied at Pasco yard



Rail car spray station in Pasco  
Photo UTC

# Coal Dust Impacts - Rail

- Air monitoring done to gather samples in Cowlitz County on BNSF main line from current coal trains
- Air quality model used this information to predict impacts
- Study found coal dust particles are:
  - Typically large (no human health risk from inhalation)
  - Fall close to the track (decline by 50% within 200 feet of the rail line)
  - Do not exceed air quality standards
  - Nuisance sized particles do deposit at 50 ft and 100 ft
- Consistent with other coal dust studies

# Coal Dust – Proposed Mitigation

- Coal dust complaint reporting process in Cowlitz County – operated or funded by Millennium
  - Work with the Southwest Clean Air Agency
  - Coal-dust awareness and investigation system for community members
  - Receive complaints or concerns, investigate, respond, resolve and report findings to the complainant and Southwest Clean Air Agency
  - Annual report on website
- Reduce coal-dust emissions from rail cars. Coal on Burlington Northern Santa Fe trains from Montana and Wyoming must be appropriately shaped and surfactant applied at the mine site and in Pasco, Washington. For Union Pacific trains from Colorado and Utah, surfactant would be applied at the mine site. Options for applying a second coating would be evaluated.

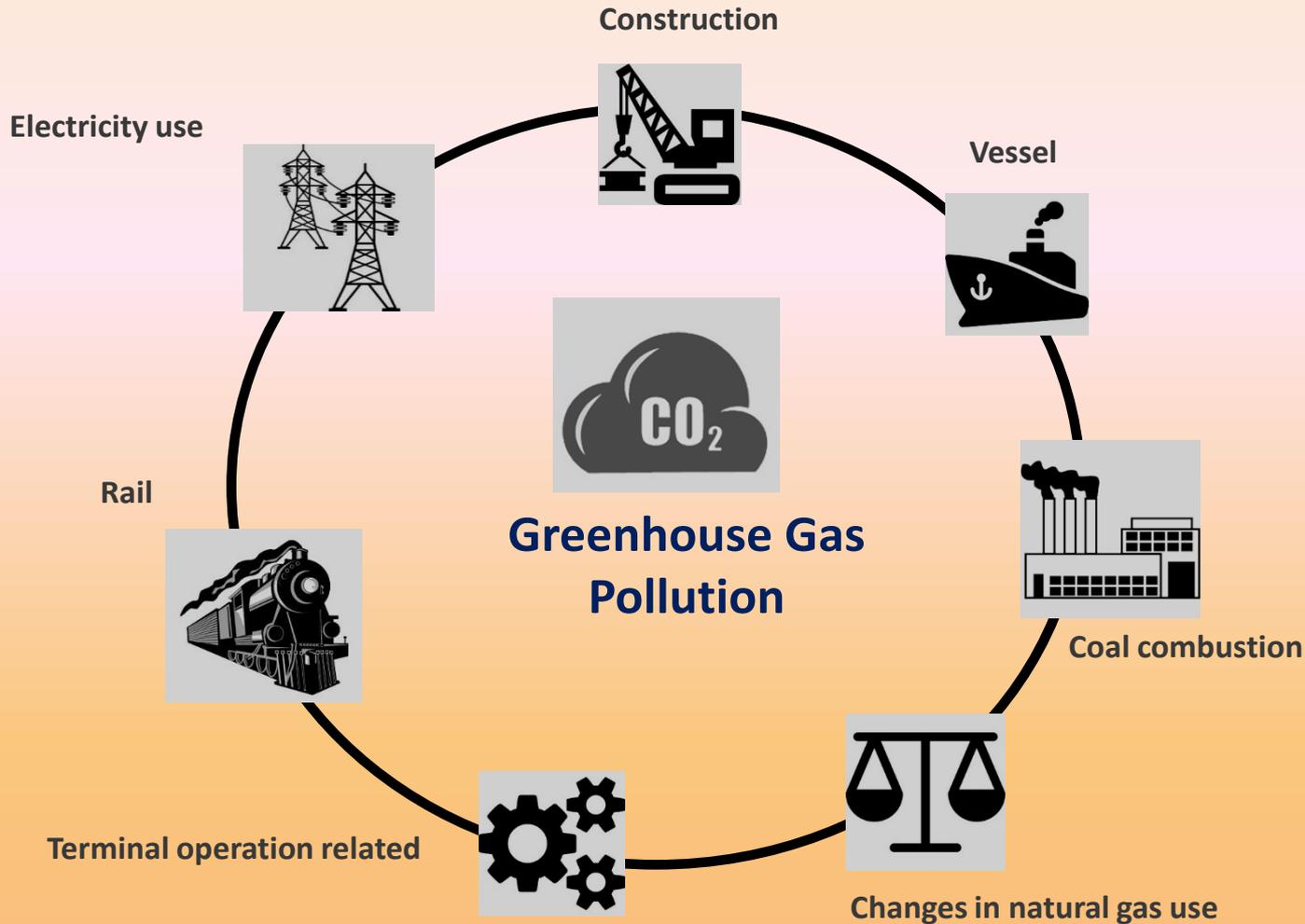
# Greenhouse Gases

## Key questions analyzed in Draft EIS

- What are the GHG emissions attributable to the proposal?
- What GHG emissions would occur if the project is not built (the “*No Action Alternative*”)?
- How do the GHG emissions attributable to the proposal compare to GHG emissions from Washington and the United States?

Several approaches considered for GHG evaluation

# What GHGs were Analyzed?



# Coal Market Assessment Model

## Assumptions

Destination of coal  
Displacement  
Price elasticity  
Energy markets

Natural gas  
substitution

Pollution control  
regulations

Heat and pollutant  
content

Transportation costs



## Net Greenhouse Gas Emissions

*in million metric tons*

Construction  
Operations  
Rail transportation  
Vessel transportation  
Changes in natural gas/coal  
End use combustion

5 scenarios used. Preferred scenario is 2015 Energy Policy scenario since it most realistic to current conditions

# Why GHG Emissions are Considered Significant

Annual emissions for operations exceed federal and state regulations and guidance

Climate change impacts would persist for a long period of time, are considered permanent and would impact Washington

Emissions attributable to the proposal under the 2015 Energy Policy Scenario are considered **adverse and significant**



# GHG – Proposed Mitigation

- Fuel efficiency training for equipment and vehicles
- Anti-idling policy for vessels and locomotives
- Reduce emissions from cars
- Develop a greenhouse gas mitigation plan to mitigate for 50% of emissions identified in the 2015 Energy Policy Scenario.
  - The plan must be approved by Ecology. For mitigation that occurs in Cowlitz County, the plan will be approved by Cowlitz County and Ecology.
  - The plan must be implemented prior to the start of operations.
  - The measures described in the plan may include a range of mitigation options.
  - The measures must achieve emission reductions that are real, permanent, enforceable, verifiable and additional.
  - The emission reductions may occur in Washington or outside of Washington but must meet all five criteria.



The mitigation measure will substantially reduce, but not completely eliminate, the greenhouse gas emissions attributable to the project.

# Air Quality

- Air quality model used to evaluate impacts
- Considered emissions from equipment, trains, ships and facility operations
- Increases in CO, NO<sub>2</sub>, SO<sub>2</sub>, particulate matter (including diesel particulate matter) and volatile organic compounds but none exceeded air quality standards
- A Notice of Construction from Southwest Clean Air Agency will be required
- No state permits for trains or vessels required



Joint website specific to the EIS [www.millenniumbulkeiswa.gov](http://www.millenniumbulkeiswa.gov)

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