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Hearing on DEIS Millennium Bulk Terminals, Longview, Washington

[5.24.2016; Inga Fisher Williams, Portland, Oregon]

All project data cited from <http://www.millenniumbulkeiswa.gov>

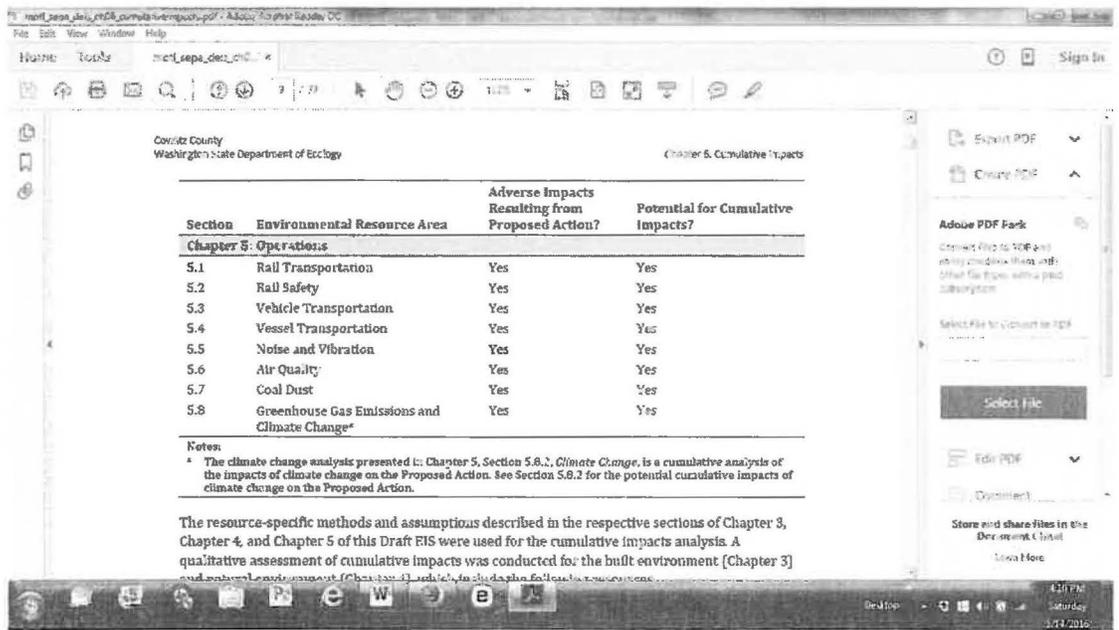
RESIDENT OF POW: 45 YRS

IMPACTS - are considerable when all relevant factors are fully included. Regrettably, the DEIS falls short despite its length.

- **DEMANDS:** water, fire protection services - considered minor in this DEIS which also identifies expansion potentials on this site and intensification of industrial uses, i.e., oil trains, pointing to possibility of future conversion if Asian demand for coal drops.

- **DETRIMENT** to Tribal fishery {dredging for coal vessels; **GAP:** coal contamination from train volume + loading of vessels - their rights are protected by treaty, as the original inhabitants of the Gorge region.

- **MAJOR SHORTCOMINGS:**
Specifically, Rail Cumulative IMPACT 2038; Coal dust health effects; Credibility of applicant.



- **RxR traffic route capacity**
2016 estimated 30 to 75 now. 2038 estimates: 96 to 138
[PASCO to Vancouver 96 trains per day {from 41} Spokane to Pasco 138 {from 38}]

GAP #1: OREGON impact Columbia Gorge

Quote: "Loaded UP trains from the Uinta Basin in Utah and Colorado and the Powder River Basin in Wyoming would move via the UP main line through Salt Lake City and Pocatello following the Columbia River on the Oregon side to North Portland Junction in Portland, Oregon. From North Portland Junction, trains would cross the Columbia River and move on the BNSF main line to Longview Junction. All loaded UP trains would operate on the same track between Longview Junction and the project area as described for loaded BNSF trains."

* ARE WE NOT NEIGHBORS ?

GAP #2: Vehicle queueing - 1.75 to 7.75 minutes delays at crossings. The emissions from idling car engines is not just exhaust but

- a source of greenhouse gases, as we know, and a factor in climate change
- a contaminant that affects the air quality for Longview residents

* THEY'RE OUR NEIGHBORS - WE CARE ABOUT THEM.

GAP #3: The Coal dust from 25.6 loaded trains per day should be shown in its cumulative for project years. It is now cited for MONTHLY emissions. Dishonest GAP; DEIS should show us the entire range of months till 2038.

GAP #4: The Health impact of coal dust especially should be shown for project years and volume of trains till 2038. Most glaring and quite unbelievably, the DEIS limits itself to "look and cleanliness factors" not the health of residents and the environment.

* DEIS NEEDS A COMPREHENSIVE HEALTH ASSESSMENT WE ARE NEIGHBORS! WE CARE ABOUT THEIR HEALTH.

GAP #5: There's no examination of the applying entity, its liabilities (lawsuits) and its related concerns, i.e., Resource Capital Fund which has taken control of Ambre Energy.

Resource Capital Funds is a private equity fund with offices in Denver, New York, Canada, and Australia, registered in the Cayman Islands for tax purposes.

- Its investors [anonymous] should be considered deadbeats; ^{free riders} they freeloaders who do not pay their fair share of taxes in America or elsewhere.
- They are unlikely to have a commitment to the people of Longview or the region as typically venture funds look only to short term return on their investments. They cash out, leaving behind pollution and stranded assets. They do not mind showering Longview with coal dust. Their game is ROI, plain and simple.

* WE'RE ALL NEIGHBORS. THE FUND x-x-x INVESTORS CAN'T HIDE IN CARED COMMUNITIES FROM CONSEQUENCES OF CLIMATE CHANGE

ADENDUM

[from Sightline Institute's February 2013 report], **Ross Bhappu's risky bet on coal exports [Ambre Energy: Caveat Investor]:** Ross Bhappu has played a quiet but key role in coal export proposals in Oregon and Washington by bankrolling Ambre Energy, the financially shaky company pushing coal exports on the Columbia River. Ambre Energy has a 62% stake in a coal export proposal in Longview, Washington, which the company hopes will one day export more than 40 million tons of coal each year - although the subsidiary pushing the project was caught misleading state officials by claiming that it would only ship 5 million tons a year. Ambre is also behind the Morrow Pacific coal export proposal, a project that would barge coal down the Columbia River and thereby face unusually high costs, according to a report from the Sightline Institute. Ambre Energy has a 50% stake in the export-oriented Decker coal mine in Montana, which has suffered losses and layoffs in recent years and has been the subject of lawsuits between Ambre and co-owner Cloud Peak Energy.

In addition to his role on Ambre's board of directors as a non-executive director, Ross Bhappu is a partner at Resource Capital Funds, a Denver-based private equity fund that recently increased its control of Ambre Energy. Ross Bhappu's critical role in financing Ambre Energy was detailed in the

'The decline of US coal demand has sparked renewed interest in exporting American coal to Asia. One of the highest-profile players in the coal export arena is an Australian firm called Ambre Energy, which is planning two controversial export terminal projects on the Columbia River in Washington and Oregon. But the coal export debate has largely overlooked a curious fact: Ambre Energy barely qualifies as a coal company. The company's annual reports reveal that the Australian-based venture has never made a profit, and has virtually no successful track record in coal mining or coal exports, either in the US or abroad. Worse, an in-depth look at the company's financial statements, as well as public records of other companies that have done business with Ambre, reveals a firm with deeply troubled finances, including:

- **Minuscule revenues:** the firm has collected only \$6.6 million in worldwide revenues over the past 7 years.
- **Massive losses:** Ambre has accumulated \$124 million in losses on its balance sheets.
- **Failed Australian venture:** The firm recently admitted that it lost \$10.9 million on a failed coal project in Australia.
- **Huge liabilities:** The company is on the hook for hundreds of millions of dollars for mine reclamation and site cleanup, retiree medical and pension benefits, and costs arising from a recent legal settlement.
- **Troubled assets:** Ambre may see little value from some of its assets, including a \$65 million bond cash holding dedicated for mine reclamation, and \$19 million in shale oil development costs.
- **High borrowing costs:** The company has taken out multi-million dollar loans with annual interest rates of at least 10 percent, and a "balloon" loan charging 12 percent interest.
- **Massive capital needs:** Ambre needs to raise about \$1 billion to bring its coal export plans to fruition.

Potential investors in Ambre, as well as the communities and businesses hoping to benefit from the firm's business, would be wise to consider Ambre's finances and troubled history before committing money or other resources to the company's export ventures.'

RCF is listed as a member of the National Mining Association, which has led efforts by the coal industry to lobby against rules to reduce carbon pollution, regulations to protect mine workers from coal dust, and other coal industry priorities. Resource Capital Funds boosted its involvement with coal export proposals in November 2014 by taking control of Ambre Energy's coal mines and export proposals. - See more at: <http://www.polluterwatch.com/resource-capital-funds#sthash.aXt4PQib.dpuf>

Resource Capital Funds is pushing controversial coal export proposals that would disrupt communities in the Pacific Northwest, fuel climate change and air pollution, and interfere with tribal fishing rights on the Columbia River.

Resource Capital Funds is a private equity fund with offices in Denver, New York, Canada, and Australia - though it is registered in the Cayman Islands for tax purposes. The company has played a quiet but important role in the coal industry's efforts to export coal to Asia by bankrolling Ambre Energy, the company behind the Millennium Bulk and Morrow Pacific coal export proposals in Oregon and Washington. But while some investors like Goldman Sachs have dropped their support of coal exports amid a declining global coal market and widespread community opposition, Resource Capital Funds has done just the opposite - in November 2014, it boosted its involvement by taking control of Ambre Energy's coal mines and export proposals.

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30 Apr 13 Cayman Islands limited partnership not a US resident for treaty purposes - Resource Capital Fund

The Federal Court (Edmonds J) has held, contrary to submissions made by the Commissioner, that Resource Capital Fund III LP ("RCF"), a limited partnership formed in the Cayman Islands, was not a resident of the United States of America ("US") for the purposes of US tax and, accordingly, was not a resident of the US for the purposes of the double taxation agreement between Australia and the US ("the Convention").

It followed that Article 13 of the Convention (the "alienation of property" article) did not authorise Australia to tax a gain derived by RCF in the 2008 income year on the sale of shares in a company ("SBM") that carried on a gold mining enterprise on mining tenements situated in Australia.

In contrast, Edmonds J held that the gain was taxable to the US resident limited partners under the Convention, none of whom were parties to the litigation. His Honour said at paras 76-78 of his judgment:

"...I am of the view that while Art 13(1) of the Convention authorises Australia, by its domestic law, to tax the US resident limited partners in RCF on their respective distributive shares of the gain derived by them on the sale by RCF of the shares in SBM if its requirements are otherwise satisfied, it does not authorise Australia to tax that gain to RCF, the limited partnership, as a non-transparent company.

It follows, in my view, that there is an inconsistency between the application of the Convention and the application of the Assessment Acts as to the entity or entities to be taxed on the gain derived on the sale of the SBM shares. In accordance with the provisions of s 4(2) of the Agreements Act, that inconsistency has to be resolved in favour of the application of the Convention to the limited partners in RCF against the application of the Assessment Acts to RCF, the limited partnership.

I would therefore answer the first issue – yes: the issue of the Assessment to RCF is precluded by the Convention."

Although unnecessary to consider the Commissioner's alternative argument in relation to s 855-10 of ITAA 1997, his Honour went on to hold that the sum of the market values of SBM's taxable Australian real property (TARP) interests did not exceed the sum of the market values of SBM's non-TARP assets at the relevant dates at which shares in SBM were sold. On this basis, the gain was to be disregarded under s 855-10.

RCF's appeal against the Commissioner's deemed objection decision was upheld.

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In late 2008, an investment group led by two private-equity firms, Resource Capital Funds and Pegasus Capital Advisors, commodities trader Traxys Group and Goldman Sachs paid \$80 million to purchase a long-forgotten unit of Chevron called Molycorp. "It looks fantastic on paper," said 50-year-old Ross Bhappu, Molycorp's chairman and a partner at Denver-based Resource Capital, who notes that "we still need to realize the investment.

----- Environmental Leader David Crane Joins Pegasus Capital as Senior Operating Executive ---

<http://www.greentechmedia.com/articles/read/david-crane-steps-down-as-nrg> - resigned from nrg energy (investors were looking for short-term stock performance, not long-term investment prospects in distributed energy.)

Pegasus Capital Advisors, L.P. is a private, alternative asset management firm founded [1996] and led by Craig Cogut³). Our principal investment theme is providing strategic growth capital to companies within the middle-market focused on global resource scarcity, particularly energy, waste, food, water and health & wellness. Pegasus seeks to create fundamental value through its creative investment structures while leveraging its operational expertise and deep industry knowledge.