

**COLUMBIA RIVERKEEPER
SIERRA CLUB
WASHINGTON ENVIRONMENTAL COUNCIL
LANDOWNERS & CITIZENS FOR A SAFE COMMUNITY
CLIMATE SOLUTIONS
WESTERN ORGANIZATION OF RESOURCE COUNCILS**

October 11, 2013

Millennium Bulk Terminals-Longview EIS
c/o ICF International
701 Second Ave., Suite 550
Seattle, WA 98104

Washington Department of Ecology
c/o Diane Butorac
PO Box 47775
Olympia, WA 98504

U.S. Army Corps of Engineers
c/o Danette Guy
2108 Grand Blvd.
Vancouver, WA 98661

Cowlitz County Building & Planning
c/o Elaine Placido
207 4th Ave. N.
Kelso, WA 98626

Via U.S. Mail & email to comments@millenniumbulkeiswa.gov

RE: Scoping Comments; SR 432 Rail Realignment and Highway Improvement Project and the Millennium Coal Export Project Environmental Impact Statement

U.S. Army Corps of Engineers, Washington Department of Ecology, and Cowlitz County:

Coal export is controversial in Cowlitz County and statewide, and many people oppose the use of taxpayer dollars to facilitate coal exports. The proposed SR 432 Rail Realignment and Highway Improvement Project (SR 432 Project) is a prime example of a publicly subsidized infrastructure project that will facilitate and advance coal export in Washington State. Columbia Riverkeeper, Sierra Club, Climate Solutions, Landowners and Citizens for a Safe Community, the Washington Environmental Council, and the Western Organization of Resource Councils (collectively “the Coalition”) request that the U.S. Army Corps of Engineers, Washington Department of Ecology, and Cowlitz County (collectively “the Corps”) analyze the environmental and public health impacts of the SR 432 Project as part of the scope of the Millennium Bulk Terminals Longview (Millennium) Environmental Impact Statement (EIS). As part of this analysis, the Coalition urges the Corps to analyze the environmental and public health impacts of the Millennium project under a scenario where the SR 432 Project is completed, as well as a scenario whereby the SR 432 Project does not come to fruition.

The SR 432 Project is a rail and road infrastructure project that facilitates Ambre Energy's Millennium coal export project. The SR 432 Project calls for overhauling highway and rail access routes on SR 432 and the rail lines in the vicinity of Barlow Point on the west to 3rd Avenue/Industrial Way on the east. The estimated price tag: \$200 million. According to the Cowlitz Wahkiakum Council of Governments (CWCOG), one of the purposes of the project is to accommodate growth for rail shipments along the SR 432 Corridor, which are projected to increase 40% by 2030.¹ Specifically, the SR 432 Project will facilitate increased unit train capacity for Millennium, the Port of Longview, and the Mint Farm Industrial Park. Among other impacts, increased rail traffic is associated with increased diesel emissions and toxic coal dust. Because the SR 432 Project will impact major barriers to Millennium's coal export terminal, namely unit train traffic congestion, the Coalition urges the Corps to evaluate the impacts of the SR 432 Project in the Millennium EIS.

Coal trains clog roads. The Millennium coal terminal proposes 18 unit trains each day – 9 full, 9 empty – a volume of train traffic that far exceeds the capability of the highway operations, according to CWCOG's 2008 study. The study states that increased unit train traffic "will result in dramatic degradation of highway traffic operations in the SR 432 Corridor."² With an increase of just three unit trains per day, "grade separation would be needed to prevent lengthy delays on the highway system."³ The report states, "as unit train traffic grows, delay on Oregon Way will become intolerable."⁴ Because Millennium's proposed 18 trains per day is the only major unit train-related development on the horizon, coal exports are the primary driver for improvements to the SR 432 corridor.

The Federal Highway Administration (FHA), the CWCOG and the City of Longview are in the early stages of evaluating the SR 432 Project under the National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA). This summer, we learned that the lead agencies for the SR 432 Project were planning to avoid a rigorous environmental review of the SR 432 Project by employing a categorical exclusion. For various reasons, the SR 432 Project does not meet the limited criteria for a categorical exclusion. See Attachments 1 and 2. Moving forward, we urge the Corps to work closely with the FHA, CWCOG and City to ensure the environmental and public health impacts of the SR 432 Project are addressed in the Millennium EIS.

//

//

¹ *SR 434 Rail Realignment and Highway Improvements Project* Power Point Presentation, Cowlitz Wahkiakum Council of Governments Longview City Council Workshop (Oct. 6, 2011).

² Washington State Department of Transportation & Cowlitz-Wahkiakum Council of Governments. *SR 432 Realignment Feasibility Study, Final Technical Report at 27* (2008).

³ *Id.*

⁴ *Id.* at 149.

Thank you in advance for considering the Coalition's early input on the scope of the Millennium EIS. We look forward to providing additional scoping comments on Ambre's unprecedented proposal to export over 44 million tons of coal per year to overseas markets. Please direct any correspondence or questions to Columbia Riverkeeper's Staff Attorney, Lauren Goldberg, at lauren@columbiariverkeeper.org or 541-965-0985.

Sincerely,

Brett VandenHeuvel
Executive Director
Columbia Riverkeeper

Beth Doglio
Campaign Director
Climate Solutions

Joan Crooks
Executive Director
Washington Environmental Council

Norm Cimon
Chairman
Western Organization of Resource Councils

Cesia Kearns
Senior Campaign Representative
Sierra Club

Gayle Kiser
President
Landowners & Citizens for a Safe Community

cc:

Cowlitz Wahkiakum Council of Governments
City of Longview
Federal Highway Administration
Weyerhaeuser
Port of Longview
Washington State Department of Transportation

encl.

Attachment 1: Letter from Columbia Riverkeeper *et al.* to CWCOG and City of Longview (June 17, 2013)

Attachment 2: Letter from Climate Solutions and Washington Environmental Council to CWCOG and the City of Longview (July 3, 2013)



Columbia Riverkeeper
111 Third Street
Hood River, OR 97031
Phone: (541) 387-3030
www.columbiariverkeeper.org

June 17, 2013

Cowlitz Wahkiakum Council of Governments
c/o Melissa Taylor, Acting Director
Administration Annex
207 4th Avenue North
Kelso, WA 98626

City of Longview
c/o Bob Gregory, City Manager
Longview City Hall
Executive Office
P.O. Box 128
Longview, WA 98632

RE: SR 432 Rail Realignment and Highway Improvement Project

Dear Ms. Taylor and Mr. Gregory:

We understand that the City of Longview (City) and Cowlitz Wahkiakum Council of Governments (CWCOG) plan to complete a documented categorical exclusion for the SR 432 Rail Realignment and Highway Improvement Project (SR 432 Project). Columbia Riverkeeper, Sierra Club, Landowners & Citizens for a Safe Community, and Greenpeace are writing to urge you to reconsider this decision. Trying to shove the SR 432 Project into a documented categorical exclusion is akin to housing an elephant in a dog kennel. It simply won't fit. Documented categorical exclusions are reserved for a narrow set of circumstances—none of which resemble the major undertaking and environmental impacts associated with the SR 432 Project. The project's impacts clearly warrant full disclosure and analysis in an Environmental Impact Statement (EIS). We therefore ask that you reconsider the decision to forego preparing an EIS before more taxpayer dollars are expended on a process that is inappropriate and unlawful given the nature and scale of the SR 432 Project.

The SR 432 Project is a major undertaking that will impact thousands of residents in Longview and Cowlitz County. And the public is best served by understanding how increased rail traffic and new traffic patterns will impact their health, the economy, and shape the future of Cowlitz County. An Environmental Impact Statement is the vehicle for the public to understand these impacts. It is also the vehicle for the public to engage in a meaningful discourse with

federal, state, and local agencies that can inform the ultimate decisions on how the SR 432 Project proceeds. In contrast, a documented categorical exclusion is an end-run around this government disclosure and public engagement process.

The SR 432 Project and Increased Rail and Road Traffic

The SR 432 Project calls for overhauling highway and rail access routes on SR 432 and the rail lines in the vicinity of Barlow Point on the west to 3rd Avenue/Industrial Way on the east. The estimated price tag: \$200 million. According to CWCOG, one of the purposes of the project is to accommodate growth for rail shipments along the SR 432 Corridor, which are projected to increase 40% by 2030.¹

One of the primary purposes of the SR 432 Project is increasing unit train capacity for the Port of Longview, the Mint Farm Industrial Park, and the proposed Millennium Bulk Terminals coal export terminal. The impacts of these rail improvements alone warrant an EIS. For example, the Millennium project would result in an additional sixteen (16) train trips per day to and from the proposed coal export terminal.

Among other impacts, increased rail traffic is associated with increased diesel emissions and toxic coal dust. Numerous studies have documented the link between fine particles in the air and increased risk of emergency room visits, hospital admissions, asthma attacks, cardiovascular disease, respiratory disease, adverse birth outcomes, and premature death. We are particularly concerned about the impacts of diesel particulate matter, which is associated with:

- impaired pulmonary development in adolescents;
- increased cardiopulmonary mortality and all-cause mortality;
- measurable pulmonary inflammation;
- increased severity and frequency of asthma attacks, ER visits, and hospital admissions in children;
- increased rates of myocardial infarction (heart attack) in adults; and
- increased risk of ischemic stroke.

According to Burlington Northern Santa Fe and coal dust proceedings before the Surface Transportation Board, rail cars lose huge volumes of coal dust during transportation, an average of 500 pounds of coal per rail car. Each train is composed of 120 cars or more. Threats associated with acute and chronic exposure to coal dust include:

- chronic bronchitis;
- emphysema;
- pulmonary fibrosis and
- environmental contamination through the leaching of toxic heavy metals.

The impact of diesel pollution and toxic coal dust are only a small subset of the serious environmental impacts that must be disclosed in an EIS.

¹ *SR 434 Rail Realignment and Highway Improvements Project* Power Point Presentation, Cowlitz Wahkiakum Council of Governments Longview City Council Workshop (Oct. 6, 2011).

Satisfying the Requirements of the National Environmental Policy Act

The CWCOCG and City are in the early stages of evaluating the SR 432 Project under the National Environmental Policy Act (NEPA). NEPA requires federal agencies, in this case the Federal Highway Administration (FHWA), to consider the environmental impacts of any “major federal action significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). The agency may first prepare an EA to determine whether the effects will be significant. If the EA establishes that the action may have significant environmental impacts, the agency must prepare an EIS. In many cases, an EA is not necessary based on the intensity and nature of a project’s impacts and the agency will proceed directly to an EIS.

As much as NEPA focuses on environmental protection, its purpose to protect and promote health is also clear. *See* 42 U.S.C. §§ 4321, 4331; 40 CFR § 1502.16(g). Court decisions and NEPA’s implementing rules leave no room for doubt: NEPA is about more than protecting pristine natural areas. NEPA applies equally to urban areas where federal actions can result in significant environmental impacts including degraded air quality, induced growth, impacts to public safety, or other effects on quality of life.

Under the FHWA’s NEPA regulations, the FHWA may use a categorical exclusion for actions in limited circumstances. Specifically, a categorical exclusion is permissible for actions that “do not involve significant environmental impacts” and do not induce significant impacts to planned growth or land use for the area; do not require the relocation of a significant number of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts. *See* 23 CFR § 771.117(a).

A so-called “documented categorical exclusion” is available for certain types of actions that comply with the overarching definition of a categorical exclusion in 40 CFR § 1508.4 and 23 CFR § 771.117(a). Examples of actions that are appropriate for a documented categorical exclusion include construction of new truck weigh stations or rest areas, transportation corridor fringe parking facilities, resurfacing highways, and highway safety improvement projects (*i.e.*, installing ramp metering control devices and lighting). *See* 23 C.F.R. §§ 771.117(d)(1)-(12). None of these actions even come close to resembling the series of projects that comprise the SR 432 Rail Realignment and Highway Improvements Project.

The CWCOCG and the City have the benefit of learning from a similar, though much smaller, infrastructure improvement project that attempted to go the route of a documented categorical exclusion—but failed. In the late 1990s, the Washington State Department of Transportation (WSDOT) proposed a two-stage fully directional interchange construction project between Seattle and Tacoma. *West v. Secretary of the Dept. of Transp.*, 206 F.3d 920 (9th Cir. 2000). Stage 1 involved construction of a new interchange at milepost 118 to allow access from I-5 to the main road serving Weyerhaeuser’s Northwest Landing Development in DuPont. Stage 2 called for upgrading the new Stage 1 interchange, rerouting additional connectors and reconstructing an existing interchange. The final project price tag: \$18.6 million.

The agencies in *West* prepared a documented categorical exclusion instead of an Environmental Assessment or Environmental Impact Statement. And the Ninth Circuit Court of Appeals rejected that decision. Specifically, the court held that an interchange designed to have a substantial effect on traffic patterns does not qualify for a documented categorical exclusion. *Id.* at 922, n. 10. The court noted that the FHWA's regulations intend a very different scale of project to escape the more detailed environmental review under NEPA.

Held side by side, the SR 432 Project is orders of magnitude more substantial in scope and intensity (and cost) than the transportation project in *West*. Given the Ninth Circuit's reasoning in *West* and the plain language of the FHWA's NEPA implementing regulations, a documented categorical exclusion is clearly not appropriate for the SR 432 Project. For similar reasons, the CWCOC and County should revisit: (1) the decision not to analyze the SR 432 project as part of the Millennium NEPA/SEPA process, and (2) the decision not to prepare an EIS under the State Environmental Policy Act (SEPA).

We request the opportunity to discuss our concerns early in the decision-making process. Please contact Columbia Riverkeeper's Staff Attorney, Lauren Goldberg, at (541) 965-0985 to arrange a meeting. Thank you in advance for considering our organizations' input on this important decision.

Sincerely,

Brett VandenHeuvel
Executive Director
Columbia Riverkeeper

Jessica Yarnall Loarie
Associate Attorney
Sierra Club

Gayle Kiser
Landowners & Citizens
for a Safe Community

Kelly Mitchell
Climate and Energy Campaigner
Greenpeace

cc:

Federal Highway Administration
Cowlitz County
Weyerhaeuser
Port of Longview
Washington State Department of Transportation



Climate Solutions
1402 3rd Ave
Seattle, WA 98101
Phone: (206) 443-9570
www.climatesolutions.org



Washington Environmental Council
1402 3rd Ave
Seattle, WA 98101
Phone: (206) 631-2600
www.wecprotects.org

July 3, 2013

Cowlitz Wahkiakum Council of Governments
c/o Melissa Taylor, Acting Director
Administration Annex
207 4th Avenue North
Kelso, WA 98626

City of Longview
c/o Bob Gregory, City Manager
Longview City Hall
Executive Office
P.O. Box 128
Longview, WA 98632

RE: SR 432 Rail Realignment and Highway Improvement Project

Dear Ms. Taylor and Mr. Gregory:

We understand that the City of Longview (City) and Cowlitz Wahkiakum Council of Governments (CWCOG) are considering pursuing a documented categorical exclusion for the SR 432 Rail Realignment and Highway Improvement Project (SR 432 Project). Climate Solutions and Washington Environmental Council are writing to urge you to complete a full environmental review because of the significant connection between this Project and the proposed Millennium Bulk Terminals coal export project, which is currently beginning scoping for an Environmental Impact Statement (EIS). There clearly will be significant environmental impacts and cumulative impacts that warrant full disclosure and analysis in an EIS. We therefore ask that you prepare an EIS for the SR 432 Project so that all direct and cumulative impacts are disclosed.

Climate Solutions is a clean energy economic development organization that promotes clean and efficient energy as a pathway for sustainable economic prosperity. Washington Environmental Council drives positive change to address our state's most critical environmental challenges. We generally support appropriate investments in rail, port and transportation

infrastructure. It is critical, though, that these public investments not be done for private benefit, especially where the private project that would benefit is the subject of significant public controversy and concern.

The SR 432 Project is a major undertaking that will impact thousands of residents in Longview and Cowlitz County. The public needs to understand the cumulative impacts from the Millennium Bulk Terminals project (which is currently beginning public scoping for an EIS) and the proposed SR 432 Project. An Environmental Impact Statement is the appropriate vehicle for the public to understand these impacts and the potential that public funding will primarily benefit a private company. It is also the appropriate vehicle for the public to engage in a meaningful discourse with federal, state, and local agencies that can inform the ultimate decisions on how the SR 432 Project proceeds.

Economic and Environmental Impacts of SR 432

A primary purpose of the SR 432 Project is increasing unit train capacity for the proposed Millennium Bulk Terminals coal export terminal. This project would result in an additional sixteen (16) train trips per day to and from the proposed coal export terminal. The impacts of these rail improvements alone warrant an EIS. Millennium executives have touted the SR 432 Project as essential to mitigating transportation impacts from their increased coal train traffic on businesses and the community.¹ Clearly, these impacts should be studied in an EIS.

Since a primary purpose of the SR 432 Project is increasing unit train capacity for the proposed Millennium Bulk Terminals coal export terminal, the review of the SR 432 Project must consider the impacts from that increased coal train traffic. If the coal export proposal is permitted, sixteen (16) additional mile-and-a-half long trains will be running through Longview each day. The increased traffic may cause a number of negative economic effects, including:

- railway congestion;
- traffic congestion;
- increased public investments;
- decreased business patronage; and
- decreased property values.

The State of Washington Transportation Commission, in addition to Governors Inslee and Kitzhaber, many Members of Congress and other elected officials, local governments, and other government agencies, have all expressed concern that the BNSF Railway cannot handle increased coal train traffic without causing significant congestion issues, negatively impacting the economy, and necessitating expensive improvements to the rail network, specifically at crossings – potentially at public expense.²

¹ <http://www.coalweek.com/news/exploration-a-production/19047-millennium-banking-on-new-coal-rail-system-for-terminal>

² <http://www.powerpastcoal.org/statements/>

Environmental impacts from the increased coal train traffic would include:

- Health impacts from coal dust and increased diesel pollution
- Coal dust impacts on rivers (including the Cowlitz and Columbia), streams, and sensitive shoreline and aquatic environments
- Impacts related to burning of exported coal, including increases of global warming emissions and air toxics.

An EIS should address these concerns so that the citizens of Longview and Cowlitz County can fully assess all of the cumulative impacts of coal export and this proposal. The CWCOG and County should revisit the decision not to analyze the SR 432 project as part of the Millennium NEPA/SEPA process.

We respectfully request the opportunity to discuss our concerns early in the decision-making process. Thank you in advance for considering our input on this important decision.

Sincerely,



Becky Kelley
Deputy Director, Washington Environmental Council



Ross Macfarlane
Senior Advisor, Climate Solutions

Cc:

FHA

Sharon P. Love, Environmental Program Manager
Federal Highway Administration, Washington Division
711 Capitol Way, Suite 501
Olympia, Washington 98501
Sharon.Love@dot.gov

Cowlitz County

Phil Rupp, Planning Manager
Cowlitz County, Building & Planning
207 4th Ave. N.
Kelso, WA 98626
ruppp@co.cowlitz.wa.us

Weyerhaeuser

Richard C. Winninger, Vice President Western and Canadian Timberlands
Timberland Operations
PO Box 188
Longview, WA 98632-7117

Port of Longview

Lisa Hendriksen, Director of Planning & Environmental Services
Port of Longview, Planning and Environmental Services
P.O.1258
Longview, WA 98632
lhendriksen@portoflongview.com

Ashley Helenberg, Public Affairs Manager
Port of Longview, Public Affairs Department
P.O.1258
Longview, WA 98632
ahelenberg@portoflongview.com

Washington DOT

Ken Burgstahler, Project Manager
Washington State Department of Transportation
Southwest Region Planning Office
PO Box 1709
Vancouver, WA 98668-1709
E-mail: burgstk@wsdot.wa.gov