



NISQUALLY INDIAN TRIBE

Department of Natural Resources

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Millennium Bulk Terminals-Longview EIS, c/o ICF International
710 Second Avenue, Suite 550
Seattle, Washington 98104

RE: Comments of Scoping Notice
Proposed Millennium Bulk Terminals Longview EIS

Dear Joint Agencies:

On behalf of the Nisqually Indian Tribe, I am providing comments on the appropriate scope of the Environmental Impact Statement to be prepared for the proposed Millennium Bulk Terminals Longview. This letter is limited to the scope of the EIS, not on the appropriateness of the proposed coal export facility itself.

Impact of Fisheries Habitat and the Nisqually Tribe's Treaty Rights

The Nisqually Indian Tribe, because of its treaty with the United States, codified by federal law and sustained by multiple federal court decisions, has the right to harvest fish and shellfish in its usual and accustomed and the right to hunt and gather on open and unclaimed lands. The Nisqually Tribe has strong cultural ties to both the Chehalis and Cowlitz Tribes and historically fished for smelt on the Cowlitz River. The Nisqually Tribe hunted a vast swath of Western Washington because of close relations with the Chehalis, Cowlitz, and Yakama Tribes, the perimeter of the area includes west to Grays Harbor, south to Longview, west along the Columbia River to Celilo Falls, north along the eastern edge of modern day Mountain Rainer National Park to Auburn, WA and then south along Puget Sound to Twana territory.

It is our understanding that, when fully operational, the proposed facility will result in substantially increased train traffic along the BNSF railroad mainline running west along the Columbia River, across the Cowlitz River before reaching the proposed terminal. Our traditional hunting and gathering areas are located directly adjacent to this route of travel. The EIS should:

1. Thoroughly document the possible and likely amount of increased train traffic on this southern route along the Columbia and Cowlitz Rivers, and more broadly upon the entire route of travel. Infrequently, BNSF has experienced derailment and spills along its routes. The EIS should evaluate the increased incidence risk associated with increased train traffic.

2. Thoroughly evaluate the risk of accident associated with the increase of train traffic and the possible direct impacts of such accidents. As part of the analysis of accident risk the EIS also should identify the age and current condition of the BNSF mainline, since we know that it was constructed approximately 100 years ago.

The risks we immediately identify are railroad accidents that spill coal and other materials, including hazardous materials, into water areas and game habitat, train accidents, train traffic shutdowns on the track, and the resulting loss of fish and game habitat, and culturally important plant species.

3. Thoroughly evaluate the risk of environmental and habitat damage, both short term and long term, that might result from the accidents described. In particular we would like to know more about the impact of substantial amounts of coal being dumped down river on the Cowlitz and the impact on up river fisheries including smelt, as well as the impact this may have on the lower Columbia River and the estuary. Our Nisqually River salmon returns are directly and inextricably linked to the success of salmon runs on the Columbia and therefore dependent on the quality and quantity of habitat in that basin.

Also, when evaluating habitat risk, the Nisqually Tribe is concerned about the entire line of travel along the Columbia River and Cowlitz River and the construction of a substantial export facility at Longview. We request that all associated impacts with this project be evaluated for its impacts on habitat, human health, traffic, and our treaty rights.

Mitigation

Once the possible and likely risks and impacts are evaluated, the agencies should address possible mitigation of the associated risks, including whether or not the risks and impacts can be adequately mitigated or must simply be avoided. The Nisqually Indian Tribe expects that it will be involved in these mitigation discussions.

In particular the Tribe requests that the agencies evaluate as possible mitigation the relocation of the route of travel away from Western Washington.

Cultural Resources

The agencies need to acknowledge that the Nisqually Indian Tribe, and other Tribes along the route of travel, may have valuable cultural resources at risk from increased train traffic and associated construction. These resources may be archaeological sites located or potentially located in the line of travel and construction, or cultural activities that may be negatively impacted by the increased train traffic.

As an element of federal law, the Army Corps of Engineers must conduct Section 106 consultation with affected Tribes, including the Nisqually Tribe, either as part of the EIS process or separately. That consultation should be initiated as soon as practical after the magnitude of possible and likely impacts are described in the EIS.

Global Issues

We understand that the coal proposed for shipment from the Millennium Bulk Terminal Longview will be exported and, ultimately, burned for electricity generation. While increased airborne carbon dioxide associated with coal generation may not be an immediate threat to the treaty rights and cultural resources of the Nisqually Tribe, we believe that it is a long-term threat that must be evaluated thoroughly as part of the EIS process. We are currently experiencing the impacts of climate change on our treaty reserved and protected resources and this EIS should explore whether this action will continue that trend and if so propose mitigation to the Tribe to offset that loss.

Please do not hesitate to contact me if the Nisqually Tribe can be of any further assistance in the scoping of the EIS for the proposed project.

Sincerely,



David A. Troutt

Natural Resources Director