DATE: November 18, 2013

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FROM: Charles Pace
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RE: Scoping of environmental impact statements for the Millennium Bulk Terminal Longview, LLC project

I am writing in response to the U.S. Army Corps of Engineers' amended notice of intent published in the Federal Register on September 6, 2013, and the September 9, 2013, revised request for public comments by Cowlitz County's Department of Building and Planning regarding the appropriate scope of environmental impact statements being prepared for construction and operation of a coal export terminal proposed by Millennium Bulk Terminal Longview ("MBTL").[1]

[1] *See*: Notice of Amendment to the Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Millennium Bulk Terminals—Longview Shipping Facility Project, Federal Register, Vol. 78, No. 173, 54871-73; Cowlitz County Revised SEPA Determination of Significance & Request for Comments on Scope of EIS for Millennium Bulk Terminal Longview LLC Coal Export Terminal REVISED (September 9, 2013), available online at http://www.millenniumbulkeiswa.gov/assets/eis-millennium.pdf.

By way of background, I am a resident of the City of North Bonneville, Washington, and currently serve as an elected member of the City Council. Like the Gateway Pacific Terminal at Cherry Point proposed for Whatcom County, Washington, MBTL will likely utilize existing railroad lines owned by the Burlington Northern Santa Fe, LLC, to deliver coal from the Intermountain Region to an export terminal in Longview for export abroad, which will have will have direct adverse impacts on the City of North Bonneville. On January 8, 2013, the North Bonneville City Council enacted Resolution #453 requesting that the then co-lead agencies—the Army Corps of Engineers, the Department of Ecology and Whatcom County—complete a comprehensive environmental assessment of the impacts.

Because the MBTL proposal, if constructed, will have virtually the same impacts on our community as the Gateway Pacific facilities, and to avoid unnecessary repetition, I've attached a copy of Resolution #453 for incorporation in my comments on the export terminal proposed by MBTL. Also, for your consideration and review, I have attached hereto comments I submitted as an individual member of the City Council and resident of North Bonneville on the Gateway Pacific project. These comments supplement and expand upon the concerns identified in Resolution #453, specifically focusing upon (1) the federal law requirement that cumulative environmental effects be considered, as well as (2) state law requirements that the worldwide and long-range character of environmental problems be addressed. Please see attached.

Thank you for your review.

Attached: Resolution #453

Jan. 22, 2013 Memo from Charles Pace

City Council Resolution #453

A City of North Bonneville Council Resolution submitted to the State of Washington Department of Ecology, United States Army Corps of Engineers and Whatcom County, Washington for the public record as Formal Comments for Scoping – Deciding what Factors, Issues, Environmental Impacts to Analyze and Geographic Area or Areas to Consider – for a comprehensive Environmental Assessment by the Co-Lead Agencies under a combined (NEPA) National Environmental Policy Act and (SEPA) State Environmental Policy Act, Environmental Review regarding construction of Coal Exporting Facilities in the States of Washington and Oregon and specifically the "Gateway Pacific Terminal at Cherry Point" in Whatcom County, Washington.

Whereas, The "Gateway Pacific Terminal at Cherry Point" in Whatcom County, Washington is a specific proposal under review for granting of construction permits, and one of five proposed coal export terminals planned for construction in the states of Washington and Oregon, and

Whereas, The mining of coal for export from the Gateway Pacific Terminal at Cherry Point and other proposed export terminals requires rail and barge transportation from the points of extraction in Montana and Wyoming through the states of Washington and Oregon and the Columbia River Gorge National Scenic Area, and

Whereas, The rail transportation routes from the states of Montana and Wyoming to coal export facilities on the west coast run through the City of North Bonneville and numerous other cities and small towns where elected officials are responsible for protecting the health, safety and welfare of their citizens, and

Whereas, The elected officials of each city, town and county are held responsible for the protection of the health, safety and welfare of their citizens and cannot discharge their sworn duty in making determinations and exercising judgments regarding both positive and negative environmental impacts on their respective communities without first having a comprehensive and formal environmental assessment report published by the co-lead agencies and conveyed to each jurisdiction prior to soliciting comments from said agencies on a draft EIS for the "Gateway Pacific Terminal at Cherry Point" proposal or any other coal export facility, and

Whereas, The elected officials of each city, town and county have a right to receive a comprehensive and complete scientific assessment of all impacts associated with or generated by the mining and transportation of coal through their jurisdictions for export from west coast coal export terminals and sale for consumption or burning of same by Asian countries for generation of power that increases a global carbon footprint.

Now Therefore, Be It Resolved by the Council of North Bonneville, Washington, a Municipal Corporation of the State of Washington, on behalf of its citizens as follows:

1. Scope of Environmental Assessments for Coal Exports from State of Washington and the Gateway Pacific Terminal at Cherry Point in Whatcom County, Washington – The Scope of Environmental Assessments should be comprehensive and analyze all potential human and natural environmental effects caused or generated by the construction of coal export terminals:

(a) Mining coal for transport and export from the Gateway Pacific Terminal and all other proposed facilities on the West Coast;

(b) Handling and transferring coal from trains and barges to export carriers;

(c) Defining the specific train and barge routes for transporting coal for export through the states of Washington and Oregon;

(d) Defining the loading and transportation by rail or barge by metric tons per rail car and coal train and barges on the Columbia River;

(e) Identifying all cities, towns and counties through which coal trains will transport coal mined in Montana and Wyoming or other location for export;

(f) Documentation of the history of rail accidents, fires caused by rail car brake or wheel bearing failures, and derailments along the projected coal train transportation routes; and

(g) Detail the markets to which American coal exports are destined to be shipped and consumed.

2. All Assessments and Scientific Analysis of Potential Human and Natural Environmental Effects Caused or Generated by Construction of Coal Export Terminals and Specifically the Gateway Pacific Terminal in Whatcom County, Washington, In Order to be Comprehensive, must include, but not limited to:

(a) Noise - Noise generated by mining, transportation and handling of coal.

(b) Air Quality – Emphasis on generation of coal dust starting with mining and loading, transportation with shedding of coal dust, unloading rail cars and barges and loading coal to ships for export, and associated increase in diesel fuel exhaust emissions by trains and barge tugs generated by transporting coal for export from the source at mines to the export terminals.

(c) Human Health – The specific detrimental effects of coal dust shedding, increased diesel exhaust emissions, increased noise generated by coal trains and barges, and the increased carbon footprint generated by coal exports for consumption by Asian countries. One major critical human health and environmental issue to be analyzed is the CO2 emissions generated by each metric ton exported that will contribute to pollution of the earth's atmosphere and global warming.

(d) Traffic and Safety – The documentation of coal train rail and barge traffic potential for accidents, spills, derailments, fire, local community impacts at both marked, signaled, non-signaled, urban and rural crossings, and bridges crossing streams and rivers.

(c) Wildlife and Their Habitat – Complete assessment of the effects of coal dust, noise and the dangers posed by potential fires and derailments generated by increased coal train transportation. In like manner the same potential effects and dangers posed by accidents on the Columbia River by coal barging.

(f) Marine Species, Fish and Fisheries – All rail and barge transportation routes for coal trains crossing streams, rivers, and wetlands that provide designated critical and essential fish habitat for a significant number of endangered species. All bridge crossings of streams, rivers and wetlands should be identified together with the marine species, fish, or fisheries dependent upon the individual habitats. An assessment of the potential negative effects on said habitats should include the impacts of a major derailment that contaminates these areas with coal or coal dust. The assessment should identify remedial actions that would be required to restore the habitats to their original condition if spilled coal and coal dust can be completely removed from those habitats.

(g) Wetlands or Streams -- The same comprehensive assessment as stated above for marine species, fish and fisheries must be undertaken for all wetlands, streams and rivers but must be expanded to include native vegetation, native wildlife not on an endangered species list, birds of all types, including water foul and migratory species, that depend those wetlands, streams and rivers for survival. Of critical importance in this assessment is the potential long term negative effect of coal dust buildup in the environment due to shedding of coal dust by coal trains during transportation from coal mines to proposed export terminals.

(h) Water Quality – The survival of species whether wildlife, marine species, fisheries, birds or habitat vegetation are all dependent upon water quality. The long term effects of mining, transporting, exporting American Coal for burning in coal fired power plants in Asia increases the carbon footprint on the planet and contributes to global warming with increases in CO2. The potential negative effects of such increased emissions on the quality and temperature of the water in our streams, rivers, and wetlands should be documented and analyzed. The same assessment should carefully document and analyze the potential negative effects on the world's oceans and all marine life dependent on said ocean as their life sustaining habitat. Identification of water quality temperatures as said temperatures related to propagation of endangered species of fish and marine species should be documented and fully analyzed. The amount of CO2 emissions released into the atmosphere through the burning of each metric ton of coal, together with release of other heavy metals, such as arsenic, lead and mercury, should be documented and analyzed as potential contaminants to water quality.

3. <u>The Environmental Impact Statement Process – A comprehensive Environmental Assessment Report should be compiled and published as a base document from which the Draft Environmental Impact Statement is prepared</u>.

(a) Alternatives - All alternative actions that can be documented to mitigate potential negative environmental impacts identified in the completing of a comprehensive environmental assessment report (EAR) should be evaluated and weighted in terms of economic, social, and environmental quality benefits.

(b) Areas of Potential Effect – The mining of coal in Montana and Wyoming for transportation to and export from coal export terminals on the west coast, including the Gateway Pacific Terminal at Cherry Point in Whatcom County, generates significant environmental impacts in every city, small town, rural community and county through which coal trains travel to transport coal for export to Asian markets for power generation. The areas of potential significant effects start at the point of mining, handling, and loading coal on rail cars for transport through Wyoming, Montana, Washington and Oregon to reach coal export terminals proposed on the west coast. The potential significant negative effects are then generated with each mile in transport through shedding of coal dust and the potential for major spills and derailments and the unloading of coal at export terminals for transfer to ships destined to Asian markets. The area of potential effects then shifts to the consumption, burning of coal by Asian power producers through coal fired plants that generate CO2 emissions that further pollute the earth's atmosphere. The areas of potential effects, therefore, begin at the mining of the coal, transportation and export and end with the resulting consumption through burning of American coal by Asian power producers which adds to generation of CO2 and pollution of the earth's atmosphere. A comprehensive EAR and final environmental statement must cover and encompass the entire area of impacts from mining to final consumption for the generation of power. All the effects on cities, towns, counties, and the human and natural environments are impacted in significant measure through the coal train or barge transportation and the ultimate negative effects of increased coal production and consumption.

(c) Environmental Impact Statement Process – The solicitation of public input during public hearings for "scoping" a draft EIS leaves a major gap in presenting documented findings, analyzes, and scientific assessments necessary to expose all potential environmental impacts for review by the public, public entities, cities, towns and counties prior to the time they are requested to make comment on the draft EIS. It is essential that a comprehensive EAR containing all studies, assessments, scientific analyzes, and documentations should be published and presented to the public and entities of the States prior to the time a draft EIS is circulated for comment by governmental entities. Elected officials must be afforded the full opportunity to have sufficient time to thoroughly review a detailed EAR prior to preparing official written comments to a draft EIS.

Enacted by the City Council of the City of North Bonneville, Washington, a municipal corporation of the State of Washington, sitting in general session of a

regular meeting on this 8th day of January 2013, by affirmative vote of the City Council and Approval by the Mayor as recorded in the records of the City.

_____

Don Stevens, Mayor

Attest: _____

John Spencer, Clerk/Treasurer/Administrator

DATE: January 22, 2012

TO: Tyler Schroeder, Planning Manager
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FROM: Charles Pace
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RE: Scope of environmental impact statement for proposed Gateway Pacific Terminal and Custer Spur Modification projects

I am responding to the request for public comment re the appropriate scope of an environmental impact statement being prepared by Whatcom County, the state of Washington's Department of Ecology, and the U.S. Army Corps of Engineers ("co-lead agencies") for the proposed Gateway Pacific Terminal and Custer Spur Modification projects.

By way of background, I am a resident of the City of North Bonneville, Washington, and currently serve as an elected member of the City Council. As you may know, the proposed projects will utilize existing railroad lines owned by the Burlington Northern Santa Fe, LLC ("BNSF") bisecting our City to deliver coal to the proposed Gateway Pacific Terminal for export abroad. If approved, this will have direct adverse impacts on the City of North Bonneville.

For example, residents of, and visitors to, our City will be subjected to the noise created, and emissions of diesel particulates emitted, by as many as 18 additional trains passing through North Bonneville each day. This will adversely

impact the quality of life for our residents, as well as hinder the efforts of North Bonneville to attract tourists, which is a key component of our efforts to enhance economic activity over time.

Because the proposed projects are likely to have direct impacts on our city, as well as trigger concerns on a statewide, national and global basis, on January 8, 2013, North Bonneville's City Council enacted Resolution #453 calling for a comprehensive environmental assessment of the impacts of the proposed projects for submittal to the co-lead agencies. Resolution #453 is incorporated here by reference and this comment, submitted on my own behalf, supplements and expands thereon.

First, note that Resolution #453 suggests the co-lead agencies should assess the impacts of coal exports from the Gateway Pacific Terminal, as well as all other proposed export facilities on the West Coast and, in particular, that the environmental analysis address the global impacts on air quality when the coal is combusted for power generation.

For your consideration, this expansive approach is required by the National Environmental Policy Act of 1969, as amended ("NEPA"), 42 U.S.C. § 4321 *et seq*., and NEPA implementing regulations, and the State Environmental Policy Act of 1971 ("SEPA").

More specifically, NEPA requires consideration of the cumulative effects of any action, where regulations promulgated by the President's Council on Environmental Quality for implementing NEPA define cumulative effects as impacts on the environment that result from

> the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency … or person undertakes such actions[,noting that such impacts/effects] can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. And, as set forth in section 43.21C.030(f) RCW, when discharging their duties under SEPA, WDEQ and Whatcom County must

> [r]ecognize the <u>worldwide and long-range character of environmental problems</u> and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the <u>world environment</u>.

Emphasis added.

My other concern has to do with the potential that the proposed projects have for degradation and/or adverse modification of habitat for species of anadromous fish, which are listed as threatened or endangered under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq*.

Specifically, the transport of coal by rail thru the City of North Bonneville carries with it the increased probability that species of salmon and steelhead returning to the Columbia River basin could be harmed by any accidental spill of coal dust directly into the mainstem of the Columbia River and/or tributaries thereto, such as Hamilton Creek, which flows thru the City of North Bonneville.

There are eight "evolutionary significant units" ("ESUs") of salmon that may be impacted, which your analysis should address:[1]

- Snake River sockeye ESU listed as endangered on Nov. 20, 1991, 56 Fed. Reg. 58,619; critical habitat designated on Dec. 28, 1993, 58 Fed. Reg. 69,543; and endangered status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160.

- Snake River spring/summer Chinook ESU listed as threatened on Apr. 22, 1992, 57 Fed. Reg. 14,653; status corrected on June 3, 1993, 57 Fed. Reg. 23,458; threatened status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160; critical habitat designated on Dec. 28, 1993, 58 Fed. Reg. 68,543; and critical habitat designation revised on Oct. 25, 1999, 64 Fed. Reg. 57,399.

- Snake River fall Chinook ESU listed as threatened on Apr. 22, 1992, 57 Fed. Reg. 14,653; status corrected on June 3, 1992, 57 Fed. Reg. 23,458; threatened status reaffirmed on June 28, 2005, 70 Fed. Reg. 37,160; and critical habit designated on Dec. 28, 1993, 58 Fed. Reg. 68,543.

- Upper Columbia River spring Chinook ESU listed as endangered on Mar. 24, 1999, 64 Fed. Reg. 43,308; endangered status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.

- Lower Columbia River Chinook ESU listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 14,308; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,488.

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[1]Available online, http://www.nwr.noaa.gov/ESA-Salmon-Listings/Salmon-Populations/.

- Upper Willamette River Chinook ESU listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 14,308; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed Reg. 52,630.

- Columbia River chum salmon ESU listed as threatened on Mar. 25, 1999, 64 Fed. Reg. 14,507; threatened status reaffirmed and protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed Reg. 52,630.

- Lower Columbia River Coho ESU listed as threatened June 28, 2005, 70 Fed. Reg. 37,160, protective regulations issued June 28, 2005, 70 Fed. Reg. 37,160, and designated critical habitat proposed on Jan. 18, 2013.

There are also five of distinction population segments ("DPS") of steelhead that might be adversely affected by the proposed projects:[2]

- Upper Columbia River steelhead DPS listed as endangered, Aug. 18, 1997, 63 Fed. Reg. 43,937; status upgraded to threatened on Jan. 5, 2006, 71 Fed. Reg. 834; critical habitat designated Sept 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630;status reinstated to endangered per U.S. District Court for the Western District of Washington's decision on June 13, 2007, in *Trout Unlimited v. Lohn*, C06-0483-JCC (2007); and status upgraded to threatened by U.S. District Court per order on appeal and remand by the U.S. Court of Appeals for the Ninth Circuit, June 18, 2009.

- Snake River basin steelhead DPS, listed as threatened on Aug. 18, 1997, 63 Fed. Reg. 43,937; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan 2, 2006, 70 Fed. Reg. 52,630.

- Middle Columbia River steelhead DPS listed as threatened on Mar. 25, 1999, 63 Fed. Reg. 13,347; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.

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[2]Available online, http://www.nwr.noaa.gov/ESA-Salmon-Listings/Salmon-Populations/Steelhead/.

- Lower Columbia River steelhead DPS, listed as threatened on Mar. 19, 1998, 63 Fed. Reg. 13,347; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat on designated Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,630.

- Upper Willamette River steelhead DPS listed as threatened on Mar. 24, 1999, 64 Fed. Reg. 43,308; threatened status reaffirmed on Jan. 5, 2006, 71 Fed. Reg. 834; protective regulations issued on June 28, 2005, 70 Fed. Reg. 37,160; and critical habitat designated on Sept. 2, 2005, effective Jan. 2, 2006, 70 Fed. Reg. 52,360.

Thank you for your review and consideration of these concerns.