



The Confederated Tribes of the Grand Ronde Community of Oregon

Tribal Council
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November 18, 2016

Millennium Bulk Terminals NEP AEIS,
C/O ICF International,
710 Second Avenue, Suite 550
Seattle, WA 98104

via electronic submission

Re: Tribal Comments on Millennium Bulk Terminals-Longview Draft Environmental Impact Statement (dEIS)

Dear U.S. Army Corps of Engineers,

On behalf of the Confederated Tribes of the Grand Ronde Community of Oregon (Grand Ronde or Tribe), thank you for this opportunity to comment on the dEIS. Grand Ronde is made up of over 27 antecedent tribes and bands, including the Cascades and Multnomah bands of Chinookan peoples who inhabited the banks of the lower Columbia River, including the project area, from time immemorial. As the sovereign Tribal nation that ceded a long stretch of the Columbia River from Cascade Rapids to Oak Point through the ratified Willamette Valley Treaty of January 22, 1855, Grand Ronde requests government-to-government consultation on the Millennium Bulk Terminals project as prescribed by U.S. Army Corps of Engineers (USACE) policy. In addition, Grand Ronde submits the following comments.

Overall Comments

1. It should be noted in the EIS that this public notice-and-comment process is not a substitute for government-to-government consultation. As stated above, Grand Ronde requests government-to-government consultation in addition to this process. Grand Ronde defines consultation as an equal, ongoing and meaningful dialogue between sovereign nations or their agencies at the highest levels of decision making.
2. Section 4.5, "Tribal Treaty Rights and Trust Responsibilities," and other parts of the dEIS refer to Treaty Tribes and ratified treaties involving the project area. This aspect of the dEIS neglects to mention the ratified Willamette Valley Treaty (aka Treaty with the Kalapuya Etc.), 10 Stat. 1143, signed January 22, 1855. Among this treaty's signatories were the chiefs and headmen of the Cascades and Clackamas bands of Chinookan people. The tribal rights and benefits of the Willamette Valley Treaty vested solely in the Grand Ronde Indian Reservation. This treaty's ceded territory extends from the Willamette Basin northward to and including the Columbia River. Its boundary extends along the crest of the Cascade Range, northward to Cascade Rapids (modern day Cascade Locks) in the Columbia River, then extends westward along the centerline of the river past the project area to Oak Point before turning southward. The Willamette Valley Treaty is a

ratified Columbia River treaty; Grand Ronde is a Columbia River Treaty Tribe. This correction must be made.

3. The dEIS seems to analyze one action alternative, the On-Site Alternative, and to generally defer analysis of the other action alternative, the Off-Site Alternative. This does not allow for a full, informed comparison of the two action alternatives. The Tribe would like to see thorough data and analysis of both action alternatives so that informed comparisons of all alternatives may be made.

Environmental and Natural Resource Comments

1. To fully evaluate the effects of the Millennium Bulk Terminal project on various species, consultation with NMFS and USFWS is required. While it is understood that full compliance with environmental regulations and permits, both state and federal, will take place at a later date and separate from the NEPA process, it would be beneficial to have the NMFS and USFWS biological opinions or consultation included within the EIS in order to fully evaluate the effects to said species and possible mitigation options to lessen such effects.
2. In addition, the draft EIS addresses effects to listed species, but does not address effects to other species of concern such as lamprey, a culturally sensitive species and federally-listed species of concern. Though there is limited existing information regarding lamprey, it may be possible to incorporate mitigation measures that would benefit both listed species and species of concern such as lamprey.
3. The Grand Ronde Natural Resources Department has significant concerns regarding the following actions and effected resources resulting from the proposed actions: sediment dispersal, noise, coal dust, increased vessel and train accidents, air quality, environmental justice inequities, and water quality. Though the draft EIS includes a mitigation section to eliminate or reduce effects from the proposed terminal and its activities, the mitigation strategies as outlined in the mitigation section are lacking a certain level of specificity, capacity to truly reduce and/or eliminate effects to natural resources, and analysis of various mitigation options.
4. The mitigation strategy section of the draft EIS mentions several mitigation strategies as options, but does not necessarily indicate that said mitigation strategies will be employed. Several of the optional mitigation strategies that are listed are a containment and clean-up plan and a compensatory mitigation plan for aquatic habitats. Both of these mitigation options could go a long way in reducing the impacts to natural resources that would result from the proposed project. The Tribe would highly recommend following through with these mitigation options and would like the opportunity to provide comment on any draft and final mitigation plans.

Cultural, Archaeological and Historical Resource Comments

1. The Tribe's Historic Preservation Office considers floral, faunal, and geological resources to be contributors to cultural identity and practice and as such may be considered cultural resources in certain contexts defined by the Tribe.
2. The Tribe has a long history of connection to the location of the proposed Millennium Bulk Terminal, stretching back to time immemorial, and this has only been minimally addressed in the dEIS. While Grand Ronde's inclusion in the *Historic* Section of the

dEIS is appreciated, the Grand Ronde history provided has several glaring omissions and inaccuracies. This must be corrected, and perhaps the Tribe and USACE can enter some sort of agreement under which a full, accurate and supported history can be provided directly by Grand Ronde.

3. Neither the *Enographic* or *Historic* Sections of the dEIS refer to the Willamette Valley Treaty of 1855 as the only ratified Treaty associated with the lands on which the proposed Terminal is situated. The Willamette Valley Treaty contains a provision preserving the signatories' rights to later negotiate treaties regarding their lands north of the Columbia River. This is the only mention of such lands in any ratified treaty with the United States.
4. The statement that "No previously identified archaeological sites are known to exist within or in the immediate vicinity" is of concern.
5. The potential for ancestral remains is highly possible regardless of past uses and soil disturbance. Fill material brought in may have in fact helped to preserve intact or minimally disturbed archaeological sites and belongings of concern. As such, through the government-to-government consultation process, we seek to discuss procedures to identify, protect, and if necessary mitigate any impacts to cultural resources present within the proposed project area.

Please contact Michael Karnosh, Ceded Lands Program Manager, at (503) 879-2383 or Michael.Karnosh@grandronde.org to schedule a Tribal consultation meeting or if there any questions on these comments. Once again, thank you for this opportunity to comment.

Sincerely,



Reynold L. Leno
Tribal Council Chairman

cc: U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office
National Marine Fisheries Service
U.S. Environmental Protection Agency
Washington Department of Ecology
Holly Partridge, Staff Attorney, Confederated Tribes of Grand Ronde
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