



November 18, 2013

Re: Comments on Docket number 2013-19738: Comment on scope of EIS for Millennium Bulk Terminals Longview LLC Coal Export Terminal

Dear U.S. Army Corps of Engineers, WA Department of Ecology, and Cowlitz County Commission,

Our Children's Trust, along with our youth partners, and families across the Pacific Northwest and the nation, strongly oppose the construction of a coal export terminal at Longview, WA, which would transport coal on trains and ships throughout the Northwest.

This proposal would negatively affect our communities by increasing congestion and noise with more coal train traffic, polluting our air and local waterways, harming existing businesses, and delaying emergency responders. It would also damage aquatic ecosystems and fishing areas on the Columbia River, harm human health, increase tanker traffic and the potential for shipping accidents and spills, expand strip-mining in Wyoming and Montana, and escalate climate change.

I urge you to consider these impacts in the scope of the Environmental Impact Statement along with the following legal obligations and scientific information.

The U.S. Army Corps of Engineers as a delegate of the U.S. Government, and Department of Ecology as a delegate of the government of Washington State have constitutional, statutory, and common law Public Trust Obligations to Protect the Atmosphere and Create National and State Level Climate Recovery Plans consistent with the science of protecting the atmospheric resource.

1. The constitutional Public Trust Doctrine provides that the United States government, including the Army Corps, has a fiduciary duty as trustee to manage and protect our country's vital natural resources in trust for present and future generations of citizens.
2. Under the Public Trust Doctrine, the Army Corps has a fiduciary obligation to protect the atmosphere from the effects of human-induced global energy imbalance. The Army Corps may not manage the trust resource in a way that substantially impairs the public interest in a healthy atmosphere.
3. If the Army Corps and the federal government, as trustees of the atmosphere, do not take immediate extraordinary action to protect, preserve, and restore the atmosphere back into balance, our children and our children's children will continue to suffer greater injury and damaging consequences.¹

¹ See James Hansen, et al., *Climate Change and Intergenerational Justice: Rapid Reduction of Carbon Emissions Required to Protect Young People, Future Generations and Nature*, *Public Library of Science (PLOS) One* (forthcoming 2013); *Amicus Curiae* briefs submitted in a federal lawsuit against federal agencies (*Alec L. v. McCarthy*) detailing the harm to our natural systems and the urgency in which the federal government needs to act to avoid the worst consequences of climate change, found at: <http://ourchildrenstrust.org/US/Federal-Lawsuit>.

4. Science, not politics, should define the fiduciary obligation that our federal authorities must fulfill. Human lives are already being lost because our federal government has failed to address destruction of our natural resources. Earth has already heated over pre-industrial temperatures. Rapid reduction of greenhouse gas emissions is required to preserve our planet.
5. Our atmosphere must be returned to equilibrium of less than 350 parts per million (“ppm”) carbon dioxide to prevent heating beyond 1° C (1.8° F) (which scientific analysis deems catastrophic). Our atmosphere is now at a carbon dioxide level of approximately 395 ppm.²
6. In order to fulfill its public trust obligations, the Army Corps must work with other federal agencies and departments to prepare a National Climate Recovery Plan tiered to bringing the carbon concentration in the atmosphere back to 350 ppm.³
7. The same legal obligations and scientific standards apply to the State of Washington and Dept. of Ecology as well. Indeed a similar case is also pending in the Court of Appeals regarding Washington’s failure to have an adequate emission reduction plan in place and implemented to fulfill its trustee obligations. *Svitak v. Washington*.

Any decision on exporting coal must be made within the parameters of a fully operational climate recovery plan that ensures the protection of trust resources, including, air, water, oceans and the atmosphere.

8. Any and all analysis of the potential impact of the proposed coal export terminal must be evaluated in the context of all carbon emissions emanating from the United States in order to assess whether these resulting emissions from the mining, export and burning of the coal is in line with the need to reduce national emissions by at least 6% per year beginning in 2013 according to Dr. Hansen, et al.’s best science on achieving 350 ppm by 2100.

Climate disruption is occurring faster than even the most pessimistic scenarios presented in the 2007 Intergovernmental Panel on Climate Change. The 2013 summary of the latest IPCC findings are stark and show catastrophic consequences. The typhoon in the Philippines is one example of the devastation awaiting the planet if we do not act now to transition off of these harmful fossil fuels. The Army Corps, Ecology, our federal government and the State of Washington must accept their public trust responsibility to protect the atmosphere and take the immediate bold action necessary to prevent catastrophic climate change before it’s too late, and any decision to export coal from Longview fails to meet standard in the absence of any comprehensive planning mechanism and analysis to demonstrate to our youth that their future is secured by this decision. This decision must be made with an eye to your children and grandchildren and all future generations. If it’s not, then it fails.

Thank you for your consideration.

Sincerely,



Julia Olson
Executive Director
Our Children’s Trust
P.O. Box 5181

² See Hansen, *et al.*

³ *Id.*

Eugene, OR 97405
Julia@ourchildrenstrust.org

Attachments