



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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August 15, 2018

The Honorable John Barrasso
Chairman, Senate Environment & Public Works Committee
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member, Senate Environment & Public Works Committee
513 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The Washington State Department of Ecology has been falsely accused of denying a water quality permit to the Millennium project based on our agency's so-called philosophical opposition to the coal export terminal. This is frankly nonsense.

The facts of this denial are simple: Millennium failed to meet existing water quality standards and further failed to provide any mitigation plan for the areas the project would devastate—especially along the Columbia River. To approve this permit under the circumstances would not only have been irresponsible, it would have posed a serious health risk to impacted communities and the surrounding environment.

As you know, the Clean Water Act charges states with the authority and responsibility to protect water quality within their borders by issuing permits and licenses. In this case, as in all previous cases, the Department of Ecology acted within its legal responsibility and did its duty to apply the regulations and follow legal precedent in an evenhanded manner.

In the company's filings in its many legal challenges to the Department of Ecology's decision, Millennium has acknowledged the basis of the permit denial: At many stages, the applicant failed to provide reasonable assurance that the project would not cause irreparable harm to water quality. The company acknowledges these shortcomings, but claims for itself the right to ignore them. They simply resist playing by the same rules required of everyone else.

All you have to do is look at a list of the impacts from this project to understand its potential to damage Washington's water quality:

- Destroying 24 acres of wetlands and 26 acres of forested habitat.
- Dredging 41 acres of river bed.
- Driving 537 pilings into the river bed for over 2,000 feet of new docks, resulting in the loss of five acres of aquatic habitat.
- Increasing vessel traffic on the Columbia River by 25 percent – an additional 1,680 ship trips a year.

The sheer scale of the proposal poses obvious environmental challenges, regardless of the material being handled:

- 1.5 million tons of material stockpiled on site – picture an 85-foot-high pile of coal running the length of the National Mall, from the steps of the Capitol to the foot of the Lincoln Memorial.
- Contaminated stormwater running off those piles (in addition to the coal dust and spillage tied to moving material from rail to ship).
- Sixteen train trips a day, each over a mile long and pulled by four diesel locomotives.

In short, there are multiple, insolvable problems with the proposal. The company understood these problems when the Department of Ecology completed the environmental impact statement in partnership with Cowlitz County. Although the company did not challenge the findings of the environmental study, its leaders appear to believe that if they can only yell loudly enough, these environmental impacts will somehow disappear.

Though the Department of Ecology has been accused of being biased for its denial of this permit, it is not the first entity to reject a coal terminal in the Northwest. Two others have been proposed and rejected in recent years: One by the U.S. Army Corps of Engineers and one by the State of Oregon. Each of those proposed projects raised similar issues to this one.

We are confident in the work we have done to protect Washington waters from irreparable harm. The Columbia River is the beating heart of Washington State. It is our nation's fourth-largest river and home to endangered salmon. The health of this river is vital to our state's agricultural and manufacturing economies, central to our energy production, relied on by Washington's treaty tribes, and an irreplaceable link in the environment that Washingtonians treasure.

The Columbia River deserves the full protection of the law, and the Department of Ecology honored both the letter and the intent of the law in making our decision. The idea that the federal government can run roughshod over the decisions of those who know, live in, and love Washington is deeply troubling.

For more than a year, my agency has been falsely charged with every manner of malfeasance by the proponents of this project. Officials in states that would bristle at the hint of federal

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oversight over their own decision-making have nevertheless felt empowered to second-guess every comma and semicolon in our filings. Again and again, they have grossly mischaracterized our decisions, impugned our motives and challenged longstanding legal precedents.

Many legal bodies have already examined our authority and our decision. All of them have affirmed our actions. The water quality certification itself is just one of 23 approvals needed from local, state and federal authorities. Department of Ecology is one of three independent government bodies that has rejected this proposal.

The company's appeal of the Department of Ecology's decision now appropriately rests with Washington State's Pollution Control Hearings Board, which has indicated that it will issue a summary judgment decision in the days ahead. We anticipate the pollution board's decision will validate ours.

A copy of the state's denial is enclosed for your reference. I hope this letter helps committee members understand the facts about the permit denial. I am proud of the effort that my agency dedicated to this project. And I will continue to defend our water quality decision every step of the way.

Thank you for your interest in this matter.

Sincerely,



Maia D. Bellon
Director

cc: Patty Murray, Senator
Maria Cantwell, Senator
Senate Environment & Public Works Committee Members

