



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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September 10, 2018

Colonel Mark Gerdli
Seattle District, U.S. Army Corps of Engineers
PO Box 3755
Seattle, WA 98124-3755

Dear Colonel Gerdli:

I write to express deep concern regarding your call on September 5, 2018, notifying the Washington State Department of Ecology (Ecology) that the U.S. Army Corps of Engineers (Corps) intends to restart work on the federal permitting process for the proposed Millennium Bulk Terminals coal export facility in Longview, Washington.

We do not understand the Corps' decision to restart work on this proposal nearly a year after Ecology denied the 401 water quality certification for the project, and after that decision has already been upheld on appeal.

Our decision to deny the certification is final. Under the Clean Water Act, the Corps is prevented from issuing a federal 404 permit following a state's denial of a water quality certification. Furthermore, restarting a National Environmental Policy Act (NEPA) review after a state denial is counter to established Corps procedures.

The reason for Ecology's decision is straightforward: The Millennium project failed to meet existing and long-standing water quality standards, which it is required to do under the law to receive a 401 permit from the state. The project would cause serious, unavoidable damage to the water quality of the Columbia River and the communities that depend on it. The proposal would require driving 537 pilings into the riverbed, destroy 24 acres of wetlands, eradicate five acres of aquatic habitat, and increase ship traffic on the Columbia River by 1,680 trips a year – a jump of 25 percent. It would also cause unavoidable impacts to tribal resources.

Additionally, the environmental impact statement (EIS) issued by Cowlitz County and Ecology for the project identified several other categories of significant adverse impacts that could not be mitigated, providing further basis to deny the certification.

This proposal has also been reviewed and denied by two other independent agencies. Cowlitz County denied the shoreline permits for the project on November 14, 2017 – a decision that was

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subsequently upheld by the Washington Shorelines Hearings Board. The Washington State Department of Natural Resources denied an aquatic lands lease on January 3, 2017, and an appeal of that decision is still pending.

If, despite these decisions, the Corps intends to nevertheless resume its review of the proposal, it is Ecology's expectation that the Corps will comprehensively evaluate the impacts this proposal would cause to the project site, the Columbia River, and the environment of Southwest Washington.

Federal agencies and tribes share Ecology's assessment that your 2016 draft EIS was far too narrow to adequately assess all the damages the proposal would cause. Their letters to you describe how the draft study is woefully inadequate and does not encompass the project's full water quality impacts:

- The U.S. Department of the Interior noted that Cowlitz County and Ecology conducted an appropriate scope of environmental review while the Corps had "narrowly defined the scope of their proposed action and constrained NEPA study areas." Even considering just that narrow scope, the Department of the Interior encouraged the Corps to deny the project because of its unavoidable and significant adverse impacts to "fish, wildlife and tribal trust resources."
- The U.S. Environmental Protection Agency (EPA) likewise noted that the "Corps has adopted an inappropriately narrow scope of review of this project, leading the Corps to omit from its analysis significant and reasonably foreseeable environmental impacts." Because of these flaws, EPA wrote, "the Corps will be unable to render an informed permit decision."
- Several Washington and Oregon tribes found that the draft federal EIS was flawed, inadequate and inaccurate in assessing the project and in evaluating the full range of impacts to tribal resources.

In closing, I urge you to follow long-standing Corps procedure and precedent by respecting Washington's decision under the Clean Water Act. The Columbia River represents the beating heart of Washington State. It is our nation's fourth-largest river, home to endangered salmon, and vital to the agricultural and manufacturing economies of the Pacific Northwest. Access to the river and its resources is also a precious right for Washington's tribes. State review of projects that impact water quality has been enshrined in federal law for more than 40 years. I am deeply concerned that the Corps would contemplate infringing on this state responsibility.

Sincerely,



Maia D. Bellon
Director