



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

January 19, 2021

Mark Wilson
Port of Kalama
110 West Marine Drive
Kalama, WA 98625

Murray Godley
Northwest Innovation Works, LLC
110 West Marine Drive
Kalama, WA 98625

Re: Cowlitz County Permit #SL 16-0975
Port of Kalama and Northwest Innovation Works - Applicants
Shoreline Conditional Use Permit (CUP) #1056

Dear Mark Wilson and Murray Godley:

On March 20, 2017, the Department of Ecology (Ecology) received the Cowlitz County (County) decisions on your permits to construct and operate a marine export facility (Project) used to manufacture and export methanol. Ecology previously issued a shoreline conditional use permit (CUP) for the Project on June 8, 2017. The Shorelines Hearings Board (Board) reversed the CUP and a shoreline substantial development permit (SDP) issued by the County, concluding that the Final Environmental Impact Statement (FEIS) was inadequate under the State Environmental Policy Act (SEPA). The Port and the County appealed that decision to Cowlitz County Superior Court. The superior court affirmed the Board's determination that the FEIS was inadequate. The court remanded to the County to complete a supplemental EIS and directed the County and Ecology to "review the SEIS and determine whether, or not, the permits must be modified, conditioned, or denied based on the analysis in that document."

On August 30, 2019, the County and Port issued a Final Supplemental Environmental Impact Statement (2019 Supplemental EIS). On September 11, 2019, Ecology received a letter from the County in which the County concluded that no further County action or decision was warranted on the CUP to construct and operate a marine facility to manufacture and export methanol at the Port of Kalama (Port). The County based this conclusion on its determination that the 2019

Supplemental EIS “did not identify new shoreline impacts or materially change the County’s analysis of the Project’s impacts under the County’s Shoreline Master Program or SEPA.”

Ecology submitted detailed comments on the draft 2019 Supplemental EIS that identified various deficiencies in the greenhouse gas analysis. Ecology then met with the Port, County, and Northwest Innovation Works (NWIW) five times over the next eight months to discuss these comments. However, the 2019 Supplemental EIS did not address most of Ecology’s comments on the draft document. After receiving the County’s September 11, 2019, letter, Ecology requested additional information to address its comments so the department could render a decision on the CUP. The County’s response to Ecology’s request still did not address those comments.

In light of this, on November 22, 2019, Ecology determined that a Second Supplemental Environmental Impact Statement (Second SEIS) was required to adequately identify and analyze the greenhouse gas emissions and impacts for the CUP to construct and operate the Project. The Second SEIS would correct the deficiencies identified but not addressed in the 2019 Supplemental EIS so that Ecology could determine whether the CUP should be approved, modified, conditioned, or denied under the Shoreline Management Act (SMA), as required by the July 12, 2018, Cowlitz County Superior Court Order. Ecology prepared the Second SEIS as provided in WAC 197-11-600(3).

On December 21, 2020, Ecology issued the Final Second Supplemental Environmental Impact Statement (Final Second SEIS). The analysis in the Final Second SEIS identifies significant environmental impacts from upstream emissions; emissions produced by the facility; downstream emissions from transporting the methanol to its intended destination in China; and, emissions associated with the final end use of the product. Ecology’s decision is based on the results of this analysis.

By law, Ecology must review all CUPs for compliance with the following:

- 1) The Shoreline Management Act (RCW 90.58)
- 2) Ecology’s Conditional Use Permit approval criteria (WAC 173-27-160)
- 3) The Cowlitz County Shoreline Master Program (1977)

After reviewing CUPs for compliance, Ecology must decide whether to approve, approve with conditions, or disapprove them.

Our decision on your CUP: Ecology disapproves your CUP for the following reasons:

A. Inconsistency with the policies of the Shoreline Management Act, as provided in RCW 90.58.020. WAC 173-27-160(1)(a).

1. The Project would increase greenhouse gas emissions within the state of Washington by approximately one million metric tons (MMT) annually. Extracting, processing, and

transporting the natural gas used to make the methanol would likely produce higher emissions than previous estimates. Combined, those emissions would increase the Project's overall greenhouse gas emissions to between 4.17 and 6.20 MMT annually, with average annual emissions totaling 4.8 MMT. *See* Final Second SEIS at Table 3.5-13.

2. In 2020, the Legislature enacted new statewide greenhouse gas limits provided in RCW 70A.45. These new limits are significantly more stringent than the limits in place in 2017, and provide that greenhouse gases in the state must be reduced overall to 5 MMT by 2050 in order to address the threats posed by climate change. *See* Final Second SEIS at 33-34.
3. In setting these new limits, the Legislature specifically found that avoiding global warming, which has serious health and ecological impacts in the state of Washington, is only possible “if greenhouse gas emissions start to decline precipitously, and as soon as possible.” The Legislature thus identified a need for Washington to take “immediate and aggressive action to reduce greenhouse gas emissions.” Laws of 2020, ch. 79, § 1.
4. The Legislature also found that “the longer we delay in taking definitive action to reduce greenhouse gas emissions, the greater the threat posed by climate change to current and future generations, and the more costly it will be to protect and maintain our communities against the impacts of climate change.” Laws of 2020, ch. 79, § 1.
5. The Final Second SEIS concludes that the average annual greenhouse gas emissions attributable to the Project will be 4.8 MMT, and that these emissions constitute a significant environmental impact. Final Second SEIS at Figure 3.5-9, 101-102. The Project's annual greenhouse gas emissions occurring within the boundaries of the state of Washington will total approximately 1 MMT, and the life of the Project is expected to be 40 years. *See* Final Second SEIS at Table 3.5-14. Thus, this Project would constitute approximately 20 percent of the state's entire 2050 carbon budget, which is 5 MMT. *See* RCW 70A.45.020(1)(a)(iv).
6. Both the Final Second SEIS and 2019 Supplemental EIS recognize that anthropogenic greenhouse gas emissions cause climate change. *See* Final Second SEIS at 30; 2019 Supplemental EIS at 3-2. The Final Second SEIS identifies the following greenhouse gas impacts specific to the shorelines of the Pacific Northwest:
 - a. Changes in salmon migration and reproduction;
 - b. Coastal changes, such as increased coastal erosion and beach loss due to rising sea levels, increased landslides due to increased winter rainfall, permanent inundation in some areas, and increased coastal flooding due to sea level rise and increased winter stream flow; and,
 - c. Human and environmental health impacts resulting from these changes, including loss of biodiversity.
7. In 2018, the Intergovernmental Panel on Climate Change released a Special Report on the impacts of global warming of 1.5 degrees Celsius above pre-industrial levels. That same

year, the U.S. Global Change Research Program published the Fourth National Climate Assessment, identifying a number of specific climate change impacts that will occur, and are already occurring, in the Northwest. *See* Final Second SEIS at 105. Together, these reports affirm that avoiding global warming of 1.5 degrees Celsius will only be possible if urgent, immediate action is taken to significantly reduce greenhouse gas emissions.

8. The quantity of the Project's emissions and the length of time those emissions would occur will impede the state's ability to meet the emission reduction requirements provided in RCW 70A.45, and would therefore exacerbate climate change impacts to shorelines in the state.
9. The Final Second SEIS also included a market analysis that considered whether methanol from this proposal would displace other methanol. That analysis concluded that this proposal would increase greenhouse gas emissions, but potentially at a lower rate than if methanol were produced through other means. Specifically, the Final Second SEIS compared emissions from this Project to potential future emissions from coal-based or other nonrenewable natural gas-based methanol production. The Final Second SEIS recognized the uncertainty inherent in trying to predict how markets will behave decades into the future, and how future policy decisions might impact those markets. Due to this uncertainty, the market analysis did not alter Ecology's determination that greenhouse gas emissions associated with this Project are significant.
10. Project proponent NWIW proposed a voluntary framework to mitigate for 100 percent of the direct and indirect in-state greenhouse gas emissions on an annual basis for the life of the Project. *See* Appendix D, Final Second SEIS. The Final Second SEIS concludes that the Project's greenhouse gas emissions would still be deemed significant, even if in-state emissions are mitigated. In-state emissions of approximately 1 MMT annually represent less than a quarter of the Project's total annual greenhouse gas emissions of 4.8 MMT.
11. The mitigation framework proposed by the Project proponent gives a preference to but does not require that mitigation occur in state. Due to a cost cap incorporated into the mitigation framework, coupled with competition for in-state mitigation projects and a limited supply of feasible mitigation opportunities, it is likely that a substantial portion of the mitigation would occur out of state. If so, in-state emissions from this proposal would make it nearly impossible for the state to meet its 2050 greenhouse gas limit of 5 MMT.
12. For the above reasons, Ecology has determined that the Project is inconsistent with the following policies of the Shoreline Management Act, as provided in RCW 90.58.020:
 - a. "This policy is designed to insure the development of these shorelines in a manner which...will promote and enhance the public interest." RCW 90.58.020.
 - b. "This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life...." RCW 90.58.020.

B. Inconsistency with the Cowlitz County Shoreline Master Program (SMP) policies related to shorelines of statewide significance. WAC 173-27-160(1)(a).

1. The Project would be located on the Columbia River, which the Shoreline Management Act and the Cowlitz County SMP identify as a shoreline of statewide significance. RCW 90.58.030(2)(f)(v)(A); SMP at 68. The Shoreline Management Act provides “that the interest of all of the people shall be paramount in the management of shorelines of statewide significance.” RCW 90.58.020. The Cowlitz County SMP provides that shorelines of statewide significance:

are considered as deserving of consideration beyond that ascribed to other water bodies. Since these specified shorelines are major resources from which all people in the state derive benefit, we must:

...

- 2) Preserve the natural character of the shoreline.
- 3) Address uses which result in a long-term over short-term benefit.
- 4) Protect the resources and ecology of the shorelines.

...

SMP at 2.

2. For the reasons identified in Section A above, Ecology has determined that the Project is inconsistent with the above referenced policies of the Cowlitz County SMP because it will directly contribute to and exacerbate climate change impacts that will alter the natural character of and damage the shorelines of the Columbia River.

C. Failure to demonstrate that the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located. WAC 173-27-160(1)(d).

1. For the reasons identified in Section A above, Ecology has determined that the Project proponents have not demonstrated that the Project will not cause significant adverse effects to the shoreline of the Columbia River. Therefore, conditional use permit criterion WAC 173-27-160(1)(d) has not been met.

D. Failure to demonstrate that the public interest suffers no substantial detrimental effect. WAC 173-27-160(1)(e).

1. The Final Second SEIS demonstrated that the Project’s greenhouse gas emissions are significant, and will exacerbate the impacts of climate change we are already experiencing in the state of Washington, as well as on the shorelines and waters of the state. 2019 Supplemental EIS at 3-2 to 3-4; Final Second SEIS at 30-34, 101-103.
2. The Legislature has specifically found that avoiding global warming, which has serious health and ecological impacts in the state of Washington, is only possible if greenhouse gas

emissions start to decline precipitously and as soon as possible through immediate and aggressive action. Laws of 2020, ch. 79, § 1.

3. The Legislature has also found that the longer our state delays in taking definitive action to reduce greenhouse gases, the greater the threat posed by climate change to current and future generations, and the more costly it will be to protect our communities from the impacts of climate change. Laws of 2020, ch. 79, § 1.
4. Accordingly, the Legislature intends for the state to limit and reduce emissions of greenhouse gases over the next 30 years. *See* Final Second SEIS at 33-34.
5. The quantity of the Project's emissions and the length of time those emissions would occur will significantly impede the state's ability to meet the emissions limits provided in RCW 70A.45.
6. As such, and for the reasons identified in Section A above, Ecology has determined that the Project proponents have not demonstrated that the public interest will suffer no substantial detrimental effect as result of the granting of a conditional use permit. Therefore, conditional use permit criterion WAC 173-27-160(1)(e) has not been met.
7. In addition, a federal court recently vacated two permits issued by the Army Corps of Engineers under the Clean Water Act and Rivers and Harbors Act, finding that the Project did not meet the "public interest" assessment required by those statutes for three reasons: (1) the Corps improperly relied on uncertain global benefits of the Project without assessing global detriments; (2) the Corps failed to consider the need for expansion of a regional gas pipeline as a reasonably foreseeable future action; and, (3) the Corps failed to properly consider recreational impacts near the site due to air quality concerns. In regards to the first reason, Ecology's Final Second SEIS demonstrates that the Project will have significant impacts in the form of in-state, upstream, and downstream emissions. The second and third reasons demonstrate that there are substantial unanswered questions in regards to this proposal's impact to the public interest.

What Happens Next?

Ecology's decision is appealable to the state Shorelines Hearings Board within 21 days from January 19, 2021, the "date of filing." This waiting period allows anyone who disagrees with any aspect of this permit, to appeal the decision to the state Shorelines Hearings Board.

If you want to appeal this decision, you can find appeal instructions (Chapter 461-08 WAC) on the Shorelines Hearings Board website at <http://www.eluho.wa.gov>. They are also posted on the website of the Washington State Legislature at:

<http://apps.leg.wa.gov/wac/default.aspx?cite=461-08>

Port of Kalama
Northwest Innovation Works, LLC
January 19, 2021
Page 7

If you have any questions, please contact Rich Doenges at (360) 407-6307 or rich.doenges@ecy.wa.gov .

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Watson', written in a cursive style.

Laura Watson
Director

By certified mail xxxxxxxx (Port of Kalama)
By certified mail xxxxxxxx (Northwest Innovation Works, LLC)
By certified mail xxxxxxxx (Cowlitz County)

cc: Brian Carrico, Berger ABAM
Ron Melin, Cowlitz County
Emily C. Nelson, Assistant Attorney General
Rich Doenges, Ecology
Perry Lund, Ecology