



**PETITION TO THE UNITED STATES ARMY CORPS OF ENGINEERS**

Petition to Undertake Area-Wide )  
Environmental Impact Statement on All ) *Submitted May 22, 2013*  
Proposed Coal Export Terminals in )  
Washington and Oregon )

**INTRODUCTION**

In the Pacific Northwest, coal export proponents are considering anywhere from three to six coal export terminals that would bring millions of metric tons of coal to the coast by overcrowded train routes, store the coal in enormous, exposed piles, and then load the coal onto marine vessels that would transport it thousands of miles to coal-burning power plants in Asia. As the U.S. Army Corps of Engineers (“Corps”) is well aware, citizen attendance at the recent scoping meetings for one of these proposed projects was unprecedented. Thousands of people publically testified about their concerns about the harmful impacts from the project—concerns stemming from global climate change to regional aquatic impacts to local traffic congestion. Many focused on human health concerns, and many who attended these meetings came from outside Washington, as these projects would impact people living in the entire Pacific Northwest region. Heightened concern came from many tribal governments, who have ties to the lands and waters at issue since time immemorial. Ultimately, over 124,000 written scoping comments were submitted on one Washington state project alone. Yet petitioners are deeply concerned that each of these individual proposals will go through environmental review without an opportunity to consider the bigger picture of what it means for the region if all the proposed terminals are built and operated.

**PETITIONED ACTION**

Pursuant to the Administrative Procedure Act, 5 U.S.C. § 553(e), Climate Solutions, Columbia Riverkeeper, Friends of the Columbia Gorge, Greenpeace, National Wildlife Federation, Northern Plains Resource Council, Oregon Physicians for Social Responsibility, RE Sources, Sierra Club, Washington Environmental Council, and Western Organization of Resource Councils petition the Corps to evaluate the cumulative and related impacts of all proposed coal export terminals in Oregon and Washington in a single, comprehensive, area-wide environmental impact statement (“EIS”) under the National Environmental Policy Act (“NEPA”). Such a process will allow explicit consideration of the collective impacts of multiple distinct but related decisions. It will also streamline individual environmental reviews by allowing site-specific EISs to tier to the area-wide EIS rather than each proposal having to conduct a cumulative impacts analysis anew.

The coal export/coal terminal area-wide EIS should consider those environmental and health impacts of the various coal export terminal proposals that are cumulative, related, and/or similar. The precise contours of what should be included in the EIS should be determined through a full scoping process that includes multiple hearings around the region to allow the public to voice concerns common to all the projects. *See* 40 C.F.R. § 1501.7. However, at the least, issues that should be considered for inclusion in an area-wide EIS include: (1) traffic, pollution, safety, health, and congestion issues along the rail line between Powder River Basin area coal mines and the Pacific Northwest terminal sites; (2) increased mining in Wyoming and Montana, particularly on public lands, and its effect on domestic energy security and pricing; (3) effects of significantly increased barge and cargo ship operations on the Columbia River and in Puget Sound; (4) effects on global consumption of coal due to the effect of the operation of export terminals on international market prices, and resulting increased greenhouse gas emissions; (5) combined vessel traffic impacts and oil spill risks in the transpacific navigational routes including the Gulf of Alaska and Unimak Pass; and (6) air pollution impacts from coal combustion in China, including mercury and other contaminant deposition in American waters.

Because the permitting processes for these coal terminals are ongoing, because NEPA's regulations call for agencies to apply its procedures "at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts," 40 C.F.R. § 1501.2, and because we have pressed this issue with your agency since early 2012 to no avail, we ask the Corps to respond to this petition as soon as possible, but at least before the scoping process has been completed for the proposed Millennium Terminal at Longview, Washington. If we do not hear from you within a reasonable timeframe, we may seek federal court review of any implicit or explicit denial.

## BACKGROUND

There are three coal export facility proposals with pending applications: the Gateway Pacific Terminal site at Cherry Point, Washington; the Millennium Bulk Logistics site in Longview, Washington; and the Morrow Pacific project (which includes the Coyote Island barging terminal at the Port of Morrow, Oregon as well as a barge/cargo vessel loading facility at the Port of St. Helens, Oregon). Three other proposals appear to be stalled or cancelled: Kinder-Morgan this month announced that it was backing away from its Port Westward project at the Port of St. Helens, Oregon; the Project Mainstay proposal at the Port of Coos Bay, Oregon recently lost its major financial backers; and the RailAmerica coal-export proposal at the Port of Gray's Harbor, Washington has been cancelled.

In letters dated April 12, 2012 and June 7, 2012, we previously asked the Corps for an area-wide environmental impact statement. Since that time, our request has been joined by many other governmental and non-governmental organizations, including state governors, U.S.

Senators, Native American Tribes, city and county officials, and federal agencies including the U.S. Environmental Protection Agency and the National Marine Fisheries Service.<sup>1</sup> Although the calls on the Corps to undertake a broad analysis continue, to date the Corps has provided us no official response, and indeed, has refused several requests from us for a meeting.

Most recently, Governors John A. Kitzhaber and Jay Inslee, the current governors of Oregon and Washington, wrote to Nancy Sutley, Chair of the President's Council of Environmental Quality, urging CEQ "in the strongest possible terms to undertake and complete a thorough examination of the greenhouse gas and other air quality effects of continued coal leasing and export *before* the U.S. and its partners make irretrievable long-term investments in expanding this trade." Letter from Govs. Kitzhaber and Inslee to The Honorable Nancy Sutley (Mar. 25, 2013) at 2 (emphasis in original). Similarly, U.S. Senator John Tester recently wrote to the Surface Transportation Board urging an expanded scope of environmental review to account for rail transportation and cumulative environmental impacts from the proposed Tongue River railroad project. Letter from Sen. Tester to The Honorable Daniel R. Elliott, III *et al.* (Mar. 14, 2013).

Collectively, the announced capacity of the planned U.S. projects is approximately 100 million metric tons of coal per year.<sup>2</sup> The impacts of such a quantity of coal moving through the region's rail system and public waterways is difficult to comprehend. To place it in context, full-capacity operations at the existing proposals would mean approximately 60 coal trains—each about a mile and a half long—moving through many Pacific Northwest communities, every day year round. We are deeply concerned that each of these projects will go through environmental review without an opportunity to consider the bigger picture of what it means for the region if all or some of the proposed terminals are built and operated, particularly in communities distant from the terminals themselves. For example, while the Corps and other agencies will be required to consider the impacts of rail traffic on human health, traffic, and other system users in the context of individual projects, there must be a more robust public conversation around the cumulative and collective impacts of all of these projects.

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<sup>1</sup> Exhibit A is a non-exhaustive list of governmental and non-governmental officials and organizations that have called for an area-wide cumulative impacts review for coal export terminals in the Pacific Northwest.

<sup>2</sup> This estimate is likely low, as announced capacity can be lower than ultimate capacity. This fact was clearly shown at the Millennium Bulk Logistics site in Longview, Washington, which withdrew its first permit for a five million ton/year facility after documents revealed secret internal plans to construct a terminal that could handle up to 60 million tons/year. Millennium has submitted a second permit application, this time for a facility that can handle 44 million metric tons/year.

## REASONS TO CONDUCT AN AREA-WIDE EIS

### A. The National Environmental Policy Act Provides for Preparation of an Area-Wide EIS Where Multiple Projects Share Similar or Cumulative Impacts.

NEPA expressly contemplates preparation of an EIS for situations just like this one, where an agency is facing multiple, independent permitting decisions that have overlapping, shared, and cumulative impacts. *See Native Ecosystems Council v. Dombeck*, 304 F.3d 886 (9th Cir. 2002) (“A single NEPA review document is required for distinct projects when ... the projects are ‘connected,’ ‘cumulative’ or ‘similar’ actions ...”); 40 C.F.R. § 1508.25 (mandating single EIS for separate independent actions under some circumstances); 40 C.F.R. § 1502.4(a), (c) (requiring a single EIS where proposals are “related to each other closely”).<sup>3</sup> Council on Environmental Quality guidance (in Q&A format) on this issue states:

24b. When is an area-wide or overview EIS appropriate?

A. The preparation of an area-wide or overview EIS may be particularly useful when similar actions, viewed with other reasonably foreseeable or proposed agency actions, share common timing or geography. For example, when a variety of energy projects may be located in a single watershed, or when a series of new energy technologies may be developed through federal funding, the overview or area-wide EIS would serve as a valuable and necessary analysis of the affected environment and the potential cumulative impacts of the reasonably foreseeable actions under that program or within that geographical area.<sup>4</sup>

Courts have agreed that a single EIS is required for multiple discreet actions under some circumstances, for example, when the projects have common timing, geography, and/or impacts. *See, e.g., Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1215 (9th Cir. 1998) (multiple timber sales must be evaluated in a single EIS where the sales were reasonably foreseeable, in a single general area, disclosed at the same time, and developed as part of a comprehensive strategy); *Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291 (9th Cir. 2003) (confirming that “similar actions”—i.e., actions which have similarities, such as common timing

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<sup>3</sup> Federal guidance and courts refer to broad reviews as programmatic, “area-wide,” or “overview” EISs. While our previous correspondence has sometimes described the requested review as a “programmatic” EIS, the label is not important; it is the content of such an assessment that matters. As the Corps has stated that it has no “program” for coal export terminals, the term area-wide best captures the review necessary to evaluate similar, shared, and cumulative impacts.

<sup>4</sup> Forty Most Asked Questions Concerning CEQs National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 (1981) (emphasis added).

or geography, that warrant comprehensive review—must be considered in a single EIS if it is the “best way” to consider their impacts).

There is ample precedent for such a review, including area-wide EIS processes that are underway right now. The Corps recently reviewed four independent phosphate mining projects that have cumulative impacts within a 1.32 million acre area of Central Florida.<sup>5</sup> As here, the U.S. Environmental Protection Agency asked the Corps for a comprehensive environmental review, stating that “[a]ddressing cumulative and secondary (indirect) effects in a piecemeal manner through the regulatory process (i.e. permit by permit) for impacts of this magnitude, cannot effectively or sufficiently address cumulative impacts to the Peace River Watershed as a whole. An Area Wide EIS could adequately address these cumulative and secondary effects.”<sup>6</sup> Similarly, the National Marine Fisheries Service is conducting an overview EIS on anticipated permitting activities for exploratory drilling in an area of over 200,000 square miles in the Beaufort and Chuckchi Seas.<sup>7</sup>

The proposed coal exports facilities share common timing *and* geography. For example, all of the proposed coal export facilities would transport coal by rail or barge through the Columbia River Gorge National Scenic Area, an area designated by Congress for the protection and enhancement of scenic, natural, cultural and recreation resources. Rail and barge traffic would more than double through the Gorge, resulting in likely adverse effects to scenic, natural, cultural, and recreational resources.

This is precisely the kind of situation that calls for an area-wide EIS, especially as the Corps’ current position on one of the proposed projects—the Port of Morrow terminal—is that even a site-specific EIS is not required, and that permit approvals may go forward after a truncated environmental analysis only.<sup>8</sup> Without an area-wide EIS, the indirect and cumulative effects of these projects, effects that are the same and/or additive with respect to timing, geography, and scope, will be overlooked.

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<sup>5</sup> Available at [http://www.phosphateaeis.org/pdfs/draft\\_aeis/01d\\_Executive%20Summary\\_DRAFT\\_AEIS\\_CFPD\\_May\\_2012.pdf](http://www.phosphateaeis.org/pdfs/draft_aeis/01d_Executive%20Summary_DRAFT_AEIS_CFPD_May_2012.pdf); see also EPA, Notice of Availability, 78 Fed. Reg. 26,027 (May 3, 2013) (EIS No. 20130117, Final EIS, USACE, Central Florida Phosphate District Phosphate Mining).

<sup>6</sup> Available at <http://protectpeacriver.org/resources/wp-content/uploads/2010/04/EPA-Recommendation-for-Areawide-EIS.pdf>.

<sup>7</sup> Available at [http://www.nmfs.noaa.gov/pr/pdfs/permits/arctic\\_deis.pdf](http://www.nmfs.noaa.gov/pr/pdfs/permits/arctic_deis.pdf).

<sup>8</sup> See <http://www.nwp.usace.army.mil/Missions/Currentprojects/CoyoteIslandTerminal.aspx> (limiting Corps’ “scope and analysis” to construction of in-water and upland facilities and stating that “we have determined that we will continue our analysis and documentation of the potential effects of permitting this project with an environmental assessment, pursuant to the National Environmental Policy Act.”).

B. The Proposed Coal Export Terminals Share Common Environmental, Health, and Economic Impacts.

While each individual project has a range of unique local effects on the environment and local communities that must be evaluated in a project-specific EIS for each site, an area-wide EIS should be done on those environmental and economic effects of the various projects that are similar, connected, and/or cumulative. These shared impacts include rail traffic and emissions, ocean-going vessel traffic and emissions, increased mining, national coal supply and pricing, air-borne mercury deposition in the Northwest, and greenhouse gas emissions associated with increased combustion of coal.

For example, while the Corps and other agencies will be required to consider the impacts of rail traffic on human health, traffic, and other system users in the context of individual projects, there should be a more robust public conversation around the cumulative and collective impacts of all of these projects on the rail system and its neighbors. The rail impacts, including rail traffic and emissions, stem from mine mouth in the Powder River Basin through communities in Montana, Idaho, and Washington.

In the Powder River Basin, impacts include increased mining, coal supply, and pricing. On the marine side, impacts from coal shipping, including ocean-going vessel traffic and emissions, risks of collisions, and impacts to near-shore environments, extend from the docks at Cherry Point through the San Juan Islands to the final destination in Asia. And from an atmospheric perspective, the agencies must evaluate the input of tens of millions of tons of CO<sub>2</sub> annually into our air, bringing increased air-borne mercury deposition in the Northwest and increased global greenhouse gas (“GHG”) emissions associated with combustion of coal.

The Washington State Department of Ecology, commenting on the Port of Morrow proposal, stressed the need to review cumulative impacts from all similar proposals, including, at a minimum:

- Increased vessel traffic on the Columbia River, including navigational and maritime safety concerns
- Protection of water quality, including increased risk of spills in the Columbia River
- Coal dust emissions at the facility and during product transit
- Emissions of other air pollutants, including diesel particulate and greenhouse gases
- Increased rail traffic, including railroad capacity, increased noise, and delay times for emergency vehicles at rail crossings<sup>9</sup>

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<sup>9</sup> Ecology’s Comments on Coyote Island Terminals (May 7, 2012) at 3, *available at* <http://www.coaltrainfacts.org/ecology-requests-cumulative-eis>.

Ecology stated that the agency was “especially concerned about cumulative impacts because the present proposal is one of several proposed projects aimed at expanding coal export capacity within a defined geographic region (i.e., the states of Washington and Oregon).” Even in the context of a rail line construction in Montana that would transport coal from the Powder River Basin, Ecology has asked for review of overall impacts in Washington State, noting that “[n]o federal EIS to date has looked at the impacts of coal exports through Washington State,” and that “[b]ecause of the multi-state impacts, a federal agency is in the best position to conduct the comprehensive review needed for transportation impacts associated with these proposals.”<sup>10</sup>

As the Environmental Protection Agency noted, “[a]ll of these projects—and others like them—would have several similar impacts. Consider, for example, the cumulative impacts to human health and the environment from increases in greenhouse gas emissions, rail traffic, mining activity on public lands, and the transport of ozone, particulate matter, and mercury from Asia to the United States.” EPA Comment on Port of Morrow project (April 5, 2012) (recommending a “thorough and broadly-scoped” cumulative impacts analysis of all proposed coal export facilities).<sup>11</sup>

Further, the proposed coal terminals will be sited within the “usual and accustomed” fishing areas of Pacific Northwest Indian tribes, which have a sovereign government-to-government relationship with the U.S. federal government. Gateway Pacific Terminal would be built within historic shell-fishing areas of the Lummi and Nooksack Tribes—and on top of the spawning grounds of a critically important population of Puget Sound herring, which in turn sustains the local salmon population on which the tribes rely. Under federal court precedent, the tribes are “co-managers” of these resources along with the state and wield considerable influence over decisions that affect fishing resources.<sup>12</sup> The Affiliated Tribes of Northwest Indians called for full environmental review and government-to-government consultation with Indian tribes

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<sup>10</sup> Ecology Tongue River Railroad EIS Scoping Comments (Jan. 4, 2013) at 2-3, *available at* <http://www.coaltrainfacts.org/document-type/governmental-agency/page/3>.

<sup>11</sup> EPA reiterated this call for a complete cumulative impacts review in its scoping comments for the Gateway Pacific Terminal, stating that “EPA also recommends that environmental impacts from increases in regional rail traffic and combustion of coal in receiving markets be examined in the context of other proposed export facilities in the Pacific Northwest region, so that reasonably foreseeable cumulative environmental impacts from additional facilities can be understood before a decision is made, as NEPA contemplates. . . . The cumulative effects analysis would appropriately include increases in regional train traffic and related air quality effects on human health, and the potential for effects to human health and the environment from increases in the long-range transportation of air pollution, including greenhouse gas emissions.” See <http://www.eisgatewaypacificwa.gov/resources/project-library>.

<sup>12</sup> *U.S. v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974).

throughout the region.<sup>13</sup> The Northern Cheyenne Indian Tribe has expressed concern over the years about the impacts the proposed railroad and related coal-mining activities would have on the health, wellbeing, culture, and sacred sites of the tribe. Nine members of the Northern Cheyenne Tribe traveled 1,300-miles roundtrip to a public comment session in Spokane, Washington to voice their opposition to the mine, railroad, and Gateway Pacific Terminal. Seven different tribal organizations—the Lummi Indian Business Council, the Swinomish Indian Tribal Community, the Confederated Tribes and Bands of the Yakama Nation, the Makah Tribal Council, the Tulalip Tribes, the Nisqually Indian Tribe, and the Samish Indian Nation—submitted comments on the Cherry Point Gateway Pacific Terminal calling for full environmental review, government-to-government coordination, and protection for fish, wildlife, air and water quality, human health, and tribal sacred areas.

Other federal agencies have also identified common elements that call for area-wide review. The U.S. Department of Housing and Urban Development, in its scoping comments for the Gateway Pacific Terminal, stated that “HUD suggests the Co-Lead Agencies either include the cumulative impacts from all three proposed ports in this EIS, or conduct an Areawide EIS that covers all three ports. The train traffic from all three ports could have a significant noise impact on communities on our region and in order to accurately and comprehensively address this impact, it needs to be considered as a whole.”<sup>14</sup> The National Park Service similarly called for a cumulative effects EIS, succinctly summarizing the common core elements that should be reviewed:

Given the potential for regional export of over 100 million tons of coal per year, NPS is concerned these projects – both individually and cumulatively – could have significant long-term consequences for the residents, visitors, environmental and cultural resources of the north Rocky Mountains and Pacific Northwest. Therefore, we believe the U.S. Army Corps of Engineers, as lead federal agency, is obligated to coordinate with all involved state and local agencies in preparing a programmatic EIS that rigorously addresses the cumulative effects of all five export terminal projects in the region. The EIS should fully evaluate all direct and indirect effects of the coal export process, including railroad shipment from the Powder River Basin, terminal operations, marine vessel shipment and resulting pollutants emitted from Asian power plants.<sup>15</sup>

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<sup>13</sup> Available at [http://www.atntribes.org/sites/default/files/res\\_12\\_53\\_with%20attachment.pdf](http://www.atntribes.org/sites/default/files/res_12_53_with%20attachment.pdf).

<sup>14</sup> Available at <http://www.eisgatewaypacificwa.gov/resources/project-library>.

<sup>15</sup> Available at <http://www.eisgatewaypacificwa.gov/resources/project-library>.



C. An Area-Wide EIS Will Allow the Corps and Other Agencies to Fulfill Their Legal Obligations.

The Corps is the federal agency best positioned to lead this effort, as all of the pending proposals require approval from the Corps under the Rivers and Harbors Act and/or the Clean Water Act. Such approval triggers close scrutiny by the Corps to ensure that water resources and commerce are not adversely impacted. *See* 33 C.F.R. § 320.1-4 (general regulatory policies); *id.* § 230.1-97 (guidelines for fill permits). Corps guidelines require a “public interest review” for any Corps permit, and permits cannot be granted if they are “contrary to the public interest.” Standards for such review are broad, balancing “the benefits which reasonably may be expected to accrue from the proposal” with “its reasonably foreseeable detriments.” 33 C.F.R. § 320.4(a)(1).

The Corps is also required to consider “all factors which may be relevant to the proposal” as well as cumulative effects. The list of relevant considerations includes not just environmental concerns but also economics, flood hazards, navigation, energy needs, safety, and in general, the needs and welfare of the people. *Id.* Additional criteria spelled out in the Corps’ public interest regulation include “the relative extent of the public and private need” for the project, the practicability of alternatives that accomplish the objective of the project, and “the extent and permanence of the beneficial and/or detrimental effects” of the project. *Id.* § 320.4(a)(2). The Corps is explicitly empowered to conduct an “independent review of the need for the project from the perspective of the overall national interest.” 33 C.F.R. § 320.4(q).

Additionally, a single area-wide EIS on the similar impacts of the various proposals will enable other agencies to conduct their regulatory and oversight responsibilities more effectively as well. For example, the U.S. Environmental Protection Agency has a statutory duty to “veto” Corps permits that present unacceptable environmental impacts. 33 U.S.C. § 1344(c). Similarly, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service must review permits to ensure that they do not contribute to the jeopardy of listed wildlife species. 16 U.S.C. § 1536(a)(2). These decisions must also be made within the context of a better understanding of the cumulative impacts to the region from multiple new coal-export terminals.

Ultimately, the Corps and other agencies will have to make substantive decisions about whether the growing list of coal-export terminals meets their regulatory standards. All parties—including both the terminal proponents as well as members of the public—should have a right to weigh in on this question. However, the substantive decision cannot be made in an informational vacuum as to the combined effects of several independent projects that will have shared effects throughout the region.

D. An Area-Wide EIS Will Not Be Duplicative, a Reason for Delay, or Speculative.

Under NEPA, any project-specific EIS must consider cumulative effects, including impacts of other similar projects in the region. However, that does not in any way excuse the

agency from preparing a broadly scoped EIS where one is required under the regulations, or where the agency determines that this is the appropriate approach to evaluating the projects. *See, e.g.,* 40 CFR § 1508.25 (comprehensive single EIS of “similar” actions is required where it is “the best way to assess adequately the combined impacts”).

There is a legitimate concern that the terminal-specific EISs might not provide for full participation by communities distant from the terminals themselves, even though they bear the brunt of the impacts. For example, communities in Montana, Idaho, and eastern Washington could see dramatic increases in rail traffic—including coal dust, diesel particulate matter pollution, vehicle traffic congestion, and economic impacts on local businesses and other rail system users—from the combined impacts of the multiple projects. An EIS process for a single terminal in Bellingham or Longview, Washington, is not well designed to inform those rail communities, engage their views, or address the impacts of concern. In the NEPA scoping process that concluded in January 2013 for the Gateway Pacific Terminal proposal in Bellingham, for example, the closest scoping hearing to many communities along the railroad and near the coal mines was in Spokane, Washington. One bus full of concerned citizens drove through the night from Billings, Montana—a trip of 550 miles, one way—in order to testify about the impacts of that single proposed terminal on their community. Moreover, the Corps has not committed to an EIS for all terminal locations, such as Ambre’s proposed facility at the Port of Morrow.<sup>16</sup> An area-wide EIS review of all of the terminals can be focused on assessing the impacts broadly, involving and informing all of the communities and people that will be directly affected.

Coal terminal proponents have stated in public that an area-wide EIS will take too much time and be too speculative. This position highlights why coal terminal proponents are disingenuous when they claim that all of the impacts of concern will be considered as “cumulative effects” in individual coal terminal EISs. If the cumulative impacts information is necessary to an informed and lawful decision—and it is—the agencies must develop it whether it is part of one area-wide EIS or five individual EISs. There is no reason why one process would go faster than the other.

Nor are the questions to be asked speculative. The combined projects have an announced capacity of approximately 100 million metric tons of coal export through Oregon and Washington each year. It is relatively simple to calculate what that means for rail and vessel traffic, pollution, health impacts, and lost commercial opportunities in the region. For issues where there is a disagreement over the existing facts—for example, the impact on global coal

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<sup>16</sup> *See* Letter from Sen. Ron Wyden to The Honorable Jo-Ellen Darcy (Mar. 13, 2013) (“I strongly encourage the U.S. Army Corps of Engineers (USACE) to conduct a full environmental impacts statement (EIS) for any existing and future coal export project, along the environmentally and culturally sensitive Columbia River corridor.”).

consumption or the amount of coal dust lost from trains and terminals—an area-wide EIS will provide the best opportunity to develop data that is crucial to an informed decision.

## CONCLUSION

For the reasons discussed above, petitioners ask the United States Army Corps of Engineers to evaluate the cumulative, related, and/or similar impacts of all proposed coal export terminals in Oregon and Washington in a single comprehensive area-wide environmental impact statement under the National Environmental Policy Act. Because the permitting processes for these coal terminals are ongoing, we ask the Corps to respond to this petition as soon as possible, but at least before the scoping process has been completed for the proposed Millennium Terminal at Longview, Washington. If we do not hear from you within a reasonable timeframe, we may seek federal court review of any implicit or explicit petition denial. For more information, please contact Kristen L. Boyles, Earthjustice, [kboyles@earthjustice.org](mailto:kboyles@earthjustice.org), 206-343-7340 x 1033.

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**EARTHJUSTICE**

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES  
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**Certificate of Service**

Submitted on May 22, 2013 via certified mail, First Class U.S. Mail to:

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and Western Organization of Resource Councils*

## Exhibit A

### Calls for Area-Wide, Programmatic, and/or Cumulative Environmental Impact Statement for All Proposed Coal Export Terminals in Washington and Oregon

Title	Date
Letter from Walter A. Archer, Chair, Northern Plains Resource Council	March 22, 2012
Letter from Kristin Swenddal, Aquatic Resources Division Manager, Washington State Department of Natural Resources	March 30, 2012
U.S. Environmental Protection Agency, Comment on Public Notice for Permit Application for a Coal Transloading Facility, Port of Morrow, Oregon	April 5, 2012
Earthjustice, Request for Environmental Impact Statement on Cumulative Impacts of New Coal Terminals in Washington and Oregon	April 12, 2012
Sandpoint, Idaho, Mayor and City Council Resolution No. 12-22	April 18, 2012
Letter from Oregon Governor John Kitzhaber, M.D.	April 25, 2012
Letter from Sam Adams, Mayor, Portland, Oregon	May 2, 2012
Letter from Harry Smiskin, Tribal Council Chairman, Confederated Tribes & Bands of the Yakama Nation	May 3, 2012
Washington State Dep't of Ecology's Comments on Public Notice Permit Application for Coyote Islands Terminals	May 7, 2012
Letter from Baptist Paul Lumley, Executive Director, Columbia River Inter-Tribal Fish Commission	May 7, 2012
Letter from U.S. Congressmen Adam Smith and Jim McDermott	May 9, 2012
Letter from Violet Yeaton, Tribal Caucus Co-Chair, Region 10 Regional Tribal Operations Committee	May 15, 2012
Letter from Garon Smith, Chair, Missoula, Montana, City-County Air Pollution Control Board	May 17, 2012
Washington State Democratic Party Resolution	May 20, 2012
Missoula, Montana, City Council Resolution No. 7701	May 21, 2012

Letter from City of Olympia, Washington, Mayor and City Council	May 30, 2012
Whatcom County, Washington, Democratic Party Resolution	June 2, 2012
Earthjustice, Second Request for Environmental Impact Statement on Cumulative Impacts of New Coal Terminals in Washington and Oregon	June 7, 2012
Letter from Jeff Cogen, County Chair, Multnomah Co., Oregon	June 8, 2012
Letter from U.S. Senator Patty Murray	June 13, 2012
Letter from Dennis Weber, Mayor of City of Longview	June 18, 2012
Letter from San Juan Co., Washington, County Council	June 26, 2012
Letter from Virgil Clarkson, Mayor, City of Lacey	June 28, 2012
Letter from Mike Koopal, Executive Director, Whitefish Lake Institute	July 5, 2012
Letter from Jerry Masters, Chair, Northwest Straits Commission	July 11, 2012
Vancouver, Washington, Mayor and City Council Resolution No. M-3778	July 16, 2012
Letter from Sean Guard, Mayor, City of Washougal	July 17, 2012
Letter from U.S. Senator Jeff Merkley	July 18, 2012
Bellingham, Washington, Mayor and City Council Resolution No. 2012-22	July 27, 2012
Letter from Gretchen Rupp, P.E., Chair, Gallatin County Board of Health	August 7, 2012
Thurston Co., Washington, County Commissioners Resolution No. 14779	August 7, 2012
Metro Council Resolution No. 12-436A	September 2012
Portland, Oregon, Resolution No. 36959	September 19, 2012
Affiliated Tribes of Northwest Indians Resolution No. 12-53	September 24-27, 2012
Milwaukie, Oregon, Mayor and City Council Resolution No. 55-2012	October 16, 2012

Eugene, Oregon, City Council Resolution No. 5065	October 24, 2012
Letter from Mosier, Oregon, Mayor and City Council	Undated
Letter from Katherine Hague-Hausrath, City Commissioner, Helena, Montana	Undated
Position Statement from Concerned Oregon Physicians	Undated
National Marine Fisheries Service Scoping Letter Comments on the Gateway Pacific Terminal/Custer Spur Environmental Impact Statement	January 2, 2013
Washington State Dep't of Ecology Tongue River Railroad EIS Scoping Comments	January 3, 2013
National Park Service, Gateway Pacific Terminal Scoping Comments	January 15, 2013
Letter from Suzan Delbene, Member of Congress, Congress of the United States House of Representatives	January 16, 2013
U.S. Department of Housing and Urban Development, EIS Scoping Comments for Proposed Cherry Point Terminal	January 17, 2013
U.S. Environmental Protection Agency Scoping Comments on Gateway Pacific Terminal	January 22, 2013
Letter from Sen. Tester to The Honorable Daniel R. Elliott, III <i>et al.</i>	March 14, 2013
Letter from Govs. Kitzhaber and Inslee to The Honorable Nancy Sutley	March 25, 2013