



# Update on Marine Terminal Projects: What their decisions mean for other Port Projects

WPPA Fall Environmental Seminar

September 27, 2018



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# Introduction

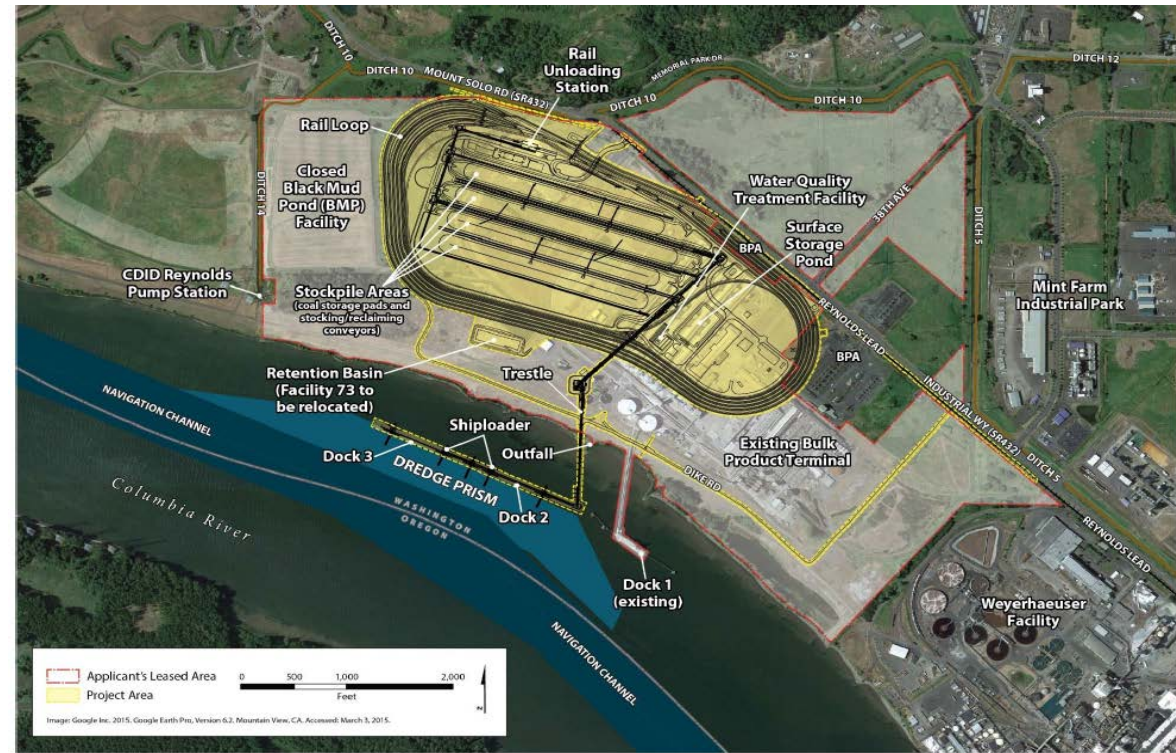
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- (Brief) Overview of Projects and Permit Status
  - Millennium Coal Export Facility
  - Vancouver Energy Crude Oil Terminal
  - Kalama Natural Gas Methanol Manufacturing and Export Facility
  - Port of Grays Harbor – Contanda (Westway) & REG (Imperium)
- “Lessons Learned” and Lingerin Ramifications

# Millennium Bulk Terminals

## Key Approvals Needed

- Corps Individual 404 / Section 10 Permit
- Ecology 401 Water Quality Certification
- DNR consent for use under existing Aquatic Lands Lease
- Cowlitz County Shoreline Substantial Development and Shoreline Conditional Use Permit
- NEPA / SEPA Review



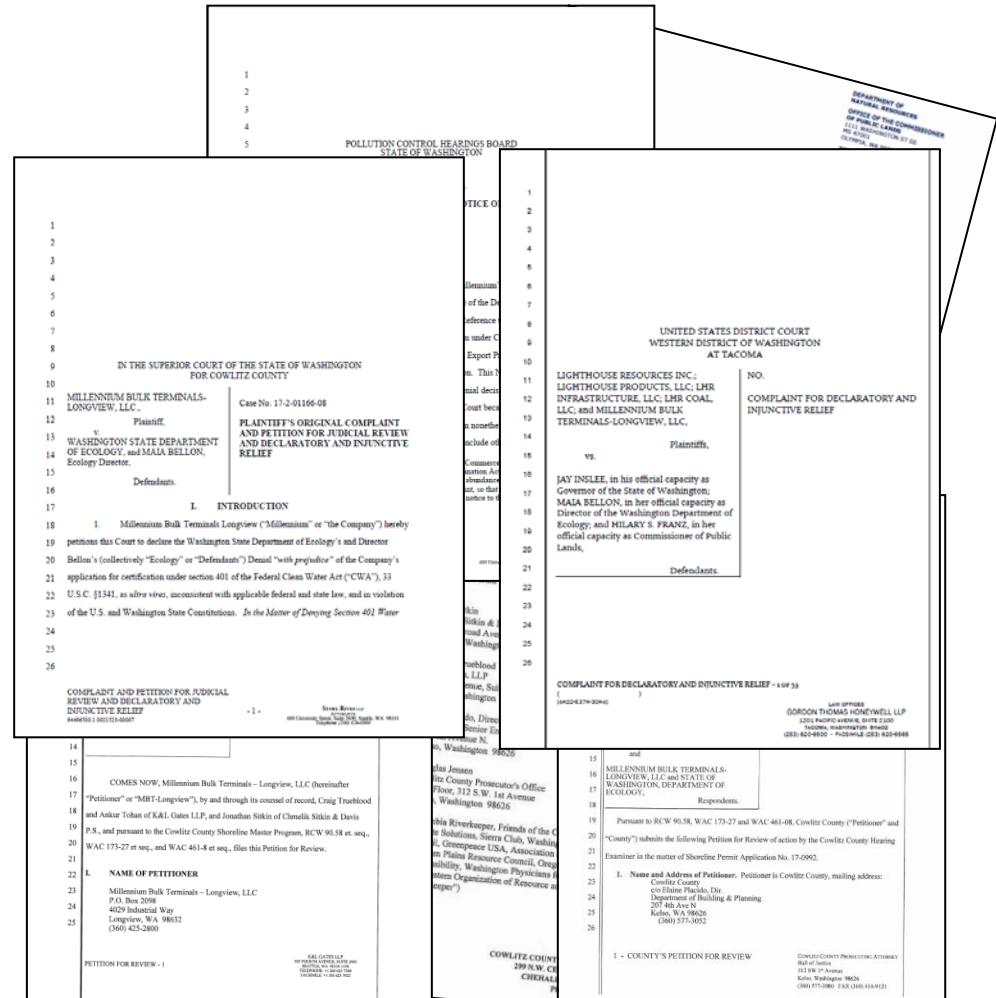
# Millennium Bulk Terminals

## Permit Decisions

- 401 Water Quality Certification
  - Denied by Ecology exercising substantive SEPA policies on issues generally unrelated to water quality
- Aquatic Lands Lease
  - Denied by DNR
- Shoreline Permits
  - Denied by County Hearing Examiner

## Appeals

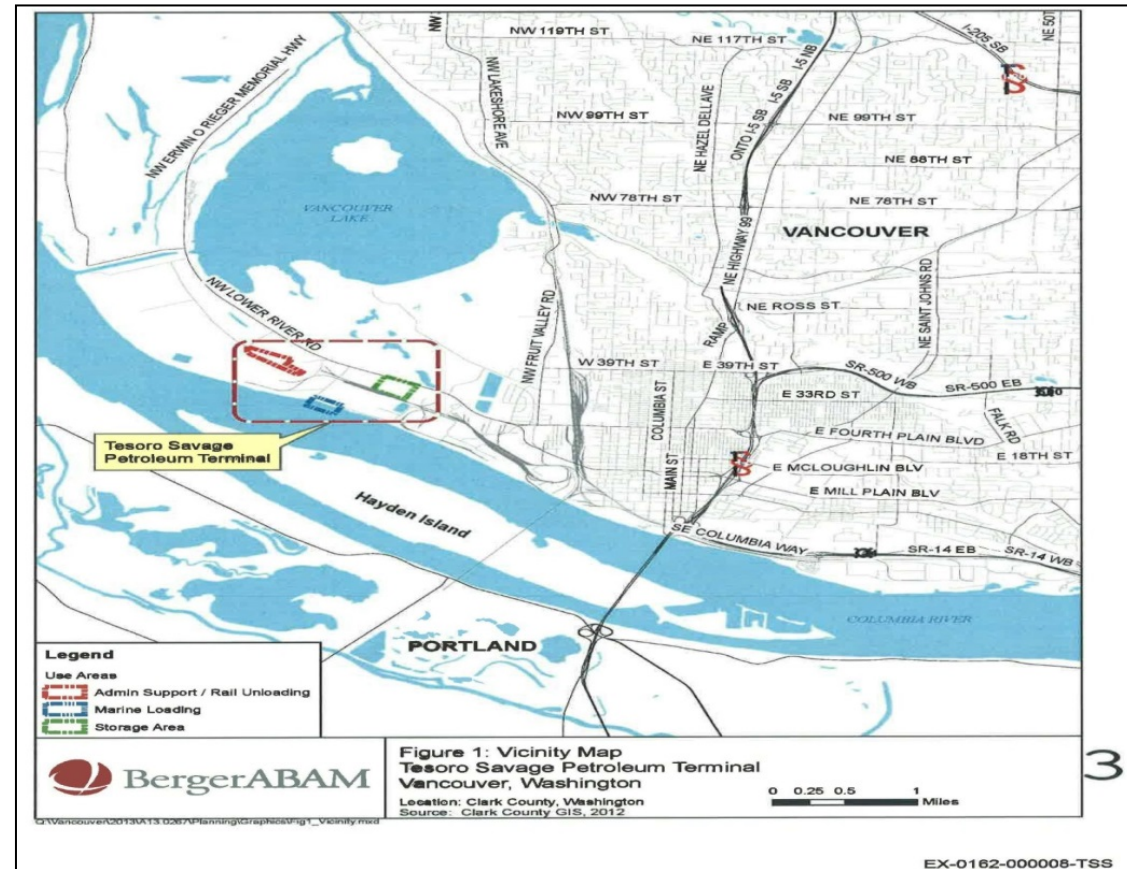
- PCHB Appeal of 401
- SHB Appeal of Shoreline Permit Denial by Applicant and County
- Superior Court Challenge of 401
- Federal lawsuit against State



# Vancouver Energy

## ■ Key Approvals Needed

- Corps Individual 404 / Section 10 Permit
  - Corps switched from NWP 3 to IP
- EFSEC Site Certification, Air and NPDES Permits
- NEPA / SEPA Review



# Vancouver Energy

## ■ Status

- EFSEC Recommended Denial
- Governor Accepted EFSEC Recommendation

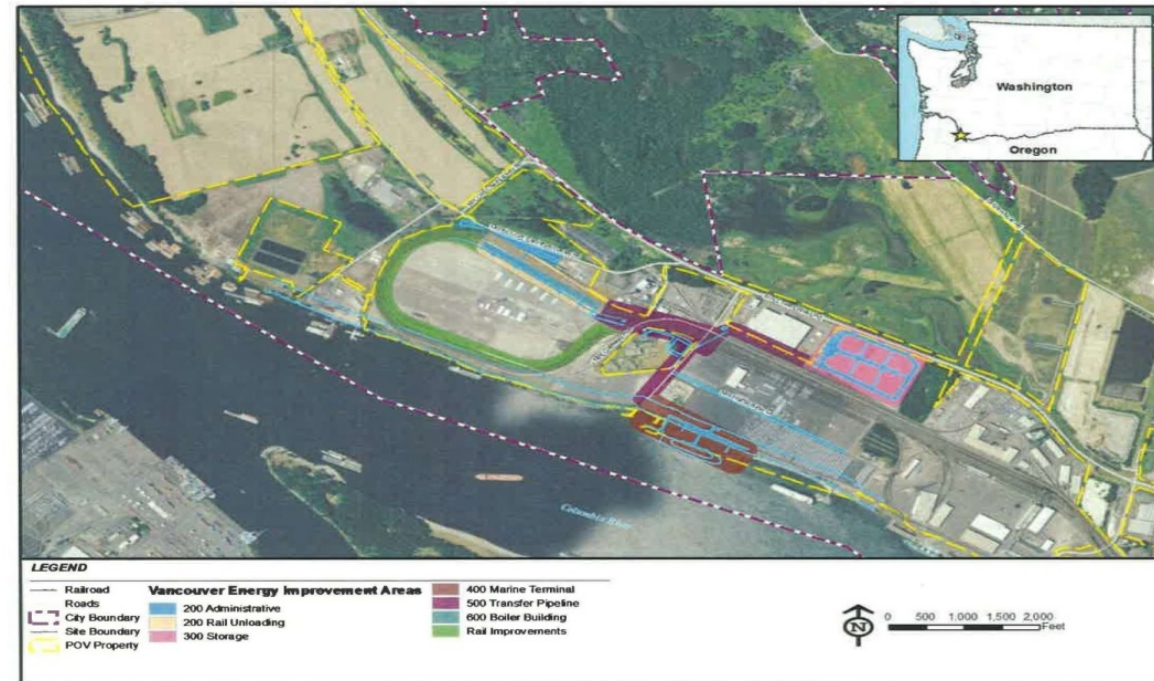
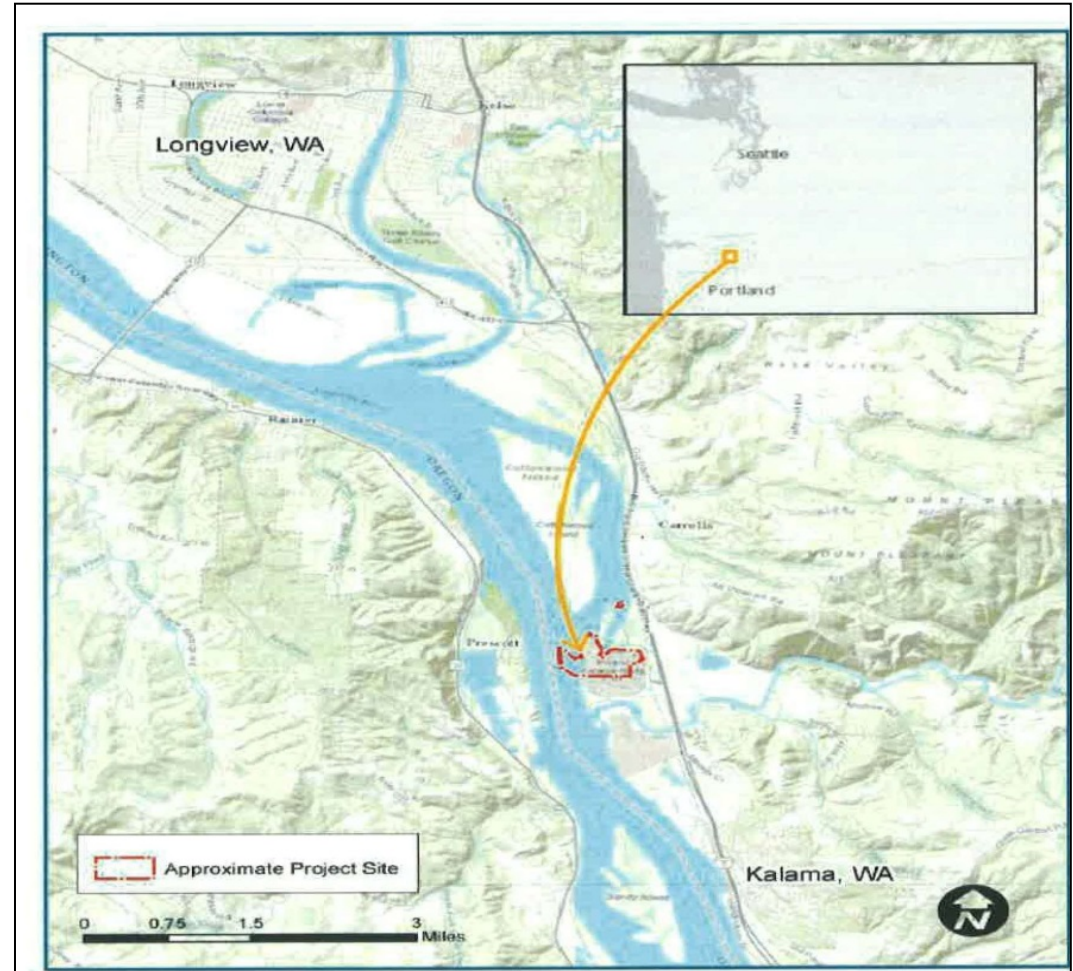


Figure 2.1-1. General Vicinity Map (Revised)

# Kalama Manufacturing & Marine Export Facility

## ■ Key Approvals

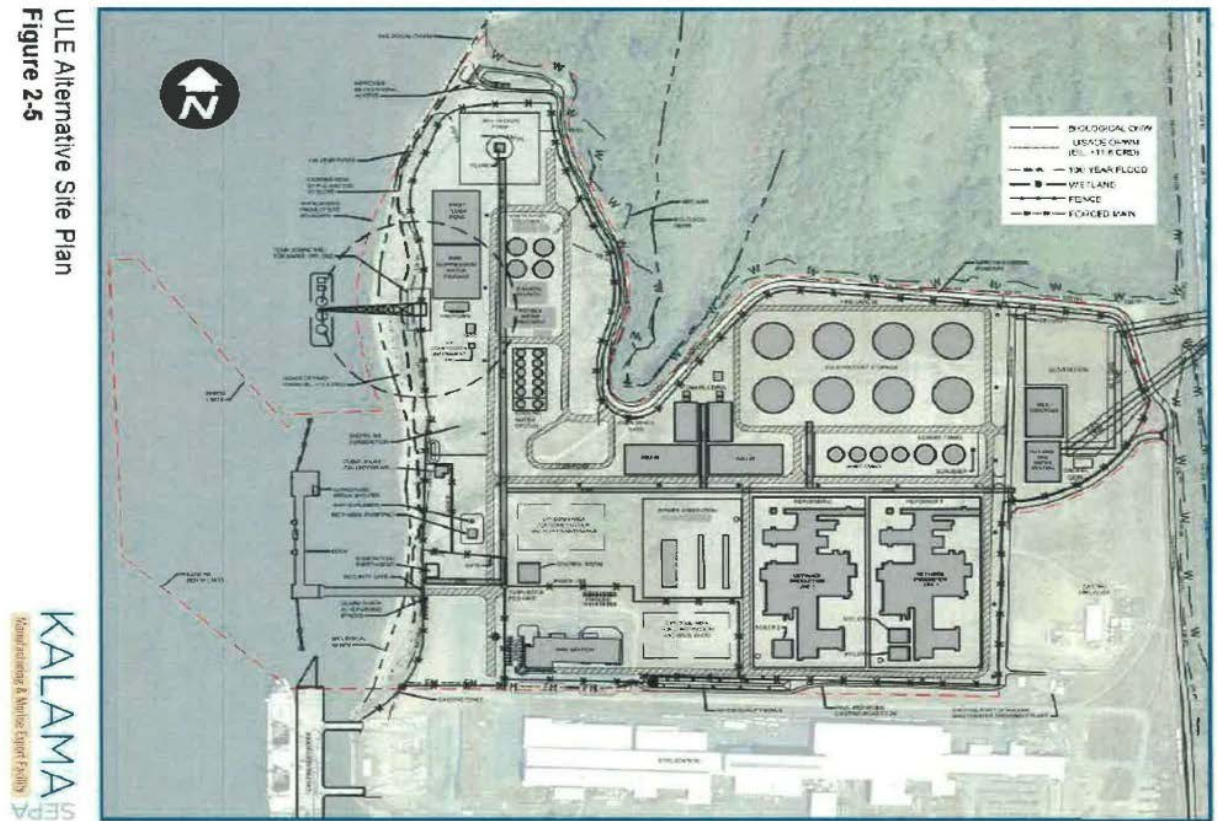
- Corps Individual 404 / Section 10 Permit
- Ecology 401 Water Quality Certification
- DFW - HPA
- SWCAA – Air Permit
- Cowlitz County Shoreline Substantial Development and Shoreline Conditional Use Permit
- NEPA / SEPA Review



# Kalama Manufacturing & Marine Export Facility

## ■ Status

- Ecology issued 401 Water Quality Certification – no appeal
- SWCAA issued Air Permit – no appeal
- DFW issued HPA – no appeal
- NMFS issued BiOp and Incidental Take Statement
- FERC issued EA and Certificate to NW Pipeline
- Corps EA and Permits pending
- County Issued Shoreline Permits – Board reversed and remanded – on Appeal to Superior court





# Contanda & REG

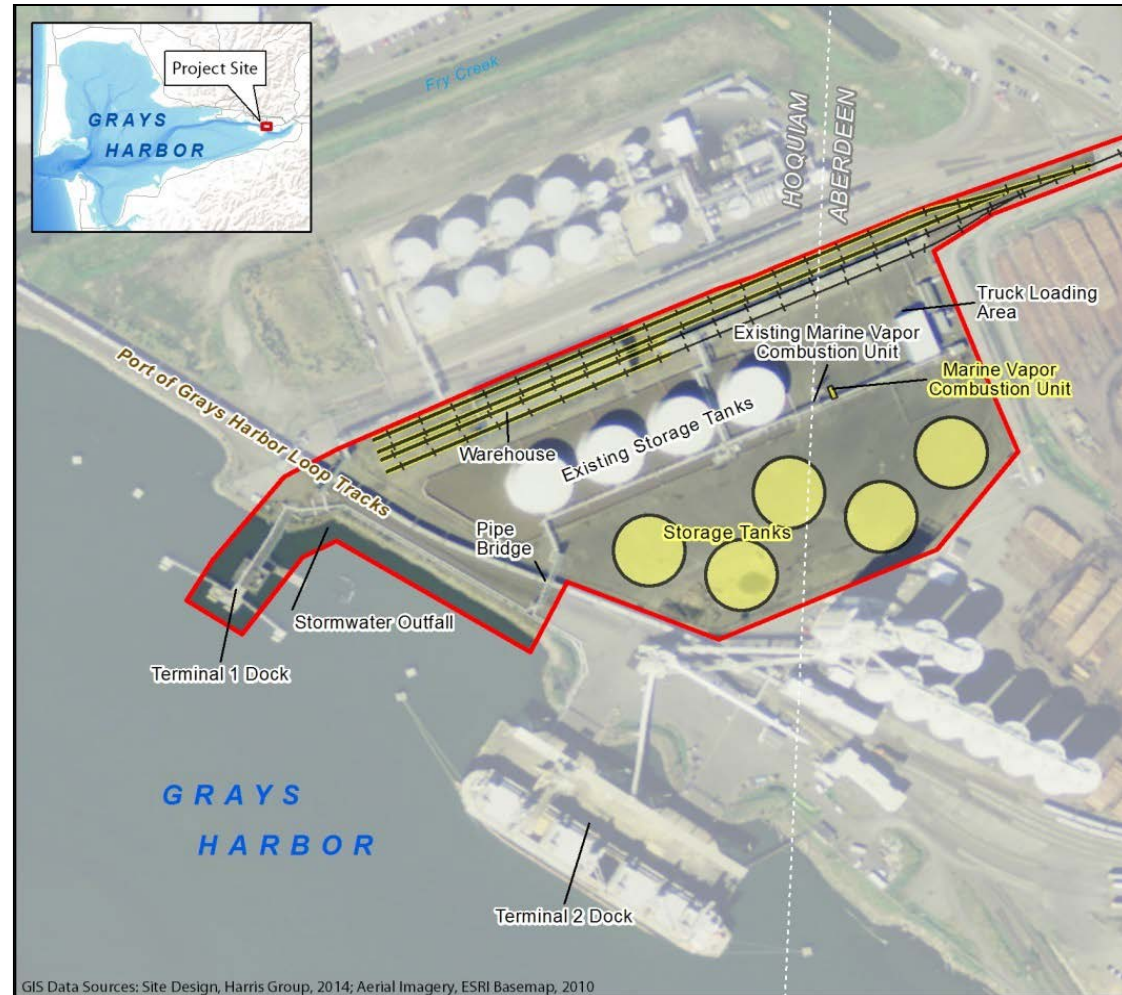
- Key Approvals Needed
  - Shoreline Permit
  - City Conditional Use Permit
  - Notice of Construction (Air permit)
  - SEPA Review



# Contanda & REG

## ■ Status:

- Shoreline Permits Reversed on Appeal
- Applicants Prepare EISs
- Supreme Court confirms ORMA Applies to Projects
- Applicants revise proposals



# Issues Raised

- Is Washington State closed for fossil fuel projects?
- Are these reviews / decisions unique to fossil fuel projects?
- Will these decisions cause unintended (or intended) consequences for future non-fossil fuel developments?



# Issues Raised

- Questions about SEPA Process:
  - Should broad SEPA policies be sufficient to deny a project on an approval with limited scope (like 401)?
  - How does SEPA deal with low probability, high consequence events?
  - How do you define “reasonably foreseeable” projects that must be reviewed as part of cumulative impacts analysis?

# Issues Raised

- Potential issues that are not commodity-specific:
  - Rail Transportation Impacts
    - Rail capacity
    - Diesel particulate and cancer risk
    - Gate downtimes and vehicular delay
    - Noise and vibration
    - Environmental justice
  - Marine Transportation Impacts
    - Wake stranding
    - Vessel collisions

# Issues Raised

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- Greenhouse gas impact analysis:
  - What is the proper scope for GHG analysis (when there is no guidance)?
  - What is a “probable significant adverse impact” when considering a global issue like climate change/GHG emissions?
  - How do you evaluate mitigation?

# Issues Raised

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- Ocean Resources Management Act:
  - What is the geographic reach of the statute?
  - To what projects does the statute apply?
  - How will projects be evaluated for consistency with the ORMA criteria?



# Issues Raised

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## ■ EFSEC

- Is this still the forum intended to expedite reviews and remove politics from decision making?
- Can EFSEC process be reformed to remove duplicative SEPA review and adjudication process?
- Does compliance with EFSEC's Substantive Standards in 463-62 WAC for seismicity, noise, fish and wildlife, wetlands, water quality and air quality mean anything in light of RCW 80.50.010 "balancing" provisions?



# Issues Raised

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- U.S. Army Corps of Engineers
  - Will the Corps require individual permits for future minor dock upgrades?
  - Tribal Consultation – what constitutes “more than *de minimis*” impact on tribal treaty rights?

## Issues Raised

- How will the next non-fossil fuel project be treated by agencies, environmental groups, the public and the Courts?





WA Dept of Ecology 

@EcologyWA

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Environmental review now complete for largest proposed coal export terminal in North America.

[#MillenniumCoal](#)

[ecy.wa.gov/news/2017/039....](http://ecy.wa.gov/news/2017/039....)

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9:10 AM - 28 Apr 2017

Existing Coal  
Terminal  
in Virginia  
is same size

# SEPA FEIS Published



# Tweet on Ships



**WA Dept of Ecology** ✓

@EcologyWA

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The project would add 1,680 more ships to the Columbia River annually.

[#MillenniumCoal](#)

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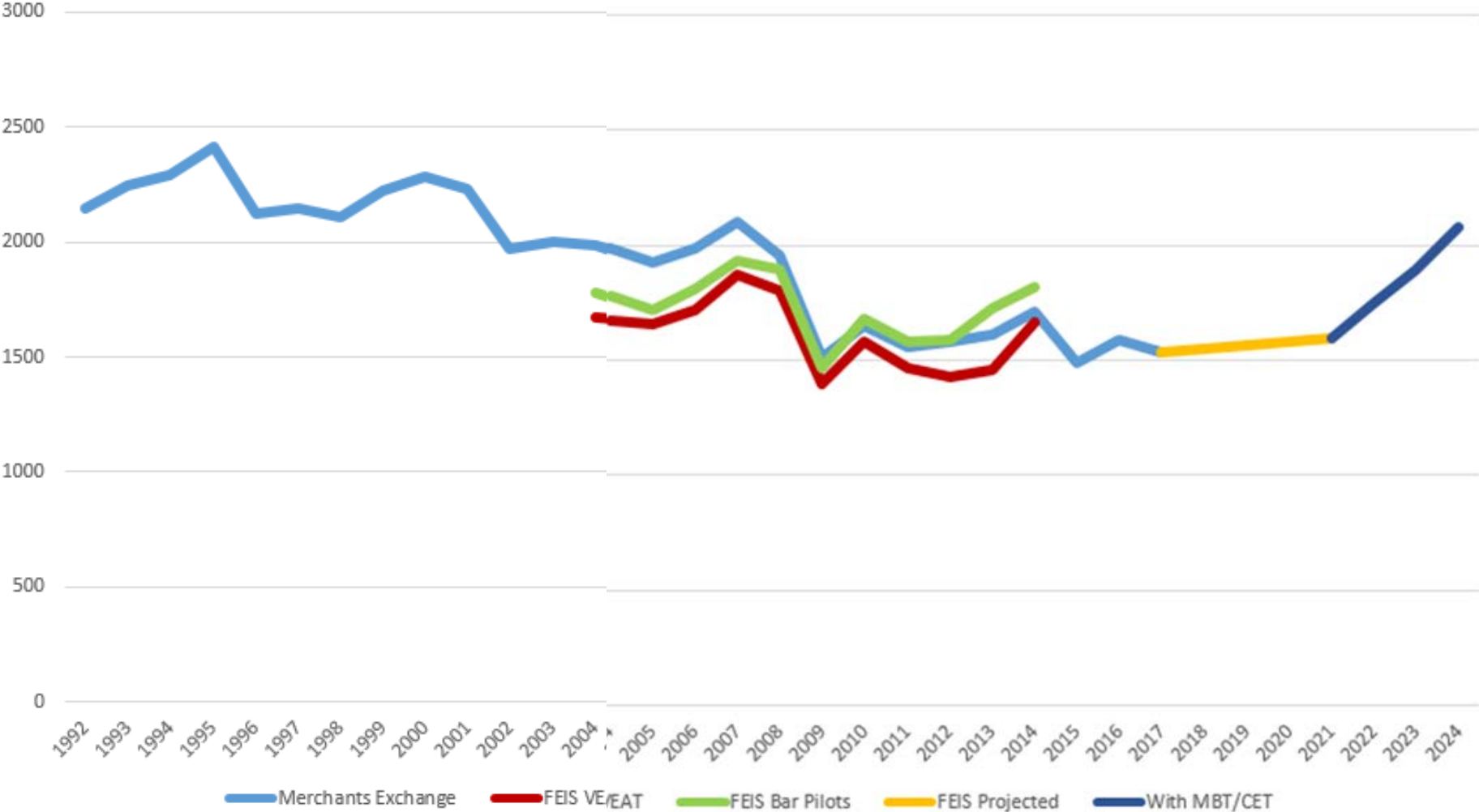
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9:30 AM - 28 Apr 2017

# Columbia River Ship Calls



Source: Merchants Exchange of Portland Oregon & SEPA FEIS



Ecology's risk assessment is based on locomotive engines from 8 trains running:

- 24 hours per day,
- 7 days per week,
- 70 years.

The work underlying Ecology's conclusion is still not available publicly to assess how the agencies could have reached a conclusion so **different from WSDOT's 2010 study** of trains and environmental health hazards.



**WA Dept of Ecology** ✓

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Key finding: Trains to increase diesel emissions & increase cancer risk rates in nearby Highlands neighborhood.

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9:23 AM - 28 Apr 2017



**To:** Smith, Jaime (GOV)[jaime.smith@gov.wa.gov]  
**Cc:** Postman, David (GOV)[David.Postman@gov.wa.gov]; Phillips, Keith (GOV)[Keith.Phillips@gov.wa.gov]; Duff, Robert (GOV)[robert.duff@gov.wa.gov]; Tara Lee (GOV) (tara.lee@gov.wa.gov)[tara.lee@gov.wa.gov]  
**From:** Peck, Sandi (ECY)  
**Sent:** Fri 4/28/2017 6:56:04 PM  
**Importance:** Normal  
**Subject:** Early stories are out: Millennium announcement  
**Received:** Fri 4/28/2017 6:56:00 PM

Hi.

Our media (and social media) strategy worked brilliantly. Here's what we have so far:

■ ■ ■

**OREGON PUBLIC RADIO**

## Cancer, Congestion, Pollution Among The Outcomes Of Longview Coal Export Project: Study

by **Cassandra Profita** Follow OPB/EarthFix | April 28, 2017 11:10 a.m.