



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

May 3, 2012

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Re: Yakama Nation Comments NWP-2012-56 Coyote Island Terminal Coal Facility

Dear Sirs:

I am the Chairman of the Tribal Council for the Confederated Tribes and Bands of the Yakama Nation ("Yakama Nation" or "Nation"). The Nation is a federally recognized sovereign Indian tribe. The Yakama Nation reserved several rights under a treaty it signed with the Federal Government of the United States of America ("Treaty of 1855"), ratified by the United States Congress in 1859 (12 Stat. 951). Among various rights the Yakamas reserved to themselves and their progeny is the right to take fish in all usual and accustomed places, including the Columbia River. The Yakamas also secured the right to exclusive use and enjoyment of their Reservation. Implied within this right is the right to live free from environmental damages caused by nuisances, even those nuisances originating or transpiring outside the boundaries of the Yakamas' Reservation, such as the transportation of coal through the Nation's ancestral lands. The Coyote Island Terminal, and the regional plan of which it is unquestionably a part, implicates these rights and compels our Nation to submit this letter on behalf of our people, our ancestors who came before us, and those who've yet to come and have no voice to advocate for their rights.

This letter serves two purposes. First it is Yakama Nation's initial comments regarding the proposal for the Coyote Island Terminal, which is the first swell in the proposed regional tidal wave of coal transportation and exportation. Beyond the Coyote Island Terminal proposal we note that there are at least four additional coal export facilities planned for construction in Washington and Oregon. Therefore, through these comments we establish the basis for your agency to require a regional Programmatic Environmental Impact Statement ("PEIS") pursuant to the National Environmental Policy Act ("NEPA"). And we formally request a PEIS in this instance. A process to develop a PEIS would dispense with a piecemeal approach to review of



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the regional plan the Coyote Island Terminal represents in favor of comprehensive and honest analyses. We find that a PEIS in this instance is a baseline for any valid analysis of the environmental and cultural impacts the proposed regional inundation of coal will have on the Yakama People, on all the residents of the northwestern states of our country, and the environment we all hold in trust for the benefit of generations to come.

With this prologue in mind, you'll find some of the apparent negative impacts associated with the Coyote Island Terminal application and the five other proposed coal export facilities in Washington and Oregon detailed in these comments. As we set forth below, the Coyote Island Terminal and its inextricable role in the regional plan to fashion the northwest into a coal transport and export hub will have lasting, detrimental impacts on the region's fisheries, its air quality, global climate change, and the Yakama Nation's cultural resources. And finally, both the letter and the spirit of the law require a PEIS to analyze these serious regional impacts, and mitigate those impacts.¹

INTRODUCTION

Since we saw the first waves of outsiders settling here more than 150 years ago, their corporate enterprises and governments, their governmental policies, and the people that execute those policies have systematically ravaged the Yakama People's ancestral lands, waters, and air. They tell us these destructive plans are part of the march of progress. But their plans for progress have left a wake of destruction that has nearly eradicated our indigenous culture — a culture that teaches reverence for the environment and seeks to live in harmony with the world around it rather than exploit our resources as a parasite would see its host. These devastating waves have not only laid waste to our environment, they've swept away the resources upon which the Yakama People have relied for millennia. The next wave of so-called progress threatening my people is the coordinated plan to incrementally but totally transform our ancestral lands and the entire northwestern U.S. into a hub for the global exportation of coal.

As a specific historic example, we note the silence of Celilo Falls. This silence is a constant reminder of the destructive pattern the waves of progress sweeping through this region inflicted on the Columbia River Gorge ("CRG") and its native people. Fifty-five years ago, we watched as the closing of the floodgates at The Dalles Dam not only silenced Celilo Falls indefinitely, but also destroyed an area sacred to the Yakama People. Put simply, the eradication of Celilo Falls destroyed our Tribes' heartland. While the deliberate destruction of Celilo Falls and its surrounding villages provides an enduring symbol of the onslaught my people have suffered in the name of progress, Columbia River dams, like the Dalles Dam, had the immediate and

¹ By requesting a PEIS, the Yakama Nation in no way waives its right to oppose the Coyote Island Terminal and any of the other plans to increase coal through the Yakama Nation's ancestral lands. In fact, the Yakama Nation categorically opposes the Coyote Island Terminal and would prefer the government prevent further degradation of the Columbia River and the Gorge region through which it runs.



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ongoing real-world effect of significantly eroding the Yakamas' right to take fish from the Columbia River and its tributaries. These consequences have rippled beyond the Columbia River, leaving the Nation deprived of its lifeblood; it's been forced to watch its culture slowly pass from existence as our youth now lack the opportunities to carry our customs and traditions forward. In sum, the Nation has been devastated by the waves of progress outsiders told us we must embrace.

Now we're told that what's best for us and our way of life is to embrace a staggering increase of coal transportation through the Yakamas' ancestral lands along the Columbia River. Like the dams of yesterday, the present plans to transform our region into a coal hub are championed as an essential element for progress. But the definition of "progress" cannot be limited to pecuniary progress without regard for the long-term damages those financial pursuits will cause. We must all do our part to ensure that real progress is made during our limited time on this earth, both economic and in many other more meaningful regards. For example, we have a duty to protect the environment not only because the law compels us to; we must protect our lands, our waters, and our air because our children and generations to follow will rely on them for sustenance, health, and security. We ask only that you do your duty and work with us to ensure that the waves we see on the horizon do not catch us unprepared and do not perpetuate the pattern of destruction the indigenous stewards of this region have endured for more than a century.

A. The Scope And Bases For The Yakama Nation's PEIS Request

A PEIS is a comprehensive review of a series of projects with impacts that are significantly interrelated; either programmatically, geographically, or environmentally. NEPA requires agencies to use this comprehensive method to review independent actions that have "cumulative" or "similar" impacts on an interrelated environment.² We urge your agency to carefully review federal environmental laws and what they have to say; not only regarding cumulative impacts, but also what the law mandates regarding the comprehensive analyses required for regional, multifaceted plans of development involving several projects — projects proponents may seek to have reviewed piecemeal for obvious, and I would argue short-sighted reasons. Particularly instructive is the language our nation's Supreme Court handed down three and a half decades ago in *Kleppe v. Sierra Club*.³ While the Supreme Court ultimately decided in that case that the record before it at that point did not warrant a PEIS, it did agree that a PEIS would be necessary when several coal-related proposals will have significant impacts on a given region:

“ . . . when several proposals for coal-related actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.”⁴

² See 40 C.F.R § 1508.25.

³ 427 U.S. 390 (1976)(internal citations and quotations omitted).

⁴ *Id.* at 410.



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The Supreme Court relied on two basic conclusions to find that no PEIS was required in the *Kleppe* case, neither of which are applicable here. First, the Supreme Court concluded that the various projects at issue in *Kleppe* were not part of a “proposal for regionwide action.”⁵ But here, the Port of Morrow Application (“Application”) is part of a larger “regionwide” plan for to transport coal through, and export coal from Oregon and Washington’s lands and waterways. Second, the Supreme Court upheld the agency’s determination in *Kleppe* that the coal plans for the region at issue there were not sufficiently “programmatically, geographically, and environmentally related” to require a PEIS because it found the agency’s determination was not arbitrary. In other words, the Supreme Court decided that the analysis of programmatic, geographic, and environmental interrelation “is a task assigned to the special competency of the appropriate agencies.” And when the record in that case reflected a reasoned and competent approach by the agency, the Supreme Court would not to disturb the agency’s expertly guided decision because that decision was not based on random or unreasoned whim. This second basis for the Supreme Court’s decision in the *Kleppe* case — the deference the courts give to an agency’s expertly guided and reasoned analysis — is especially critical here as your agency reviews this specific application and contemplates our request for a PEIS. As the *Kleppe* decision makes clear, your agency’s judgment is given deference. But with that deference comes grave responsibility. As a lead federal agency, the U.S. Army Corps of Engineers (“Corps”) is charged with utilizing its “special competency” to make an informed determination on whether the Application here is part of a regional plan that is sufficiently programmatically, geographically, and environmentally interrelated to warrant a PEIS. Even on the limited facts available to our staff, which have the various special competencies necessary for a complete environmental review, we find that there really is no reasonable debate on the matter of interrelatedness and the absolute necessity for a PEIS. The Port of Morrow is but the first of many planned coal-related projects that form a regional plan regarding coal transportation and exportation.

Presently, your agency is reviewing permits for several coal processing terminals in both Washington and Oregon. These multiple proposals represent an undeniably interrelated plan to turn our region into a hub for coal export. Permitting these proposals to move forward without a comprehensive environmental review through the completion of a PEIS may lead to the foundation of a global coal hub’s infrastructure in our region; this could be a crack in the proverbial dam that will spread and cause a catastrophic flood of additional coal-related development projects, forever transforming this region for the worse. Each current project raises the specter of unique and seriously damaging environmental impacts in and around the areas proposed for development of coal terminals. But when you consider the various projects as a regional plan, the collective adverse environmental impacts come into focus, as explained in detail below. As an illustrative example, the completion of all proposals is estimated to add rail traffic through our region necessary to carry roughly 150 million tons of coal. The PEIS must consider the collective impacts of such a breathtaking increase in train traffic through our lands,

⁵ *Id.* at 414-15.



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among the myriad other significant impacts that will result from the interrelated plans for coal in our region.

The specific scope and prescribed contents of a PEIS should be determined through a full scoping process that includes public hearings around the region, in addition to government-to-government consultation between your agency and the elected officials of the Yakama Nation among other interested and affected indigenous peoples in and around the region. But as a baseline, the PEIS requested should analyze and mitigate impacts our region will sustain from the various projects' proposals to transport coal from the mountainous regions east of us, through Oregon, Washington, and on to Asia. The PEIS should also analyze and mitigate impacts resulting from the construction and operation of the export facilities within this region. And, beyond the region, the PEIS should consider the impacts that we all will suffer from burning the exported coal in Asia. It is critical that this PEIS is completed prior to any individual permit being issued at the local, state, or federal level.

Further, the Yakama Nation expects this PEIS will not be a substitute for project-specific EIS's that should follow the completion of a PEIS analyzing the regional plan's cumulative effects. In other words, the PEIS should supplement future EIS's if the regional plans move forward, and the PEIS should not serve as an excuse to forego future environmental analysis specific to one project or another. Moreover, until the cumulative impacts of all planned coal-related projects in the region have been identified and analyzed, and until the Federal Government consults with the Yakama Nation on a government-to-government level, no agency should make any decisions that would allow the commencement of any coal-related project. In other words, no agency should permit any application to advance this regional coal plan until the PEIS is complete, the specific EIS's are complete, and all interested parties have an opportunity to examine the regional coal plan holistically.

B. Fisheries

As indicated, the Treaty of 1855 reserved to the Nation the right to fish in perpetuity at all usual and accustomed places as they were known at the time of the Treaty signing. Though this right has been significantly diminished through the destruction of Celilo Falls and other "development" in the area, in the legal arena, this powerful right has been affirmed and re-invigorated through extensive litigation beginning with the *U.S. v. Winans* case in 1911 and culminating with *United States v Oregon*, which is still active. Today, the Yakama People continue to exercise their Treaty-reserved fishing rights on the Columbia River and its tributaries within the Nation's Ceded Lands and its usual and accustomed use areas. The site of the proposed action described in the Application is located completely within an area of active commercial gillnet fishing by members of the Yakama Nation.

Members of the Yakama Nation fish for subsistence and their livelihoods on the Columbia River using set gillnets that typically are anchored at one end to the river bank and to an anchored buoy up to 400 feet offshore in an orientation perpendicular to the flow of the river. Adult salmon and steelhead migrating upriver encounter the nets and become entangled in the gillnet webbing.



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Fishers lift the nets 2-3 times per day from small, outboard-powered boats to harvest the fish from the webbing. Because the nets generally are most effective during hours of darkness, fishers typically visit the nets at least once — and often more frequently — during the night when fish are abundant. Several hundred tribal members utilize this method of fishing constantly during the fishing season. In aggregate, they may deploy over 1,000 such nets on the Columbia between Bonneville and McNary dams in the fishery administrative area known as Zone 6. Weekly fishing periods are established by tribal regulation depending on the availability of harvestable fish from mid-May to early October and February 1 to late March.

1. Impacts to Tribal Fishing Sites

The proposed coal export facilities throughout the CRG, including the coal loading dock identified as the Coyote Island Terminal, would have significant direct and indirect detrimental impacts to tribal fisheries in the project area. The construction and operation of the proposed terminal at the Port of Morrow will very likely destroy four tribal gillnet sites that Yakama members currently use to exercise their tribal fishing rights.⁶ These particular threatened fishing sites are high quality and critically important to the tribal members who fish there. Construction of the proposed dock will at least interfere with — and very likely preclude — gillnet fishing at this location. From the Nation's experience with other docks and mooring dolphins, maneuvering barges into and out of the proposed dock will, again, at least interfere with, and perhaps preclude, fishing at sites adjacent to the proposed dock itself. It is important to note that these sites are not held or owned by individual tribal fishermen in the sense of title ownership. Rather, the Treaty-protected sites are held in trust by the Yakama Nation government for use by its enrolled members. The Nation authorizes tribal members to fish at certain sites on the Columbia through a site registration process administered by the Nation's Fisheries Program. Because the fishery is regulated in a site-oriented fashion, fishers authorized to fish at certain locations are not at liberty to simply move their fishing operation to another location on the river. The loss of fishing sites resulting from construction of the proposed dock would have the effect of disenfranchising the fishers authorized to fish at this location and would measurably diminish the number of fishing sites available to members of the Yakama Nation to exercise their Treaty-reserved right to fish at this usual and accustomed place. Put another way, construction of this project may directly violate the Treaty of 1855. Your agency must consider the potential treaty-violating effects of the Application.

2. Safety of Tribal Fisherman

Similarly, increased barge traffic through Zone 6 resulting from this project will impact the safety of tribal fishers exercising their Treaty-reserved fishing rights. Table 3.5 in the Biological Assessment (BA) for this project indicates that project-related barge traffic would nearly double the current volume of barge traffic on the Columbia River. Each additional barge, particularly those in transit during hours of darkness and/or foul weather, represents an increased safety risk

⁶ This is qualified, because there is insufficient information to determine precisely how many fishing sites Ambre's project will destroy.



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to fishers harvesting fish from their nets, operating small boats often times at night and in foul weather. Despite the fact that towboats are required to display lights indicating they are warped to one or more barges, the barges themselves are poorly lit and may obscure the lights of the towboat from the vantage point of a small boat. As tribal fishers may be hampered by foul weather gear, operating at night in otherwise dangerous conditions, and with barge lights obscured or confused by background lighting from Interstate 84 and fixed shore structures, increased barge traffic in the project area will considerably increase the safety risk to tribal fishers. The Application lacks any assessment of this increased hazard to tribal fishers and is thereby deficient. The Corps should not issue a permit without a PEIS addressing this matter comprehensively, and a project-specific EIS that considers safety hazards to tribal fishers.

Coal transportation by rail also poses a potential risk to human health and safety. Currently, there is a real risk of tribal fisherman being harmed or killed by trains traveling through the CRG. This risk would increase significantly with the addition of up to 60 coal trains moving through the Columbia Basin each day. Further, the coal residue that will be accumulating along the rail lines in the CRG poses yet another risk to human health that has not been evaluated in this application. Despite the Applicant's efforts to suppress the production of dust during transport by using surfactants and closed containers, coal will inevitably escape onto the railbed and eventually degrade to dust. Coal dust is a well-documented cause of disease in humans that sometimes results in death. Without adequate identification and analyses of these project-specific and general hazards posed by coal-related projects in the region, the Corps should not permit this Application to move forward.

3. Impacts to Water Quality & Aquatic Species

The BA prepared by Anderson Perry (April 2012) acknowledges that the project would have likely adverse effects on multiple endangered species, though it does not discuss how great those impacts would be or what would be done to mitigate for them. The potential significant increase of inadvertent coal spillage in the Columbia Basin could adversely affect Yakama Nation tribal resources including our tribal fisheries. Toxic effects are both acute and chronic to the Columbia Basins' aquatic food web and culturally important aquatic foods including salmon, sturgeon, and lamprey. Coal is associated with significant environmental problems including acidification of watersheds and metal contamination. Applicant's BA offers alleged assurances that Montana coal is considerably "cleaner" than other kinds but provides no list of contaminants present in the coal to be transported. Moreover, the chemical composition and biological effects of the surfactant sprayed on coal to reduce dust are not disclosed. The lack of this key information precludes a full analysis of potential biological impacts to water quality and associated aquatic biota in the likely event that coal enters the waters of the Columbia Basin. It is likely that this project will result in the contamination of the Columbia River as chunks of coal and coal dust inadvertently fall or spill into the waters of the Columbia Basin from trains traveling through the CRG. In fact, Burlington Northern Santa Fe has stated that up to 500 lbs. of coal per car is lost during rail transportation. Coal would also likely spill into the Columbia Basin during overwater barge loading, barge accidents, or train derailment. All of these types of accidents have been documented at least once and in some cases multiple times in the CRG within the past two



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decades. The probability of future accidents and associated likely effects will significantly increase if this Application is approved, and they should be evaluated separately in a PEIS and for each project-specific review.

4. *Impacts to Habitat*

Along with the toxic properties of coal there are habitat threats associated with the construction of new coal facilities. Construction of the coal-loading facilities will impact habitat for species listed under the Endangered Species Act ("ESA") and will create possible habitat for native and nonnative predators. Destruction of habitat and negative impacts to ESA-listed species must be evaluated and fully considered. While the BA for this project describes in detail the range and nature of potential project impacts to Critical Habitat for ESA-listed species, it also acknowledges that it does not attempt to quantify the biological effects of such impacts on listed species. Absent specific quantitative assessments of project impacts, it is unclear how NMFS can issue a legally sufficient Biological Opinion that includes conservation measures and alternatives to mitigate project impacts. Without a viable BiOp, the Corps should not permit this Application.

In the single instance where quantitative data on biological effects are provided, the BA describes the potential for increased stranding of juvenile salmonids washed ashore in the wake of passing ocean-going vessels that would be associated with the proposed project. Unfortunately, neither the BA nor the cited original paper from which the data are drawn provide enough information to assess the cumulative effects of numerous such strandings over a broad geographic area. But the information given suggests that the effects could be significant and uniformly negative. The magnitude of this impact to listed salmonids and other aquatic resources critically important to the Yakama Nation should be analyzed before any BiOp or permit is issued for the project.

The Corps should consider whether and how this project is compatible with the ongoing regional effort to restore the Columbia Basin for fish and wildlife resources. Despite the BA's assertion of negligible or no project impacts to ESA-listed and other aquatic resources, the project represents an incremental, uniformly negative environmental stressor on an aquatic ecosystem that is already overstressed by existing human development. Allowing this project to move forward would fly in the face of the enormous regional investment in the recovery of our precious natural resources, especially the investment we've made in the salmon and steelhead that are iconic to the Pacific Northwest.

C. Air Quality

The Yakama Nation, federal agencies, and others have worked extensively over the past decade to identify, analyze, and address air quality concerns in the CRG. Through research and monitoring we have found the CRG to have some of the highest levels of air pollution and acid



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rain in the Northwest.⁷ Local coal-fired plants and China's massive coal burning industry have been identified as major sources of this harmful pollution in the CRG.⁸

Toxic pollutants like mercury from burning coal, and other fossil fuels from the diesel-powered locomotives and marine vessels within the CRG, continue to impact the Yakama People and their cultural, historic, and Treaty-reserved resources. Not only is this harmful pollution damaging our sacred and irreplaceable pictographs and petroglyphs, it continues to impact and threaten our People and the resources that we depend on as these contaminants move through the air, water, and soil.⁹

Though not occurring soon enough, the planned closures of the last two remaining coal-fired plants in Oregon and Washington — PGE Boardman and TransAlta — are enormous victories for the region and demonstrates the region's commitment to protecting human health and the environment. Given that we as a region rejected coal-fired plants, we must ask why then would we now allow and facilitate the export of up to 160 million tons of coal to be burned in China each year, only to have its harmful contaminants migrate back to pollute our region? The weekly increase of an additional 11 trains, 12 loaded barge tows from Port of Morrow to Port of Westward, and 3 Panamax ships moving through the Columbia River Basin to Asia from the proposed Coyote Islands Terminal alone, will greatly aggravate the detrimental air emissions and toxic pollutants in the CRG. The cumulative impacts from all 6 proposed coal export terminals would be catastrophic. Given the significant impacts that air pollutants from burning fossil fuels has on our People, cultural heritage and Treaty-reserved resources, it is imperative that the PEIS and project-specific EIS's quantify and analyze the effects of air emissions and associated acid deposition from the transport and burning of coal caused by the Coyote Island Terminal proposal and all others being considered in Oregon and Washington. Additionally, the Yakama Nation expects that transient coal dust from the transport and storage of coal at the transloading facilities will be quantified and its effects on human health and the environment will be fully analyzed.

D. Climate Change

Given all that we know about climate change – its causes and consequences – it is unconscionable to think that we as a country would accept building new infrastructure to export and facilitate the burning of up to 160 million tons of coal each year through ports in Washington and Oregon. This massive proposal is in direct conflict with the federal government's policies

⁷ R. S. Sletten, "The Effects of Air Pollution on Rock Images in the Columbia River Gorge: A Sacred Breath Project of the Yakama Nation" (2011).

⁸ See, Jaffee, D. A. & Reidmiller, D.R., "Now you see it, now you don't: Impact of temporary closures of a coal-fired power plant on air quality in the Columbia River Gorge National Scenic Area." *Atmos. Chem. Phys.* 9, 7997-8005 (2009); Jaffee, D.A. & Strode S., "Fate and Transport of Atmospheric Mercury from Asia." *Journal of Environmental Chemistry* 5(2), 121-126 (2008).

⁹ R. S. Sletten, *The Effects of Air Pollution on Rock Images in the Columbia River Gorge: A Sacred Breath Project of the Yakama Nation* (2011); U.S. Environmental Protection Agency, *Columbia River Basin: State of the River Report for Toxics* (2009).



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and commitment to reduce greenhouse gas emissions and to address and respond to climate change. Beyond policies, we as humans have a moral obligation to make every effort to stop the causes of climate change — such as burning coal — that has already had very real, profound impacts across the globe and especially upon indigenous people.

Climate change jeopardizes the Yakama Nation's traditional ways of life, especially the climate-change impacts upon water — both the quantity and quality — which, in turn, affects changes in flora and fauna in the region. Warming water temperatures associated with climate change have been shown to increase the levels of toxins in water bodies, thus increasing the amount of toxins that are taken up into fish and affecting human health. Research has shown specifically that the accumulation of methylized mercury in our fish and wildlife is linked to rising water temperatures in the Columbia Basin. This is only one example, among many, showing how climate change negatively impacts our people.

The transport and burning of 8.8 million tons of coal per year, as associated with the Coyote Island Terminal transloading facility alone, would have significant greenhouse gas emissions, thus contributing to and exacerbating climate change. The Yakama Nation expects that greenhouse gas emissions and climate change impacts associated with coal export through the Northwest will be quantified and analyzed, both independent of and in combination with all coal export facilities being proposed in Oregon and Washington. These analyses must consider all emissions from rail and barge shipments from Montana and Wyoming to Asia, operations at port terminals, as well as the burning of this coal in Asia.

E. Cultural Resources

Many known culturally sensitive sites are located along the rail routes and within close proximity to the proposed transloading facilities in both Washington and Oregon for the proposed coal transportation/exportation projects. The Yakama Nation is concerned that rail construction, increased barge traffic, and construction of the proposed transloading facilities will impact known archaeological sites, previously undocumented archaeological sites, and Traditional Cultural Properties.

The proposed Coyote Island Terminal is located within an area of extreme cultural sensitivity to the Yakama Nation. Prior to inundation by the dams, the Blalock Islands (including Coyote Island) were a river crossing and ancestral fishing area. Numerous burial sites, legendary sites, and village locations are known within close proximity to the proposed construction. The Coyote Island Terminal is within ¼ mile to the Coyote Island Burial Site, recorded as archaeological sites 45BN77. Though this site has been inundated by the backwaters of John Day Dam, potential impacts remain through construction, sedimentation changes during construction, construction-related dredging and filling, increased barge traffic over time, reservoir management changes required to accommodate increased shipping, and shipping accidents/spills. Further, many cultural sites similar to the Coyote Island Burial Site exist within close proximity and may be impacted by the proposed project.



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The information provided regarding this Application is not sufficient to allow for examination of cumulative effects and impacts of this project on cultural resources over time. We request further information regarding the proposed life of the project, and information regarding the degree of dredge/fill operations for the construction area as well as dredge/fill of the shipping channel over time. Resources, though currently inundated, remain a high concern. Dredging/filling, will greatly impact cultural resources, fish habitat, ancestral fishing sites, Zone 6 Treaty Fishing Sites, and fishing sites throughout the upper and lower Columbia River in use today. We further request information regarding increased infrastructure requirements for overland transportation of coal to the Coyote Island Terminal; as such expansion will further impact these valued resources.

CONCLUSION

The Corps has a duty to ensure appropriate environmental analysis is completed on this Application before it moves forward in any respect. The Nation has considered both the environmental information and legal standards applicable here, and it is clear that a PEIS is warranted in this situation. We urge the Corps not just to take a "hard look" at this Application and its role in the broader plan for transforming our region into a coal hub. We request that you take your trust responsibility to the Yakama Nation seriously, and consider this Application in light of the decades upon decades of destructive waves that have decimated our culture, our people, and our land, water, and air, all advanced in the name of progress. As part of that trust responsibility, your agency has a duty under NEPA to demand a PEIS and a separate project-specific EIS that includes specific analyses of impacts this Application will have on the Yakama Nation. Additionally, your trust responsibility — in addition to federal regulations, policies, and various Presidential executive orders — requires the Corps to consult with the elected officials of the Yakama Nation on a government-to-government level. Thus, as a next step, please contact the Deputy Director of the Yakama Nation Department of Natural Resources to set up a meeting for the government-to-government consultation.

Sincerely,

Harry Smiskin
Yakama Tribal Council Chairman
Confederated Tribes and Bands of the Yakama Nation



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cc:

Governor Chris Gregoire, Washington State
Governor John Kitzhaber, Oregon State

Secretary Ken Salazar, U.S. Department of the Interior
Secretary Ray LaHood, U.S. Department of Transportation

Senator Patty Murray, U.S. Senate
Senator Ron Wyden, U.S. Senate
Senator Maria Cantwell, U.S. Senate
Senator Jeff Merkley, U.S. Senate

Congressman Norm Dicks, U.S. Congress
Congressman Peter DeFazio, U.S. Congress
Congressman Jim McDermott, U.S. Congress
Congressman Doc Hastings, U.S. Congress
Congressman Kurt Schrader, U.S. Congress
Congressman Adam Smith, U.S. Congress
Congressman Earl Blumenauer, U.S. Congress
Congressman Greg Walden, U.S. Congress
Congressman Rick Larsen, U.S. Congress
Congresswoman Cathy McMorris Rodgers, U.S. Congress
Congressman David Reichert, U.S. Congress
Congresswoman Jaime Herrera Beutler, U.S. Congress
Congresswoman Suzanne Bonamici, U.S. Congress

Lisa Jackson, U.S. Environmental Protection Agency
Dennis McClerran, U.S. Environmental Protection Agency
Steve Gagnon, U.S. Army Corps of Engineers
Samuel Rauch III, National Marine Fisheries Service
Will Stelle, National Marine Fisheries Service
Daniel Ashe, U.S. Fish & Wildlife Service
Robyn Thorson, U.S. Fish & Wildlife Service
Tom Tidwell, U.S. Forest Service
Kent Connaughton, U.S. Forest Service
Daniel Elliot III, Surface Transportation Board
Nancy Sutley, Council on Environmental Quality