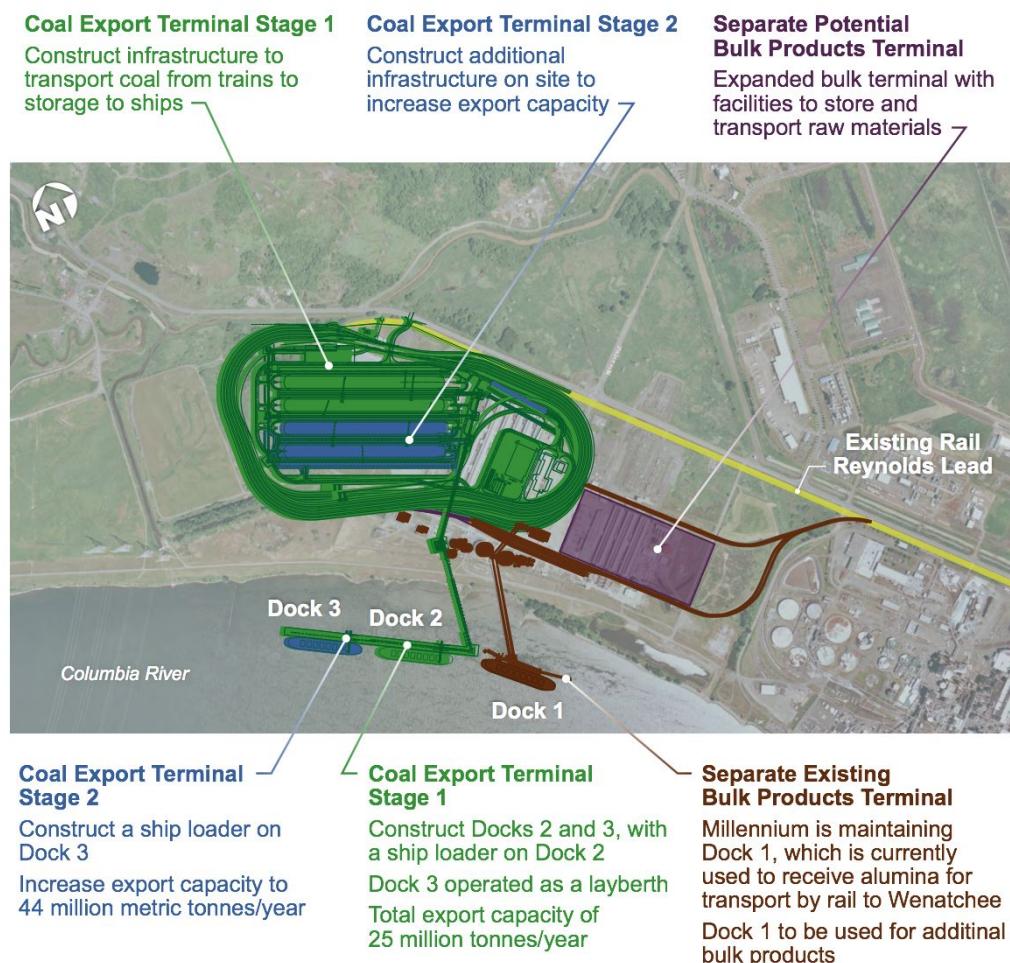


Q & A: Washington Department of Natural Resources' Decision on Millennium Coal Export

Prepared by Columbia Riverkeeper

1. **What did DNR decide?** DNR rejected Millennium's request for a sublease to allow Millennium to build and operate the proposed coal export terminal. Without the sublease, Millennium cannot build new docks necessary to export coal.
2. **What is Millennium's proposal?** Millennium proposes building a 44 million ton per year coal export terminal at the site of a former aluminum smelter near Longview, WA. Millennium leased the upland property from a subsidiary of Alcoa, called NW Alloys. Millennium can't operate a coal export terminal without new docks.



Conceptual Site Rendering

Credit: Millennium Bulk Terminals, http://millenniumbulk.com/wp-content/uploads/2015/05/MBTL_ConceptualSiteRendering.png

3. **Does Washington state own the Columbia River's bed and banks where Millennium wants to build two docks for coal export?** Yes. *The Washington Department of Natural Resources (DNR) manages state-owned land, including the bed and banks of the Columbia, at the proposed location of Millennium's coal export terminal.*
4. **Has DNR leased the aquatic land adjacent to the proposed Millennium coal export terminal to any companies?** Yes. *DNR leased the aquatic land to NW Alloys. Under the lease, NW Alloys can sublease the land to another company, but a sublease is not valid until DNR consents to the sublease. The DNR-NW Alloys lease includes criteria that DNR may consider before consenting to a sublease, including the proposed sublessee's financial condition and business reputation, the nature of the business, and any other factors that bear on the suitability of a proposed company as a tenant of state-owned land.*
5. **Does Millennium have any agreement with DNR authorizing the company to build new docks for coal export?** No. *There are no legal contracts, including leases or subleases, between DNR and Millennium. Since 2011, Columbia Riverkeeper and the Power Past Coal coalition have filed public records requests with DNR seeking all records and communications related to Millennium and NW Alloys. These records reveal a six-year effort by Millennium to obtain DNR's consent to a sublease and lease amendments to facilitate coal export. On January 3, 2017, Commissioner Goldmark issued a press release stating the Commissioner "will reject a proposal from Millennium Bulk Terminals to sublease state-owned aquatic lands on the Columbia River west of Longview."¹ On January 5, 2017, DNR sent an official letter denying consent to Millennium's sublease.*
6. **What reasons did DNR give for its denial?** *DNR highlighted the financial failings of Millennium and its backers, including recent bankruptcy proceedings; the prior tenant's default on its sublease (leaving behind a costly clean-up); and Millennium's prior attempt to mislead state and local agencies by misrepresenting the true size of its project.*
7. **Millennium says DNR's decision will have "no effect on the project moving forward."² Is this true?** No. *Millennium does not have the right to operate a coal export terminal and build two coal docks without DNR's approval. First, DNR has the right to approve or deny Millennium as a sublessee. See NW Alloys-DNR Lease at Section 9. DNR denied this approval. Second, the DNR-NW Alloys Lease requires DNR's approval before building new docks and dredging the Columbia River. See NW Alloys-DNR Lease at Section 7. DNR has not granted any approvals to build the new coal docks and dredge the Columbia River.*
8. **Millennium claims a 2013 letter from DNR gives it the right to operate a coal export terminal. Is Millennium accurately portraying the effect of DNR's letter?** No. *The AP reports: "The 2013 letter cited by [Millennium CEO Bill] Chapman did note that Millennium had worked*

¹ <http://www.dnr.wa.gov/news/dnr-expands-puget-sound-columbia-river-protection>

² <http://www.columbiabasinherald.com/article/20170103/AP/301039753>

to clean up environmental damage caused by a previous tenant, and said it could continue to operate pursuant to the existing lease with Northwest Alloys. However, the letter also explicitly said Millennium ‘does not have rights of tenancy’ to the aquatic lands absent a sublease approved by the state.”³ DNR has exchanged a series of letters with NW Alloys attorneys since 2013 relating to the Millennium sublease consent issue. On June 24, 2016, DNR sent NW Alloys a detailed letter requesting information on Millennium’s financial condition to inform the agency’s decision on the sublease consent. DNR cited the recent bankruptcy of Arch Coal, Millennium’s major project backer. Millennium and NW Alloys never responded to DNR’s request for information.

9. **Commissioner Goldmark leaves office on January 9, 2017. What is the new Commissioner of Public Lands’ position on coal export?** *Commissioner-elect Hillary Franz ran on an anti-coal export platform.⁴ In Washington’s voter questionnaire, Franz stated she opposes coal and oil exports from Washington ports.*
10. **Does DNR’s decision mean Millennium’s coal export project is dead?** *While technically Millennium’s project is not over until the company officially withdraws all permit applications, there is no clear path for it to proceed without DNR consent.*

³ *Id.*

⁴ <http://thelens.news/2016/09/07/a-different-visions-for-public-lands-chief/>