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SHORELINES HEARINGS BOARD
FOR THE STATE OF WASHINGTON

COLUMBIA RIVERKEEPER, SIERRA CLUB,
and CENTER FOR BIOLOGICAL DIVERSITY,

Petitioners,

vs.

COWLITZ COUNTY, PORT OF KALAMA,
NORTHWEST INNOVATION WORKS –
KALAMA, LLC, and WASHINGTON STATE
DEPARTMENT OF ECOLOGY,

Respondents.

SHB No.

PETITION FOR REVIEW

1. Identity of Petitioning Parties and Representatives

The petitioning parties are:

Columbia Riverkeeper
111 Third Street
Hood River, OR 97031
Phone: (541) 387-3030
miles@columbiariverkeeper.org

Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
Phone: (415) 977-5500
Fax: (510) 208-3140
Nathan.Matthews@sierraclub.org

1 Center for Biological Diversity
2 2852 Willamette Street, # 171
3 Eugene, OR 97405
4 Phone: (802) 310-4054
5 Fax: (503) 283-5528
6 jmargolis@biologicaldiversity.org

7 The representatives of the petitioning parties are:

8 Janette Brimmer
9 Adrienne Bloch
10 Stephanie Tsosie
11 Earthjustice
12 705 Second Avenue, Suite 203
13 Seattle, WA 98104
14 (206) 343-7340 | Phone
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16 jbrimmer@earthjustice.org
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19 2. Identification of Other Parties

20 The respondents in this appeal are Cowlitz County, the Department of Ecology, the Port
21 of Kalama, and Northwest Innovation Works-Kalama, LLC.

22 3. Decisions Under Review

23 This is a Petition for Review of Shoreline Substantial Development Permit No. 3253 and
24 Shoreline Conditional Use Permit No. 1056 (collectively “the Permit”). The Shoreline
25 Substantial Development Permit was issued by the Cowlitz County Hearing Examiner to the Port
26 of Kalama and Northwest Innovation Works-Kalama, LLC on March 8, 2017.¹ A copy of the
27 Corrected Findings of Fact, Conclusions of Law and Decision is attached as Exhibit A to this
Petition for Review. The Department of Ecology approved the Shoreline Conditional Use Permit
with conditions on June 8, 2017. A copy of Ecology’s letter approving the Permit with
conditions is attached as Exhibit B to this Petition for Review. Petitioners also challenge the
Final Environmental Impact Statement prepared by the Port of Kalama and Cowlitz County in

¹ The Hearing Examiner issued his initial decision on February 27, 2017, and issued a final corrected decision following resolution of petitions for reconsideration on March 8, 2017.

1 support of the Permit; the cover and table of contents are attached as Exhibit C.²

2 4. Short and Plain Statement Showing Grounds for Petition

3 Cowlitz County issued the Shoreline Substantial Development Permit, and Ecology
4 approved the Shoreline Conditional Use Permit, in violation of the State Environmental Policy
5 Act (“SEPA”) and SEPA’s governing regulations. The Final Environmental Impact Statement
6 (“FEIS”) failed to disclose and evaluate the full environmental impacts of the project and
7 erroneously concluded that the project will not have a significant adverse environmental impact.
8 Issuance of the Permit to Northwest Innovation Works will, as discussed further below, have a
9 variety of significant adverse environmental impacts, and SEPA requires full consideration of
10 these impacts, including project alternatives and potential mitigation, before a final permit can be
11 issued.

12 Cowlitz County and Ecology also issued the Permit in violation of the Shoreline
13 Management Act, RCW 90.58, implementing regulations, and the Cowlitz County Shoreline
14 Management Master Program because the Permit authorizes portions of the project that are not
15 “water-related” or “water-dependent” to be constructed within the shoreline. Additionally, the
16 Permit fails to give adequate consideration to the purposes of the Shoreline Management Act and
17 Shoreline Master Program, and fails to protect Shorelines of Statewide Significance.

18 5. Statement of Facts

19 The Port of Kalama and Northwest Innovation Works submitted Application No. SL 16-
20 0975 for Shoreline Substantial Development and Shoreline Conditional Use Permits to construct
21 the Kalama Manufacturing and Marine Export Facility, a new 100-acre methanol manufacturing
22 and export refinery on the shores of the Columbia River (the “Methanol Refinery” or
23 “Refinery”). The Refinery will manufacture methanol from large volumes of fracked natural
24 gas, piped in from the western United States or Canada. The Refinery will store the
25 manufactured methanol on site and then ship it overseas (likely to China) for use in the
26

27 ² The complete FEIS is available at <http://kalamamfgfacilitysepa.com/>

1 production of olefins, a primary component of plastics. The Refinery includes the methanol
2 manufacturing equipment, storage tanks, a new dock and related equipment, and a new natural
3 gas-fired power plant to provide some of the electricity needed for the manufacturing facility,
4 among other components. The Refinery in Kalama is one of two methanol manufacturing and
5 export facilities proposed by Northwest Innovation Works in the region.

6 If constructed, the Kalama Refinery will be the largest methanol refinery in the world.
7 The Refinery would use between 270,000 and 320,000 dekatherms of natural gas per day, both
8 as the feedstock for methanol production and for the gas-fired electric generating unit that will
9 supply some of the Refinery's significant electricity demand, making it by far the largest single
10 gas user in the state of Washington. Because regional gas pipelines are already operating at
11 close to full capacity, the massive additional demand generated by the Refinery will likely drive
12 the construction of a new regional gas pipeline.

13 The greenhouse gas emissions attributable to the Refinery are also massive. The
14 emissions associated with the manufacturing process alone will easily exceed 1,000,000 tons of
15 carbon dioxide per year. This does not include the substantial upstream and downstream
16 emissions caused by the project, such as emissions associated with the extraction and transport of
17 the large volumes of gas the Refinery will use, or the transport of the methanol to China and the
18 conversion of methanol into olefins.

19 A. State Environmental Policy Act

20 On September 30, 2016, as part of their SEPA obligations, Cowlitz County and the Port
21 of Kalama jointly issued the FEIS for the Refinery. The FEIS concluded that the project will not
22 result in any unavoidable significant adverse impacts to the environment, and so no mitigation of
23 any kind will be necessary. In reaching this conclusion, the responsible officials failed to
24 consider adequately the reasonably foreseeable direct, indirect, and cumulative impacts caused
25 by construction and operation of the Refinery and related actions, including at least the
26 following:

- 27 a. The FEIS failed to adequately disclose and consider the upstream environmental

1 impacts of the project, including the greenhouse gas emissions and other impacts associated with
2 the extraction and transport of massive volumes of natural gas and the construction and operation
3 of a new regional pipeline that will likely be necessary to meet the Refinery's demand for gas;

4 b. The FEIS failed to adequately disclose and consider the downstream
5 environmental impacts of the project, including the greenhouse gas emissions and other impacts
6 associated with transport of the methanol to China and production of olefins from methanol;

7 c. The FEIS failed to adequately disclose and consider the project's cumulative
8 impacts, including the greenhouse gas emissions and other impacts of the Kalama Refinery in
9 conjunction with other facilities proposed along the Columbia River and the other methanol
10 production and export refinery proposed by Northwest Innovation Works.

11 Had the responsible officials considered these reasonably foreseeable direct, indirect, and
12 cumulative effects of the Refinery and related actions, they would have concluded that the
13 Project is likely to have a significant adverse environmental impact. This would, in turn, require
14 the responsible officials to consider whether it would be possible to avoid these impacts by
15 considering project alternatives, or whether to require mitigation of these impacts prior to a
16 decision to grant the permit. However, the responsible officials erroneously considered only the
17 immediate, local impacts of building and operating this project, and they failed to adequately
18 consider the above effects and related actions as part of their SEPA analysis.

19 The responsible officials' conclusion in the FEIS that the greenhouse gas emissions
20 attributable to the immediate, local operation of the project do not constitute a significant
21 environmental impact is also erroneous, arbitrary, and contrary to law. While the FEIS did
22 consider some of the greenhouse gas emissions attributable to the Refinery, including some of
23 the emissions associated with two different potential production processes (the "CR Alternative"
24 and the "ULE Alternative"), the FEIS failed to accurately calculate and consider the greenhouse
25 gas emissions associated with these processes.

26 Moreover, the conclusion in the FEIS that neither production process will have a
27 significant environmental impact due to its greenhouse gas emissions is untenable. The FEIS

1 relies on internal guidance issued by the Department of Ecology to conclude that the project's
2 greenhouse gas emissions will not be significant, even though the (incomplete and inaccurate)
3 estimates in the FEIS show that the project will be responsible for more than 1,000,000 tons per
4 year of greenhouse gas emissions. By any measure, this volume of emissions is significant, and
5 the responsible officials erred in concluding the contrary. Had the responsible officials correctly
6 concluded that the greenhouse gas emissions from the project constituted a significant adverse
7 environmental impact, they would have been required under SEPA to consider project
8 alternatives and mitigation measures.

9 Finally, the responsible officials failed to adequately consider less environmentally
10 harmful alternatives to the project, such as more efficient, less carbon-intensive methods of
11 producing olefins, less carbon-intensive feedstocks for the production of methanol, or relying on
12 renewable energy sources for the project's electricity needs instead of constructing a new fossil
13 fuel-fired electric generating unit. SEPA requires a full consideration of alternatives to the
14 proposed action, but the responsible officials failed to adequately consider alternatives that
15 would meaningfully reduce the project's significant adverse environmental impact. Similarly,
16 the responsible officials erroneously failed to define the project goals, including purpose and
17 need for the project, sufficiently broadly to allow for a reasoned choice among less
18 environmentally harmful alternatives such as those listed above.

19 For at least these reasons, the conclusion in the FEIS that the Refinery will not result in
20 any significant adverse environmental impact due to its greenhouse gas emissions is erroneous,
21 arbitrary, and contrary to law.³

22 B. Shoreline Management Act

23 Cowlitz County and Ecology issued the Permit in violation of the Shoreline Management
24 Act, RCW 90.58, implementing regulations, and the Cowlitz County Shoreline Management
25

26 ³ Ecology imposed minimal greenhouse gas mitigation requirements on the Refinery as part of its
27 approval with conditions of the Shoreline Conditional Use Permit. See Exhibit B. However,
these minimal conditions were not based on a full evaluation in the FEIS of the greenhouse gas
emissions attributable to the project, including project alternatives and potential mitigation.

1 Master Program because the Permit authorizes portions of the project that are not “water-related”
2 or “water-dependent” to be constructed within the shoreline. *See* WAC 173-26-020. The Permit
3 also fails to give adequate consideration to the purposes of the Shoreline Management Act and
4 Shoreline Master Program, and fails to protect Shorelines of Statewide Significance.

5 The Shoreline Management Act strictly regulates development in the state’s shorelines to
6 protect limited and valuable shoreline resources. Development in Shorelines of Statewide
7 Significance, such as the Columbia River, is subject to additional, more protective criteria. All
8 development in the shorelines must be consistent with the Act, its implementing regulations, and
9 the relevant Shoreline Management Master Program.

10 Cowlitz County and Ecology relied on the mistaken premise that all portions of the
11 Refinery are “water-dependent” or “water-related” in granting the Permit. While some portions
12 of the Refinery that will be located in the shoreline may be “water-dependent” or “water-
13 related,” other portions are not. Cowlitz County and the Department of Ecology authorized
14 Northwest Innovation Works to construct portions of the Refinery in the state’s shorelines not
15 because such portions of the Refinery are dependent on a waterfront location but because the
16 Refinery requires more space than is available in the upland portion of the site. But allowing
17 uses that could be located upland to be built in the shoreline simply because the proposed project
18 is too big for the available site is not consistent with the Shoreline Management Act, its
19 implementing regulations, and the Cowlitz County Shoreline Management Master Program. The
20 Permit fails to comply with the Act, implementing regulations, and Master Program, and the
21 responsible officials’ decision to issue the Permit is erroneous, arbitrary, and contrary to law.

22 6. Relief Sought

23 Petitioners respectfully request that this Board find unlawful and set aside both the Permit
24 and the FEIS, and prohibit Cowlitz County and Ecology from reissuing new permits until they
25 have adequately complied with SEPA and the Shoreline Management Act.

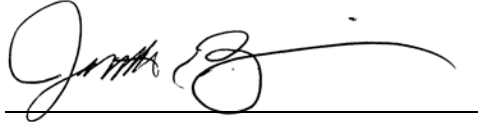
26 7. Service

27 Copies of this Petition for Review were sent to the Washington Department of Ecology,

Earthjustice
705 Second Ave., Suite 203
Seattle, WA 98104
(206) 343-7340

1 the Washington State Office of the Attorney General, the Cowlitz County Hearing Examiner,
2 Northwest Innovation Works – Kalama, LLC, Port of Kalama, and Cowlitz County via Federal
3 Express on June 29, 2017.

4 Respectfully submitted this 29th day of June, 2017.

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