



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Counsel for Environmental Protection
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

November 21, 2018

Email: publiccomment@pscleanair.org

Puget Sound Clean Air Agency
ATTN: Public Comment on DSEIS, PSE LNG Project
1904 Third Avenue, Suite 105
Seattle, WA 98101

Re: Comment on Draft SEIS

Thank you for this opportunity to comment on the Draft Supplemental Environmental Impact Statement for the proposed Tacoma Liquefied Natural Gas Project. I offer two categories of comment: substantive and procedural.

Substantively, the Attorney General's Office's Counsel for Environmental Protection Unit agrees with and incorporates here the comments submitted by the Washington State Department of Ecology.

In addition, we encourage the Agency to revise the draft SEIS to fully respond to other commenters' concerns about the calculations of the short- and long-term global warming potential value of methane. The draft SEIS should ensure that it applies the most current, valid, peer-reviewed assessment of the global warming potential of emissions related to this project. Similarly, the draft SEIS assumes that all gas associated with the Project will come from Canada, and bases its calculations on that assumption. It is not clear why that assumption should be expected to hold true for the 40-year lifespan of the Project, especially as United States natural gas production has increased substantially in recent years. Consequently, the SEIS should be revised to anticipate and adequately review the possibility of a change in the source and makeup of that gas over the facility's 40-year lifespan.

Procedurally, the SEIS should be significantly revised to accurately identify the actual circumstances and current status of the construction and permitting process on the site. As currently drafted, the SEIS evaluates a No-Action Alternative that can only be described as fictional. In so doing, the draft SEIS raises questions about whether the Agency's SEPA process allowed the kind of "snowballing effect" that the Washington Supreme Court warned about in *King County v. Washington State Boundary Review Board for King County*, 122 Wn.2d 648, 664

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(1993) (concluding that the appropriate time to prepare an EIS is when “the responsible agency determines that significant adverse environmental impacts are probable following the government action”).

As you are aware, the Project began construction in 2016. A PSCAA inspector visited the project site on March 15, 2017, and observed activity indicating that the facility should have, before that activity, submitted a Notice of Construction application and received an Order of Approval. PSCAA issued a Notice of Violation on that basis on April 12, 2017. Although the project developer then submitted a Notice of Construction application, construction has continued at the site. PSCAA has apparently taken no further action investigating or enforcing the Notice of Violation, beyond accepting the NOC application and undertaking this SEPA process.

The Draft SEIS, however, does not appear to acknowledge that construction of any type has occurred on the Proposed Action. In fact, it appears to assume that construction, and therefore impacts of construction, are still contingent on the selection of an alternative. That of course is not the case, and therefore the Draft SEIS’s description of the Proposed Action and No Action Alternative fail to comport with the actual status of the project site. In short, the No Action Alternative as described in the Draft SEIS is no longer an available alternative.

A few specific examples:

- The Draft SEIS’s summary of the No Action Alternative states that “the existing land uses would continue at the proposed Tacoma LNG Facility site,” p. 1-2. It is not clear that this could be the case; if so, substantial demolition and removal activity would be required. The Draft SEIS should include an accurate description of the No Action Alternative, or clearly indicate where the No Action Alternative diverges from the actual status of the project site.
- The Draft SEIS section on construction emissions is based on construction activities as defined in the September 30, 2015 Final Environmental Impact Statement (FEIS) (section 2.3 of the FEIS). Did PSCAA determine whether construction activities as actually conducted to date are substantially identical to those defined in the FEIS? If so, the SEIS should so indicate; if not, the SEIS should make such a determination.
- Section 3 of the Draft SEIS, “Description of the No Action Alternative,” contains a number of statements that do not comport with the present status of the project site. For instance, on page 3-1, the draft states that “under the No Action Alternative, the Proposed Action would not be implemented.” Because construction has advanced, those aspects of the Proposed Action would be, and in fact have been, implemented.
- The Draft SEIS discusses construction impacts on pp. 4-6 – 4-7, but fails to indicate that more than two years of the “four-year period” of construction have already occurred. The

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Draft SEIS does not indicate whether the statements of GHG emissions on pp. 4-7 and 4-8 are based on construction as projected before the project began, or based on activities that have already occurred.

- In addition, the Draft SEIS asserts that “There are no construction impacts associated with the No Action Alternative.” p. 4-9. This is plainly incorrect. Because construction impacts have already occurred, an alternative involving removal of the project would have further impacts associated with either demolition or repurposing of the already-built facilities.

Taken together, these shortcomings render the Draft SEIS’s consideration of a No-Action alternative insufficient, and raises the concern that the SEPA process that produced it was insufficient to avoid the “snowballing effect” discussed above. We encourage the Agency to address those concerns prior to issuance of the final SEIS and issuing an Order of Approval.

Sincerely,

A handwritten signature in blue ink, appearing to read "William R. Sherman", is written over a light blue rectangular background.

William R. Sherman

Counsel for Environmental Protection Unit