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August 9, 2018

U.S. Army Corps of Engineers, Portland District
Margaret Chang
Project Manager, Regulatory Branch
P.O. Box 2946
Portland, OR 97208-2946

Sent via email to: margaret.chang@usace.army.mil

RE: NEPA process and cumulative impacts analysis for the Kalama methanol refinery, export terminal, and pipeline.

Dear Ms. Chang,

Columbia Riverkeeper (“Riverkeeper”) requests a written response from, or an in-person meeting with, the U.S. Army Corps of Engineers (“Corps”) regarding the scope and status of the Corps’ pending environmental review, pursuant to the National Environmental Policy Act (“NEPA”), of Northwest Innovation Works LLC’s (“NWIW”) proposed Kalama methanol refinery, export terminal, and pipeline.¹ As explained in Riverkeeper’s previous comments, the Corps should prepare an Environmental Impact Statement (“EIS”) addressing the direct, indirect, and cumulative impacts of NWIW’s entire proposal. It would be arbitrary for the Corps to conclude that the environmental impact of constructing the world’s largest fracked gas to methanol refinery would be less than significant.

Specifically, Riverkeeper reiterates² its request that the Corps’ NEPA analysis disclose and explain of the impacts of constructing a new regional fracked gas pipeline into the Pacific Northwest. A new regional fracked gas pipeline into the Pacific Northwest is, at least, a cumulative impact of the Kalama methanol refinery that must be addressed under SEPA. *See* 40 C.F.R. § 1508.25(c)(3). A cumulative impact is an “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” *See* 40 C.F.R. § 1508.7. As explained in more detail below, the incremental impact of the Kalama methanol refinery’s demand for fracked gas—when added to the existing demand for fracked gas in the Pacific Northwest and the reasonably foreseeable demand from NWIW’s proposed Port Westward methanol refinery—would necessitate the construction of a new regional fracked gas pipeline into the Pacific Northwest. A new regional

¹ *See* Joint Public Notice for NWP-2014-177/2 and NWP-2015-111 (Oct. 9, 2015).

² *See* Columbia Riverkeeper, *Supplemental Comments on the Scope of the Corps’ NEPA Analysis for the Kalama Methanol Refinery* (September 12, 2016).

gas pipeline into the Pacific Northwest is therefore a cumulative impact of the Kalama methanol refinery.

Together, the demand for fracked gas created by NWIW's proposed methanol refineries at Port Westward and Kalama would exceed our region's existing gas pipeline supply capacity, necessitating a new regional fracked gas pipeline. NWIW cannot reasonably dispute this fact because Clay Riding—long-time gas industry expert and Vice President of Energy Resources for NWIW—recently admitted it.³ Gas industry documents previously supplied by Riverkeeper also explain that NWIW's proposed refineries, which would together likely exceed 600 dekatherms per day of fracked gas demand, would exceed the supply capacity of the regional gas pipeline system.⁴

Moreover, NWIW's Port Westward methanol refinery is "reasonably foreseeable" within the meaning of 40 C.F.R. § 1508.7 and must therefore be included in the cumulative impacts analysis. To be considered "reasonably foreseeable," a project "need not be finalized" *League of Wilderness Defs./Blue Mts. Biodiversity Project v. Connaughton*, 752 F.3d 755, 762 (9th Cir. 2014) citing *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1078–79 (9th Cir. 2011). In fact, an impact need not be certain—or even likely—to occur in order to be "reasonably foreseeable" for NEPA purposes. See *Native Village of Point Hope v. Jewell*, 740 F.3d 489, 503 (9th Cir. 2014) (oil production in the Chuckchi Sea was a "reasonably foreseeable" consequence of an offshore oil lease, even though federal agency determined that the most likely outcome of the lease would be no oil production). Courts look for the presence of "specific proposed projects" to identify whether such projects are reasonably foreseeable and thus should be assessed as cumulative impacts. *Clatsop Residents Against WalMart v. United States Army Corps of Eng'rs*, No. 16-35767, 2018 U.S. App. LEXIS 13908, at *4 (9th Cir. May 25, 2018) citing *Env't Prot. Ctr. v. U.S. Forest Serv.*, 451 F.3d 1005, 1014 (9th Cir. 2006) (excluding from cumulative impacts analysis general estimates of potential future wetland filling not linked to any particular project or proposal). The Ninth Circuit explained that an agency must "consider the cumulative effects of projects that [the applicant] is already proposing" but not of "any project that is not yet proposed" *Jones v. Nat'l Marine Fisheries Serv.*, 741 F.3d 989, 1000 (9th Cir. 2013) quoting *Lands Council v. Powell*, 395 F.3d 1019, 1023 (9th Cir. 2005). In *Jones*, the Ninth Circuit upheld a cumulative impacts analysis for a mining operation prepared by the Corps that did not analyze the impacts of additional mining because the applicant had general aspirations to mine other nearby areas in the future but no specific, extant mining proposals. *Jones*, 741 F.3d at 1000–01.

NWIW's additional gas demand is reasonably foreseeable because NWIW has a specific, active proposal to construct a fracked gas to methanol refinery at Port Westward, Oregon. As of

³ Personal communication between Clay Riding, Vice President of Energy Resources for NWIW, and Jasmine Zimmer-Stucky, Senior Organizer for Riverkeeper (May 25, 2018) (further documentation available upon request).

⁴ See Note 2, *supra*.

today's date, the ["Projects" page of NWIW's website](#) explains that NWIW is "investing nearly \$4 billion in the construction of facilities at the Port of Kalama in Washington State and Port Westward in Oregon State" and that "NWIW is working closely with the Port of St. Helens in Oregon to develop plans for a facility at the Port Westward Industrial Park." NWIW also has a detailed lease option agreement to allow construction and operation of the proposed methanol refinery at Port Westward.⁵ And earlier this year, NWIW reaffirmed its interest in developing the proposed methanol refinery at Port Westward by negotiating an extension of its exclusive lease option until February 2020.⁶

The parameters of NWIW's proposal at Port Westward are sufficiently defined to allow the Corps to include the Port Westward methanol refinery's fracked gas demand in the cumulative impacts analysis for the Kalama methanol proposal. As NWIW president Vee Godley explained to Port of St. Helens Executive Director Doug Hayes on March 17, 2018:

"NW[IW] is in the process of developing a world scale state of the art methanol manufacturing facility at your Port Westward location producing 10,000 Tonnes per day of methanol for the dedicated use in the fine chemicals materials industries. To manufacture methanol, we have various utility and feedstock requirements including a requirement for approximately 210 megawatts of steady state power."⁷

The amount of methanol, and the electricity demand, referenced in Mr. Godley's letter are identical to the Kalama refinery proposal, so the fracked gas demand from both refineries should be similar if not identical. Additionally, correspondence from the Port of St. Helens to Columbia County described the exact location of the planned refinery and contained NWIW's representations about some details of the Port Westward and Kalama proposals.⁸ Even though the Port Westward methanol refinery is neither fully permitted nor absolutely certain to be constructed, the availability of specific information and NWIW's prolonged interest make the Port Westward methanol refinery a "reasonably foreseeable" proposal for NEPA purposes that must be addressed in the cumulative impacts analysis for NWIW's Kalama methanol refinery.

The new regional fracked gas pipeline that NWIW's methanol refineries would require would almost certainly follow one of two routes—either down the I-5 Corridor from Sumas, Washington, (sometimes called the "Sumas Express" route) or crossing the Cascades near Mount Hood, Oregon (sometimes called the "Trail West" route). Riverkeeper suggests that the Corps use the alternatives analysis section of the Kalama methanol EIS to describe and compare these potential new regional gas pipelines and their environmental and social impacts. Fortunately for the Corps, similar analyses of substantially similar pipelines have been undertaken in recent

⁵ Exhibit 1, *Lease Option Agreement between NWIW and Port of St. Helens*, pp.6-7 (February 12, 2014).

⁶ See [Port of St. Helens Resolution 2018-3](#) (February 14, 2018).

⁷ Exhibit 2, *Letter from Godley (NWIW) to Hayes (Port of St. Helens)*, (March 17, 2018).

⁸ Exhibit 3, *Email and attachments from Paula Miranda (Port of St. Helens) to Henry Heimuller (Columbia County)*, (April 10, 2018).

decades because proposals for LNG export terminals along the lower Columbia River—which are quite similar to NWIW’s fracked gas to methanol refineries—have included one or the other of these two proposed pipeline routes. For instance, a [Draft EIS prepared by FERC for the Washington Expansion Project pipeline](#) analyzed the impacts of constructing a new regional gas pipeline expansion through the I-5 corridor in Washington. FERC also began preparing an [EIS for the Palomar Pipeline](#) which would have crossed the Cascades at Mount Hood. Building off of these existing analyses will prevent the Corps from having to start from scratch when discussing the impacts of the regional pipeline growth necessitated by NWIW’s proposals.

Riverkeeper once again encourages the Corps to begin engaging the public and preparing the required full, federal EIS for this proposal. As the Corps may be aware, the Washington State Shorelines Hearings Board recently remanded the Washington State Environmental Policy Act (“SEPA”) review of NWIW’s Kalama proposal. The Corps should take this opportunity to begin satisfying its NEPA obligations by issuing a draft EIS for public comment.

NWIW’s methanol refinery and export proposal threatens the Columbia River estuary and significantly undermines regional efforts to restore endangered salmonid populations and prevent climate change. Riverkeeper would appreciate a reply to this letter or an opportunity to meet with the Corps to discuss the scope and type of NEPA review that the Corps will prepare for NWIW’s proposed methanol refineries.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Miles Johnson', with a long horizontal flourish extending to the right.

Miles Johnson
Senior Attorney
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miles@columbiariverkeeper.org

Exhibits

- Exhibit 1: Lease Option Agreement between NWIW and Port of St. Helens, (February 12, 2014).
- Exhibit 2: Letter from Godley (NWIW) to Hayes (Port of St. Helens), (March 17, 2018).
- Exhibit 3: Email and attachments from Paula Miranda (Port of St. Helens) to Henry Heimuller (Columbia County), (April 10, 2018).