Protecting Treaty Rights,
Sacred Places, and Life Ways
OUR MESSAGE

A HUNDRED YEARS AGO THE SALISH SEA WAS PRISTINE.
Our waters were clean, our air was clear, our medicines were found on the forest floors; when the tide was out our tables were set. And now, decades later, we would receive an “F” for how “America” has taken care of our Mother Earth over the years.

It is our responsibility as citizens of this great nation, our goal as First Americans, to ensure a prosperous, healthy and safe place to live for all who call this home. As such, we, the 57 Northwest tribes, face a serious battle against the potentially devastating impacts of coal and tar sand oils exportation and transportation from Montana to the West Coast and beyond.

Our first call to action is to stop the largest of coal ports, Gateway Pacific Terminal, from being built at Cherry Point on the graveyard and sacred area of the Lummi People.

We also ask for a full regional EIS that spans the geographic landscape from the white cap crests of our mountain peaks to the whitecaps on the Salish Sea, and out to the Pacific Ocean shores of mainland Asia.

Through this report, we want the world to understand that the impacts of over 2,050 giant new vessels transporting over 75 million tons of coal per year and over 500,000 barrels of oil per day will devastate our treaty and aboriginal fishing areas, sacred places on the land, and substantially harm the human health and sustainability of the Coast Salish and Makah people.

We, the indigenous people of the Northwest, since the time immemorial, have worked together in the spirit of our Ancestors to manage our respective homeland territories that span white cap to white cap. It is through our familial ties and cultural ways that we manage and protect the bounty of our resources.

Our tribes and First Nations have a relationship through our families, bloodlines, cultural practices, resources and traditional teachings that tie us together as one unified voice. Collectively we must ensure the indigenous life ways, treaty and tribal resources, and culture remains strong for generations to come.

— Brian Cladoosby
Co-Speaker, Coast Salish Gathering
Chairman, Swinomish Indian Tribal Community
President, Association of Washington Chairs

Photo courtesy of Swinomish Indian Tribal Community
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Where we are today

THE NORTHWEST IS FACING YET ANOTHER CHALLENGE as we face a new and powerful industry that has the potential to further destroy the environment and resources. For generations, our tribes have felt the impacts upon our lands, waters, resources and human health of our members. Greed for the mighty dollar has persistently destroyed our natural salmon, shellfish, venison, native plants and health for the membership. Today, we mark a change. We come united to address our concerns and to find common ground where we can work together to protect what is important to us.

The latest proposed path of destruction starts on rails from the mines of eastern Montana, and then spreads though Idaho, Washington and Oregon, where the coal and oil will be stored on the shorelines of the Salish Sea, before being loaded and transported on huge bulk carriers and tankers through traditional and treaty fishing areas of the San Juan Islands up to British Columbia. The bukers and tankers travel along the Japanese current, from southeast to southwest Alaska, along the Aleutian Chain, and out through the Pacific Ocean to China, traveling though areas rich in fin and shellfish. These shipments by mile and a half-long trains and giant cape-size vessels will bring a dramatic new inflow of coal and oil through our traditional hunting, gathering and fishing sites, protected by treaty. These new industries threaten our way of life and we are very concerned that the call for exports is drowning out thousands of years of our history. We urge your consideration of the facts and the impacts, and call upon all to support our recommendations for corrective action.

Northwest tribes have faced the enormity of the challenge to maintain our natural and cultural heritage for many years. The tribes of western Washington and lower British Columbia formed the Coast Salish Gathering (CSG) twelve years ago, reinforcing family and cultural ties, as well as the political relationship that has traditionally existed between the British Columbia First Nations and the western Washington Tribes, i.e., the Coast Salish Nation. We do not recognize the artificial border created 200 years ago, in an area where our people have thrived for thousands of years. The Coast Salish people possess the sacred inherent right endowed by our Creator to restore, preserve and protect our shared environmental and natural resources in our ancestral homeland - - the Salish Sea.

Our Northwest Indian Fisheries Commission in Washington State, representing twenty treaty tribes as co-managers of the salmon resource, detailed existing conditions of habitat degradation threatening survival of our salmon, in the report Treaty Rights At Risk. This report calls on the federal government to fulfill its trust responsibility and to protect our treaty rights, by prioritizing salmon recovery and protecting habitat.

Less than a year ago the President Obama made history when he ordered the removal of the one of the largest dams in the Northwest, on the homelands of the Lower Elwha S’Klallum Tribe. “We want our dam salmon back”, said Lower Elwha Vice Chairman Russ Hefner, “but what good is it when the Salish Sea is dirty and filthy; where will my king salmon go? Will they survive and return home?” Millions of dollars are invested in the clean up and restoration of the Puget Sound. How can we continue to clean up the pollution of tankers, and who will pay for the clean up and restoration of the Puget Sound if there were to be a spill or accident. Who will maintain the monitoring and pay for the clean up of coal dust along the shores of the Salish Sea? Millions of dollars will be wasted if we cannot guarantee 100% no coal dust, 100% no spills, 100% guaranteed for a way of life for today and generations from now.

It is the view of the CSG, the Northwest Indian Fisheries Commission, the Affiliated Tribes of Northwest Indians and National Congress of American Indians, that approval of these rail and vessel export projects at these particular proposed sites would violate the promises made in the treaties as well as every sound principle of wise and sustainable use and stewardship of natural resources. Their approval and operation would compromise the needs of future generations, Indian and non-Indian.

Our brothers and sisters at Lummi Nation stand to lose the most from the development of the Gateway Pacific Terminal, a coal export terminal that if approved, would be the largest in North America. This project alone would add at least eighteen open coal trains, each one and one-half miles long every day to Cherry Point, near the downwind Lummi Indian reservation. Coal would sit in an open 100-acre stockpile adjacent to the Salish Sea.

At least 53 million tons of coal would be shipped from Cherry Point each year through our traditional fishing areas, on 1,000-foot long capesize ships, each carrying 250,000 dead-weight tons of coal and one to two million
gallons of bunker fuel. SSA Marine, Peabody Coal, and Cloud Peak Energy propose to add 974 of these giant vessels per year (!) to our sacred Coast Salish fishing grounds, directly adjacent to our ancestral lands, the San Juan Islands.

The location of the proposed terminal at Cherry Point (Xwe’chi’eXen in the Lummi language) is a state-registered burial ground and archaeological site. Research studies document that the Lummi inhabited this site for at least 3,500 years. Despite the clear extent of devastating impacts to the cultural integrity and the health and welfare of tribal communities, the project proponents (Pacific International Terminals, SSA Marine, Carrix, Inc., Goldman-Sachs, Peabody Coal, Cloud Peak Energy, and Burlington Northern) intend to go forward with the project upon completion of the EIS process.

Lummi Indian Business Council Member Jeremiah Julius described the impact of these actions on the traditional Coast Salish way of life, as follows:

I am a fisherman and crabber. I recently lost 30 crab pots from Sandy Point to Cherry Point due to tanker traffic. This is a financial loss to me. No one is paying for my lost pots dragging behind the tankers. We hear in Gateway Pacific’s Terminal’s public relations campaign about the promise of jobs. We are no strangers to promises. What we know is true is that the fishing industry supports many families at Lummi and throughout Whatcom County. This is my life they are destroying. What is worse, they are destroying the future of my children’s children.

The Lummi Nation has the largest native fishing fleet in the United States, with more than 450 boats employing at least 1000 tribal members, contributing millions of dollars to the local economy. We know it is a sustainable source of income and that it is part of our heritage . . .

Do the people at Goldman Sachs, SSA Marine, PIT, Carrix, Peabody and Burlington Northern really understand the word heritage? Do they know it cannot be quantified, compromised or traded for promises of jobs and money?

I also wonder if they understand what Cherry Point – Xwe’chi’eXen in our language- means to the Lummi people? Do they understand that we trace our heritage at Cherry Point back to at least 1500 B.C.? That our ancient ones rest there? That the entire landscape is flagged as a cemetery by Washington State? Does anyone believe that we would ever stand by while our sacred ground- our Arlington, our Jerusalem- is sacrificed for profit?

There have been 52 documented spills at Cherry Point. Studies have shown there are two-headed herring there. The crabs are confused, molting early in the waters off Cherry Point. We must not allow any further degradation or denaturing of our fishing and crabbing grounds, any further violation whatsoever of our treaty rights and the promises made to our people.

“The Coast Salish Gathering stands shoulder to shoulder with our relatives at Lummi, in rejecting the Gateway Pacific Terminal proposal, as well as other energy export proposals that threaten our treaty natural resources, our sacred places, and our lifeways”, echoes Swinomish Chairman Brian Cladoosby and Tulalip Chairman Mel Sheldon.

The Coast Salish has for countless generations been the steward of the Salish Sea and its biome. Our treaty rights, cultural identity, way of life, and livelihood depend on the biodiversity, health, and sustainable use of the fisheries resources, particularly the recovering salmon fishery. Cherry Point and the other terminals will severely interfere with treaty fishing rights, significantly degrade the biodiversity, and denature the Salish Sea because of unavoidable pollution, greatly increased vessel traffic and, with the burning of the coal in China, the acceleration of acidification and associated climate change impacts of the local and regional waters.

In the words of Swinomish Chairman Brian Cladoosby: “We know that these proposals will have a profound impact on the well-being of our Tribes and local communities. They represent an unprecedented ecological, cultural, and socio-economic threat to Pacific Northwest Tribes. It is the mission of the CSG, working with tribal leaders and communities to ensure these projects do not go forward at these proposed sites. We see this crisis as a new opportunity to form new and enduring intertribal and cross-cultural relations to advance the goal of developing alternative energy strategies. It is these approaches, not the transport of coal and more oil through our waters, that promise a future for the Coast Salish generations to come.”
PROPOSED COAL AND ALBERTA TAR SANDS OIL SHIPMENTS in the Northwest would add a total of 4,144 new ship movements per year, involving 1,000-foot long cargo vessels and giant supertankers. All of these will pass through narrow Unimak Pass, in the Aleutian Islands along the Northern Pacific Great Circle Route, a 66% increase in the volume of large vessels using the pass (3,115) each year now (NUKA, 2013).

• Five proposed US coal terminals, exporting over 150 million tons of coal a year would bring 2,969 new coal vessel trips per year to and from the waters of Oregon, Washington and Alaska.

• While there are 11,000 large ship movements/year into and out of the Strait of Juan de Fuca today, another approximately 2,050 new vessels/year would be added by coal terminal proposals in the U.S. and Canada and the Alberta oil pipeline expansion in Vancouver, B.C. (Kinder Morgan). This represents almost a 20% increase in ship movements through treaty fishing grounds of the Salish Sea in a very short period of time.

• Columbia River ship traffic would increase by more than 75% as a result of three proposed coal facilities (Port of Morrow, Longview, and St. Helens), with an additional 1,815 ship movements/year (not counting 1,200 new barges), on top of the 2,413 ship movements/year today.

• When planned coal shipments from the Powder River Basin to proposed Northwest coal ports are added to planned new shale oil rail shipments from North Dakota and Montana, as proposed today, use of the BNSF mainline will increase by up to 78 trains per day! Trains are 1 – 1 ½ miles long.

• In the past two months, the Department of Ecology has publicized 8 new proposed oil shipment facilities, involving an average of 14 train shipments per day.

ACCORDING TO BNSF RAILWAY (BNSF.COM), UP TO 3 TONS OF COAL DUST CAN BE LOST IN TRANSIT PER RAIL CAR. COAL TRAINS HAVE UP TO 150 RAIL CARS PER TRAIN.
EXPLOSION OF PROPOSED COAL AND OIL EXPORT FACILITIES

New coal facilities
• 6 new coal export facilities in WA and OR
• 1 new coal export facility in BC
• 4 of these are in active permitting and review – 2 on Columbia River; 1 at Cherry Point; and 1 in B.C.

Expansions
• 2 expansions of coal ports in B.C.
• 1 large expansion of crude oil shipments from Vancouver, B.C. (Kinder Morgan – Alberta tar sands pipeline)

New oil-rail shipments
• 8 new facilities receiving shipments from North Dakota and Montana; no agencies have determined the number of new vessels these will trigger

THESE FACILITIES BRING 4,144 NEW LARGE TANKERS/CARGO VESSELS
• Increase of 2,049 per year in the Salish Sea – a 19% increase in the largest vessels in the Strait of Juan de Fuca and San Juan Islands
• Includes over 50% increase in tankers from Vancouver, B.C.
• Increase of 1,815 per year from the Columbia River – 75% increase
• Increase of 280 per year from Oregon and Washington coastal ports

THERE IS A PROPOSED INCREASE OF 78 DAILY TRAINS ON THE MAINLINE
• The proposed coal ports for Oregon, Washington and B.C. together would add up to 64 trains per day to the BNSF mainline through Spokane. This huge increase more than doubles the current 45 trains per day traversing the Columbia River Scenic Gorge.
• In the past two months, huge oil-rail shipments proposals have surfaced, which would include 5,190 train transits per year (14 train transits a day) transporting Bakken crude oil to Washington export facilities or refineries
• Total coal and oil trains through the NW: 78 per day

STUDIES OF COAL DUST IN THE SALISH SEA
• 3.6% of the sediment in the marine environment within 100 meters of the Westshore coal terminal in B.C. was coal particles (Johnson 1999)
• A comprehensive study in 2001 for the Canadian Council of Ministers for the Environment estimated that the Westshore coal terminal releases 715 metric tons of fugitive coal dust per year (Cope, 2001)
• The Westshore Coal Terminal exported 27 million metric tons of coal in 2011. At this rate of fugitive coal dust release, the Cherry Point coal terminal would release 1,263 tons of coal dust per year into the Salish Sea.
THE ENERGY EXPORT ISSUE FACING THE PACIFIC NORTHWEST is not one of “jobs versus the environment;” it is an issue that is clearly a choice about our Northwest quality of life. Not only is it an issue of the protection of treaty resources—including the habitat upon which those resources depend, but also an issue about protection of human health and existing jobs for all American citizens.

The broader issue is the Northwest quality of life, retention of good jobs and companies, and sustaining planned growth of jobs. Most recent economic studies in the Northwest show that our modern economy is based on quality of life—one that has sustained not only the tribes and First Nations, but the Northwest as a whole. The statistics outlined below describe jobs, income, and taxes that already rely on our quality of life. They are impressive!

There have been studies on the fisheries and recreational economic impacts on Washington State, and though they may vary, the reality is, these long standing economies are a factor in the State economy, and they are not being taken into consideration as an increase of vessel and rail traffic threatens their sustainability. Tribal fisheries and way of life contribute to Washington State, but a significant contribution comes from the non tribal fisheries, shellfish harvesters and recreational industry.

In a 2009 report called “Fish, wildlife and Washington’s economy,” WDFW used 2006 data from NOAA Fisheries to estimate that Washington’s commercial fishing industry generated about $3.8 billion in economic benefits and provided 60,250 jobs. Using past reports, the state agency estimated that recreational fishing generated $1.1 billion, wildlife viewing generated $1.5 billion and hunting $313 million. A 2011 report from the business industry indicates that the Washington commercial fisheries industry generates a total of $3.9 billion in personal income in Washington State, approximately 2.1% of Washington’s overall net earnings in 2007.

Who will tell these fishing families that the fisheries will be closed due to no salmon return, because their habitat is gone? Who will protect fishermen from the tankers, the size of three football fields, going through their harvesting areas? The coal and oil industry? The Governor? The Army Corps of Engineers?

The bigger question is: are we willing to replace our current fishing and outdoor industry economic base with another based on extractive industries? The Coast Salish do not believe this to be sound policy, especially when these new industries are based on a speculative international market that will not likely produce long-term jobs. Moreover, these industries exacerbate rather than address the problems of climate change when our focus needs to turn to renewable energy.

Who will protect fishermen from the tankers, the size of three football fields, going through their harvesting areas?

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Now, the rest of the story...
Voices of Tribal Leaders

THIS FALL TRIBAL LEADERS MET AND SHARED information on the wave of new coal and oil export proposals hitting the Northwest. Based on a series of meetings and extensive research by staff, tribal councils and leaders are now expressing grave concern about the health and safety impacts from environmental dangers of coal dust; vessels in tribal fishing grounds; and the danger of spills from vessel collisions and railroad derailments.

Here is what they had to say:

Billy Frank Jr., Chairman of the Northwest Indian Fish Commission

The idea of a half-dozen new coal export terminals in Western Washington and Oregon — and the hundreds of trains and barges running from Montana and Wyoming every day to deliver that coal — would threaten our environment and quality of life like nothing we have seen before. Coal may be a cheap source of energy for other countries, but these export facilities and increased train traffic would come at a great cost to our health, natural resources and communities.

Swinomish Indian Tribal Community

We believe the Northwest is interconnected through the families, resources and waterways, that these coal terminals and railway routes should be addressed in a holistic manner... If a coal train or tanker were to spill on the route or in the Columbia River, the water ways will carry the pollution throughout the Northwest, and coal dust will be carried through the mountains in the air we all breath.

—Brian Cladoosby, Chairman, Swinomish Indian Tribal Community; Co-Speaker Coast Salish Gathering; President, Association of Washington Tribes

Tulalip Tribes

Tulalip supports job creation. We are one of the largest employers in Snohomish County and contribute to economic solvency in the Northwest. However, we do not support an industry such as this one that we believe will damage our natural and cultural resources or diminish existing jobs in our region. Tulalip will not tolerate impacts to the health of our tribal members and to our treaty reserved fishing, hunting and gathering rights. These projects pose significant threats to our natural environment, including additional tanker traffic in the fragile waters of the Salish Sea directly interfering with our treaty fishing areas, contamination of our waters, lands and traditional foods, impact to air quality that not only affect my people but everyone.

—Melvin R. Sheldon, Jr., Chairman, Tulalip Tribes
Suquamish Tribe

The location of the proposed Pacific International Terminals, Inc.'s Gateway Pacific Terminal and the Burlington Northern Santa Fe Railway's Custer Spur Rail Expansion projects (“Gateway Pacific Terminal”) is within the Suquamish Tribe's (“Suquamish”) Usual and Accustomed Fishing Grounds and Stations. Based on the information available at this time, Suquamish opposes the Gateway Pacific Terminal project due to the Tribe's concern that the project will significantly and irreparably effect Treaty-reserved resources and rights, aquatic habitat, and cultural resources.

—Letter from Leonard Forsman, Chairman, Suquamish Tribe (Jan. 14, 2013)

Nez Perce Tribes

We don’t want the minimum protection any longer, we’re used to getting the minimum. We deserve the maximum attention and expect the lead and coordinating agencies to provide the full environmental studies on all ports, as they will be making one of the largest decisions impacting human health, the environment and economies of not only our tribal communities, but of our neighboring citizens of the Northwest.

—Brooklyn Baptiste, Vice-Chairman of the Nez Perce Tribe

Confederated Tribes and Bands of the Yakama Nation

Based on our current understanding of these proposals and their potential impacts to the Yakama People, our Treaty-reserved rights and resources, and our way of life, we are left with no other option than to fully oppose any and all coal transport and coal export projects in Washington and Oregon, per Yakama Tribal Council Resolution (T-041-012). All coal that would be exported from terminals in Washington and Oregon would first be transported through Yakama Nation’s Ceded Lands and Usual and Accustomed Use Areas, including those trains heading for the proposed Gateway Pacific Terminal at Cherry Point. It is also our understanding that the return trains from the Cherry Point Terminal would also pass through our Reservation and most certainly through our Ceded Lands.

—Letter from Harry Smiskin, Yakama Tribal Council Chairman (Jan. 18, 2013)

The Makah Tribe

The MTC [Makah Tribal Council] recognizes our treaty resources are at risk of being exposed to the negative effects of oil spills having already been subject to over 1.5 million gallons of oil spilled in our Treaty Area. We understand that this risk is present and ongoing due to the combined vessel traffic bound to Canada's largest port (Vancouver, BC) and the United State’s 3rd largest port complex (Seattle/Tacoma) which passes through our Treaty Area. The significant increase in vessel traffic posed by this project must be considered in this context.

—Letter from Timothy J. Greene, Sr., Chairman, Makah Tribal Council (Jan. 21, 2013)

Columbia River Intertribal Fish Commission (CRITC)

Along the Columbia River it’s cliff, highway, railroad, then river. Our communities are wedged between the railroad and the river. We’ve got nowhere to escape. If we cannot escape, neither will the coal.

—Paul Lumley, Executive Director, CRITC
THE SWINOMISH TRIBE AND OTHER WASHINGTON TRIBES have expressed their solidarity and support for the “no” position adopted by the Lummi Indian Business Council, regarding the Gateway Pacific proposal, based on documented disturbance of ancient burial grounds and proposed fill of that area for the purpose of placing coal in storage piles on over a hundred acres of land as part of the plan for the new terminal. Swinomish Indian Tribal Community, Senate Resolution No. 2013-01-003 (Jan. 8, 2013).

Many shoreline areas of the Salish Sea, the coast, the Columbia River and other waterways have sacred names, as ancestral homelands, traditional village or fishing sites, or burial grounds. Tribes are duty-bound to protect these, for their ancestors and for future generations. The sacred nature of “Cherry Point” was described carefully in the Lummi Nation press release dated September 21, 2013:

Known to the Lummi people by its ancestral name Xwe’chi’eXen, Cherry Point has a deep cultural, historic and spiritual significance to the Lummi people who have a longstanding history of opposing development of the property. Xwe’chi’eXen was the first site in Washington State to be listed on the Washington Heritage Register and is eligible for the National Register of Historic Places. The entire site is flagged as a burial ground by the State of Washington.

Xwe’chi’eXen reflects the enduring lifeway on the water of the Lummi people and the many blessings of the Salish Sea. Xwe’chi’eXen was a village site for the Lummi ancestors for over 175 generations where they gathered, fished and collected necessities of daily life. It is an important shellfish, herring, and salmon fishery area, a reef-net site, and is associated with the creation story of the Lummi People and the First Salmon Ceremony.

It was also an entryway from inland routes to the islands in the original homeland territory of the Lummi people.

Countless other archeological and cultural sites will be impacted by the onslaught of new trains, vessels, and barges coming across four states to the coastal Northwest in this new fossil fuel rush. All along the interior, where the rail lines traverse the state, tribes have sacred hunting and gathering sites, still used for ceremony and subsistence. Those traditional places contain many sites of primary religious and cultural importance to coastal and inland tribes.

There are numerous sites along the Columbia River that contain ancient artifacts and cultural areas. These sacred places will be impacted by the proliferation of train traffic on the Columbia, as well as the new barges and ships that will reduce this river — once rich in biodiversity — to a lifeless transportation corridor.
The pattern of oil spills in Washington State is an average of 1.6 spills per year of 10,000 gallons or more (50 spills in 30 years), according to Senator Cantwell’s remarks at the opening of the August 1, 2005 field hearings of the Senate Subcommittee on Fisheries and the Coast Guard. Vessel spills, added to industrial discharges to Washington waters, and urban runoff have reached a level threatening the survival of Washington’s oldest inhabitants – our tribes.

TRIBES’ USUAL AND ACCUSTOMED FISHING AREAS ARE ALREADY AT SERIOUS RISK
The Northwest Indian Fisheries Commission issued its report Treaty Rights at Risk, requesting that the federal government honor its trust obligation to protect tribal reserved fishing rights, through protection and restoration of habitat. The voices of Tribal Councils and Leaders, above, so clearly describe the severity of that threat due to the cumulative effect of current development. Through consultations and EIS scoping letters, agency personnel are fully aware of those risks.

The wave of new energy export proposals puts those rights further at risk, and the inaction of federal agencies to protect those rights in the face of new coal and shale-oil export proposals directly affects treaty tribes. The proposals for the Cherry Point coal terminal and the Port of Morrow barge facility present immediate risks that require immediate action, as outlined in our recommendations.

BASELINE DETERIORATION OF THE SALISH SEA
For thousands of years, the Salish Sea has been the lifeblood of the Coast Salish people. A recent inventory by scientists at the University of California, Davis, Orcas Island Office, described the degraded status of this complex ecosystem as being in a “non-resilient state of decay:”

The Salish Sea is approximately 17,000 square kilometers of marine water that is habitat to 37 species of mammals, 172 bird species, nearly 300 species of marine and anadromous fishes and over 3,000 macroinvertebrates. As of January 1, 2011, one or more jurisdiction within the region has listed 113 of these species as threatened, endangered, of concern, or candidates for listing. The listing of nearly 33% of the mammal species, 33% of the bird species and 13% of the fish species suggests an ecosystem that is a non-resilient state of decay and is not in a good position to fare well from potential incremental stressors such as increased vessel noise or catastrophic events such as a major oil spill.


The ecology of the Salish Sea knows no borders. For example, Cherry Point has been designated as a protected state aquatic reserve, because of its unique relationship with the Frasier River ecosystem and the well-known threat to the unique Cherry Point herring stock. The Cherry Point Aquatic Reserve is protected by the state Department of Natural Resources through an adopted management plan. Placement of a coal terminal in that location is not consistent with the protective requirements of the detailed Cherry Point Aquatic Reserve Management Plan, the recommendations of the Puget Sound Partnership to restore the Cherry Point Herring, or with the parameters outlined in NOAA’s letter from the National Marine Fisheries Services, dated January 2, 2013 (http://www.eisgatewaypacificwa.gov).

THE LOSS OF THE COAST SALISH WAY OF LIFE CANNOT BE MITIGATED

The Lummi Nation has the largest native fishing fleet in the United States, with more than 450 boats employing at least 1000 tribal members, contributing millions of dollars to the local economy. Jeremiah Julius, Lummi Nation, 2012.

Tribal leaders, in dozens of letters to federal and state agencies, remind the federal government of the primary importance of protecting and rehabilitating the water quality and habitat of the Salish Sea, the Columbia River, and the coastal waters.
In a recent letter, the Lummi Indian Business Council (Jan. 15, 2013) cited the Lummi Nation’s reserved rights and made clear that the coming adverse impacts to its way of life could not be mitigated:

The Lummi Nation is a fishing tribe and has used the waters and shorelines along Cherry Point since time immemorial. The Lummi Nation is one of the signatories to the Point Elliot Treaty of January 22, 1855 (12 Stat. 927) which was ratified by the United States Senate on March 8, 1859, Proclaimed April 11, 1859 and which reserves certain rights for the Lummi people including but not limited to “the right of taking fish at usual and accustomed grounds and stations” and “hunting and gathering roots and berries on open and unclaimed lands.”

Hazardous material spills on and adjacent to the Reservation have a direct, serious, substantial effect on the political integrity, economic security, health, and welfare of the Lummi Nation, its members, and all persons present on the Reservation. Those activities that increase the frequency or severity of damages from hazardous material spills will eventually cause such damages. Construction and operation of the proposed projects will increase the risk of a hazardous material and/or oil spill that will preclude or substantially interfere with the ability of the Lummi People to exercise their treaty rights to fish throughout their U&A – these impacts will result in significant, unavoidable, and unacceptable interference with our treaty rights and irreversible and irretrievable damage to our spiritual values if the proposed projects are approved.

THE PROPOSED ENORMOUS INCREASES IN VESSEL TRAFFIC POSE DIRECT THREATS

As identified by the Tulalip Tribes in their recent letter to the U.S. Army Corps of Engineers (Jan. 18, 2013), protected marine mammals and endangered species, such as salmon, are going to be directly and adversely affected by the passage of large numbers of new vessels:

Capesize cargo vessels pose a number of risks to fish and wildlife resources, several of which are listed under the Endangered Species Act and/or protected under the Marine Mammal Protection Act. The increased vessel traffic would also increase the impacts to marine mammals due to vessel movement and use of sonar. The added noise from the vessels and use of sonar would adversely affect communication between marine mammals and their echolocation abilities, which in turn affect their ability to navigate.

The recent letters to agencies from the Stillaguamish Indian Tribal Community, the Lummi Nation, and the Tulalip Tribes all describe in detail the unmitigatable impacts of these massive increases in vessel traffic, including oil and fuel spills, ballast discharges, and noise. Again, from the Tulalip Tribes’ letter (Jan. 18, 2013):

Ships this size also have very large ballast tanks used to help stabilize the vessels during transit. Operations of the ballast tanks also frequently transport marine species from port to port creating the potential for introducing invasive species to the Salish Sea and the outer coasts of Washington and British Columbia. The ballast water also has the ability to transport pathogens that can affect fish and wildlife to areas where the pathogens do not currently exist.

VESSEL CONFLICTS ARE ALREADY SUBSTANTIAL

• Coast Salish tribes already confront over 11,000 large cargo vessels transiting in and out of the Strait of Juan de Fuca and the San Juan Islands each year, through their treaty-reserved fishing grounds (2008 PSHSC).
• The risk of a collision is already high between these 11,000 cargo ships and oil tankers transiting the Strait of Juan de Fuca and San Juan Islands. Currently, there are 1200 U.S. tanker, 600 oil barge, and 400 Canadian tanker transits (2008/PSHSC; 2011/DOE).
• The Gateway Pacific coal terminal will add 974 large ship transits annually through these fishing grounds. These 1,000 foot-long ships carry 1-2 million gallons of ship fuel.
• Canadian pipeline expansion to Vancouver (Kinder Morgan), increases tanker traffic 56% through San Juan fishing grounds, adding over 700 tankers per year (2013 PSHSC).
• No agency has yet quantified the net tanker/barge increase likely to result from an influx of new oil-rail cars from Montana and North Dakota (Bakken Oil), due to refinery output increases (Ecology 2013).
The True Costs of Export

ARE WE REALLY SEEING THE TRUE LONG-TERM COSTS OF COAL AND OIL EXPORT TO THE AGENCIES, THE PUBLIC AND OTHER BUSINESSES?

PART 1: REGULATORY COSTS

The problem:
• Current water quality standards are inadequate to protect tribal members’ health from existing urban and industrial waste and runoff.
• There are no water quality standards to address coal leachate in our waters and resulting poisons in our fish and shellfish.
• There are no state or federal water quality standards regulating runoff from coal cars along railroad tracks.
• There are no state or federal water quality standards specifically regulating runoff or fugitive windblown coal dust from coal storage piles.

We have questions that must be answered now:
1. What will be the real cost to Washington State, the Coast Guard and other public agencies, to continually monitor and manage the impacts to water, habitat and resources long term?

2. What will be the real cost to agencies (and the public) to clean up:
• A major spill of coal or shale oil (from a train derailment);
• A spill from one of the ships carrying 1-2 million gallons of bunker fuel; or
• A collision between one of these 1,000-foot long coal ships and an oil tanker in the Strait of Juan de Fuca or the San Juan Islands?

3. How much will the public pay to build capacity in agencies to manage the risk presented by the trains, the terminals and the ships? Will the risk be adequately managed?

4. Will any clean up of a coal or oil spill ensure that indigenous human health and treaty resources are protected, as required by the federal trust responsibility to tribes?

So far, we are not hearing any good answers to resolve these concerns.

PART 2: LONG TERM ECONOMIC EFFECTS

While short term job gains are acknowledged and welcomed, what are the long-term losses of good, existing jobs that we can expect?

1. Strong and growing tribal Economies are put at risk
• In 2010, Washington tribes purchased $2.4 billion in goods, paid $1.3 billion in wages and benefits to workers, and spent $259 Million on construction for roads, sewers, buildings, and infrastructure (Taylor Policy Group 2012).
• Fishing, still central to tribal employment, is threatened by the export proposals.
• The Lummi Nation’s fleet of 450 fishing vessels employs 1000 tribal members.
• Treaty usual and accustomed fishing area in the Salish Sea is greatly diminished by large vessel traffic and anchoring;
• Usual and accustomed fishing stations are threatened on the Columbia River.
2. Rail line saturation/traffic delays threaten tribal enterprises

A case in point: A Marysville traffic study conducted by Gibson Traffic Consultants, concluded that the addition of just 16 train trips per day would block the Marysville main lifeline to I-5 for an additional 2-3 hours per day, blocking access to businesses, hospitals, and fire and police stations.

Question: How much would the public have to pay to provide new infrastructure for adequate grade separation at key railroad crossings throughout the state?

Facts: The public costs could be astronomical, raising questions about public subsidies for concentrated corporate gain. Neither BNSF, the coal companies, or the port operators have volunteered to pay for new infrastructure. New infrastructure needs in Washington State alone due to the new coal trains could run well over $1 billion dollars to keep our towns, cities and tribal enterprises out of gridlock.

Quotes from Chairman Melvin Sheldon, Jr., Tulalip Tribes:
“The risks not only to our tribe can be devastating, but also to the entire county. We’ve made substantial retail investments that depend heavily on quality of life.” (Sept. 29, 2013 CRITFC Press Release)

“Tulalip supports job creation. We are one of the largest employers in Snohomish County and contribute to economic solvency in the Northwest. However, we do not support an industry such as this one that we believe will damage our natural and cultural resources or diminish existing jobs in our region.” (Dec. 5, 2013 Seattle Hearing)

3. The Salish Sea economy relies heavily on the ability of other vessels to operate free of hazards:

- 225 Cruise Ships (2009);
- 24 state Ferries serving 20 terminals;
- 500,000 recreational boats; and
- Seattle-based fishing fleet of 600 vessels.

4. Long term generational jobs threatened, thanks to our Washington marine economy

Seafood aquaculture in the Salish Sea employs 3,000 people directly and an additional 28,000 related jobs. By contrast, the Cherry Point coal terminal will support 213 direct jobs on site at full operation (PSHSC)

Recreation is a central part of the Washington economy—a sustainable economy:

- Contributed more than $11.7 billion annually (2006);
- Supported 115,000 jobs to the Washington State economy;
- Generated $650 million in annual state tax revenue;
- Produced $8.5 billion annually in retail sales and services across Washington;
- Accounted for 3.5% of gross state product.


Commercial fishing: Commercial fishing careers are passed down from generation to generation in Washington and are a long term factor in the economy—a sustainable and renewable economy.

- NOAA Fisheries estimates that Washington's commercial fishing industry generated about $3.8 billion in economic benefits
- Generates 60,250 Jobs
- 3.1% of Washington's overall net earnings in 2007

Tourism: San Juan Islands alone during 2009:
- Visitors spent over $116 million,
- Generated 1,580 jobs, and
- Generated over $6 million in state tax receipts.

Source: SJ Islands Visitor Bureau, 2012
**THE SERIOUS HUMAN HEALTH IMPACTS**
associated with coal dust, diesel emissions and other byproducts of proposed energy export facilities have been fully documented by federal, state and local physicians and health experts, including:

- More than 180 doctors in Whatcom County, WA (“Whatcom Docs”);
- The WA Association of Family Physicians;
- Numerous County Health Boards; and

A comprehensive discussion can be found at: http://www.coaltrainfacts.org/whatcom-docs-position-statement-and-appendices.

The WA Department of Health has called for a “Health Impact Assessment” (HIA) as part of the environmental review process for proposed coal export facilities.

We are very concerned about impacts on our members, which, as recognized by the EPA, tend to suffer greater impacts from air, land and water pollution than the larger population. The health impacts include:

- Increase of diesel particulate matter,
- Fugitive coal dust from full and empty trains into the air, water and land,
- Fugitive dust from coal piles blowing into our waters and on our plants,
- Chronic noise exposure from trains, and
- Dust that will blow onto the Lummi Reservation from the coal piles next to the Salish Sea.

We support the call for a health impact assessment (HIA) as part of the EIS’ for Gateway Pacific, Millenium and the Port of Morrow coal export facilities.

The assessment should include a comprehensive noise study for train traffic, from the mining sites in the Powder River Basin to Cherry Point, WA and the health effects of diesel particulate and coal dust in our air, our land and our water.
Recommendations & Requests for Action

1. **TERMINATE GATEWAY PACIFIC TERMINAL BASED ON FOUR FACTORS**

   1. The coal export facility will be located on Lummi ancestral burial grounds and sacred places.
   2. The terminal location is located in a waterway that is one of the last Cherry Point herring spawning grounds, which should be an ESA listed species, within the Cherry Point Aquatic Reserve.
   3. Impacts to treaty fishing areas for not only Lummi but for the other 19 Western WA treaty tribes.
   4. Environmental justice impacts to the health of residents of the Lummi reservation, due to fugitive coal dust blowing from the proposed coal pile at the terminal site.

2. **CONDUCT BASELINE CONDITIONS REPORT, PRIOR TO COMPLETION OF ANY EA OR DEIS**

   Take the review process off the fast-track, to ensure a well-researched baseline report describing current conditions, including threats to treaty rights at risk and human health among tribes due to loss of traditional foods and subsistence fishing, hunting and gathering.

   - Must cover the Salish Sea and Columbia River ecosystems, inland hunting and gathering areas, and human health;
   - Must document the current conditions in terms of air and water quality, and habitat condition;
   - The study should be conducted by the National Academy of Sciences or similar government-recognized, independent third-party center, with either private (non-applicant), government or combined funding.

3. **REQUIRE AN EIS FOR THE PORT OF MORROW FACILITY**

4. **CONDUCT A CUMULATIVE IMPACTS REVIEW THROUGHOUT THE REGION**

   Take immediate corrective action with federal agencies to ensure cumulative review of effects of all energy export proposals on treaty rights and salmon recovery efforts, including the combined effects of coal, oil-rail, Canadian tar-sands, and natural gas energy exports.

5. **CONSOLIDATE AND INTEGRATE ALL ONGOING VESSEL TRAFFIC STUDIES FOR WA AND OR**

   The following related but currently disconnected vessel traffic studies need to be consolidated and expanded:

   1. Coast Guard appropriations bill study (Alberta tar sands/Canadian vessels only);
   2. VTRA vessel traffic study update by the Makah and Puget Sound Partnership, under the Puget Sound Harbor Safety Committee;
   3. The BP Dock Expansion Revised EIS (per 9th Circuit decision);
   4. The Vessel Traffic Study under the Settlement Agreement for the Gateway Pacific Terminal;
   5. The new VTS analysis to be conducted for the Gateway Pacific Terminal EIS;
   6. VTS contemplated for the Longview coal terminal EIS (Millenium); and
   7. The Environmental Assessment (EA) conducted for the Port of Morrow coal terminal.

6. **EXPAND THE SCOPE OF THESE VESSEL TRAFFIC STUDIES TO ACCOUNT FOR OIL BY RAIL**

   Include all possible future vessel traffic increases related to shale oil-by-rail, i.e., potential vessel traffic increases in the event of increased refinery output and the export of crude oil to refineries using, to create a worst case analysis. This information must be part of the NEPA review for the coal terminals.

7. **CONTROLLING RISK THROUGH ADEQUATE REGULATORY REVIEW**

   Complete a comprehensive risk assessment to ascertain the adequacy of regulatory standards, safety and cleanup spill regulations and agency capacity and capability for monitoring, enforcement and response. This study should identify specific budgets and resources that would be used long-term for monitoring and enforcement.
### SALISH SEA

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>MILLION US TONS OF COAL</th>
<th>MAX. DISCLOSED TRAIN TRANSITS/DAY (WA &amp; OR)</th>
<th>MAX. DISCLOSED VESSEL TRANSITS PER YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gateway Pacific Terminal (Cherry Point, WA)</td>
<td>53</td>
<td>18</td>
<td>974</td>
</tr>
<tr>
<td>Westshore Terminal (Robert’s Bank, BC) 27.3 – 33 metric tonnes</td>
<td>6.25 US (expansion only)</td>
<td>6 (Powder River Basin)</td>
<td>112</td>
</tr>
<tr>
<td>Neptune Terminal (Vancouver BC) 12.5-18.5 metric tonnes</td>
<td>6.5 US (expansion only)</td>
<td>None through US</td>
<td>104</td>
</tr>
<tr>
<td>Fraser Surrey Docks (Vancouver BC)</td>
<td>8.8</td>
<td>3</td>
<td>159¹</td>
</tr>
<tr>
<td>Kinder Morgan Pipeline Expansion Burnaby Inlet, Vancouver, B.C.</td>
<td>880 million barrels of Alberta tar sands oil</td>
<td>0</td>
<td>700</td>
</tr>
<tr>
<td><strong>Total new tanker-size vessels in the Salish Sea/yr (coal and oil)</strong></td>
<td><strong>Existing large cargo/tanker vessels=11,000</strong></td>
<td><strong>2,049 / year (19% increase)</strong></td>
<td></td>
</tr>
</tbody>
</table>

### COLUMBIA RIVER

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>MILLION US TONS OF COAL</th>
<th>MAX. DISCLOSED TRAIN TRANSITS/DAY (WA &amp; OR)</th>
<th>MAX. DISCLOSED VESSEL TRANSITS PER YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Millenium (Longview, WA)</td>
<td>48.5</td>
<td>16</td>
<td>873</td>
</tr>
<tr>
<td>St. Helens/Kinder Morgan (Helens, OR)</td>
<td>38</td>
<td>13</td>
<td>684</td>
</tr>
<tr>
<td>Port of Morrow (barging to ships at Port Westward, OR)</td>
<td>8.8</td>
<td>3</td>
<td>258²</td>
</tr>
<tr>
<td><strong>Total new tanker-size vessels in Columbia River/year</strong></td>
<td><strong>Existing ocean going vessels = 2,413</strong></td>
<td><strong>1,815/year a 75% increase</strong></td>
<td></td>
</tr>
</tbody>
</table>
OREGON & WASHINGTON COAST

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>MILLION US TONS OF COAL</th>
<th>MAX. DISCLOSED TRAIN TRANSITS/DAY (WA &amp; OR)</th>
<th>MAX. DISCLOSED VESSEL TRANSITS PER YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grays Harbor, WA (on hold)</td>
<td>5.5</td>
<td>2</td>
<td>100</td>
</tr>
<tr>
<td>Coos Bay</td>
<td>10</td>
<td>3.4</td>
<td>180</td>
</tr>
<tr>
<td><strong>Total trains passing along Columbia River (both sides) and through Spokane</strong></td>
<td></td>
<td>64</td>
<td></td>
</tr>
</tbody>
</table>

OIL-RAIL TRAINS WITH SHALE OIL (BAKKEN - N.D., MONTANA)

<table>
<thead>
<tr>
<th>FACILITY</th>
<th>MILLION US TONS OF COAL</th>
<th>MAX. DISCLOSED TRAIN TRANSITS/DAY (WA &amp; OR)</th>
<th>MAX. DISCLOSED VESSEL TRANSITS PER YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 Known Facilities Proposed to Receive Oil by Rail, in OR and WA</td>
<td>—</td>
<td>14 per day (5,190 per year est.)</td>
<td>Unknown</td>
</tr>
</tbody>
</table>

Total known new trains and vessels from oil and coal exports in the NW
– Total proposed coal and oil trains = 78 new trains per day
– Total proposed vessels (not including those shipping crude/refined products) = 4,144 new vessels

Total US coal terminal increases: 3,069 new coal vessels
– Five active proposed US coal terminals will add 2,969 new, large bulk carriers per year to the Salish Sea, Columbia River or Coast (excludes 100 ships for Grays Harbor)

Total Salish Sea increases: 2,049 new coal and oil tanker vessels
– Cherry Point, WA coal terminal adds 974 ships per year
– Canadian new and expanded coal exports = 375 new ships per year
– Kinder Morgan pipeline expansion (Alberta tar sands) to Vancouver, B.C. adds 700 tankers per year

Total of vessel increases combined: 4,144 Total oil and coal vessels