



March 26, 2019

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Washington Department of Ecology
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Olympia, WA 98504-7600

Sally Toteff, Director, SW Regional Office
Washington Department of Ecology
P.O. Box 47775
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Re: Contanda Terminals Expansion Project Clarifications

Dear Director Bellon and Regional Director Toteff:

As you know, Contanda Terminals LLC (Contanda) submitted an application to the City of Hoquiam (City) on October 23, 2017, to expand our existing methanol distribution terminal at the Port of Grays Harbor to handle renewable energy products. We have been working with the Washington Department of Ecology (Ecology) and the City since that time to provide information to support demonstration of compliance with the State Environmental Policy Act (SEPA) so that the proposed project may move into the City's permitting review process.

During this time, we have continued to assess current market opportunities and identified the need to refine our proposal to meet the needs of our customers'. This assessment would provide additional flexibility within the region's existing fuels market to support the ongoing shift towards renewable fuels.

Consistent with Washington Administrative Code (WAC) 197-11-600(2) and (4), we requested that Ecology and the City, as co-lead agencies under SEPA, rely in part upon the Westway Expansion Project Environmental Impact Statement (EIS; Ecology and City 2016) and subsequently confirmed with Ecology that the Imperium Terminals Expansion Project EIS (Ecology and City 2015) could also be relied upon for assessing potential effects related to the project. Because the proposed project is similar in concept to the Westway Expansion Project but includes fuels that were evaluated in the Imperium Terminal Expansion Project EIS, all potential effects from the proposed project have been evaluated in those documents.

We submitted an updated SEPA Evaluation Report on January 16, 2019, that further clarified the parts of each EIS that are directly applicable to Contanda's proposed project. In addition, we showed how some of the potentially significant impacts would likely be lower due to differences in the proposed fuels, lower overall throughput volume, and a commitment to implement all the updated mitigation measures requested by the Ecology and the City (54 in total).

Based on the letter dated March 7, 2019, from President Fawn Sharp of the Quinault Indian Nation, we are concerned there are some misunderstandings about our proposed project and offer the following information in response.

The Quinault Indian Nation understands the above-referenced proposed project is moving forward and that your staff will be discussing the details with our staff in the coming weeks. We take this opportunity to reiterate our prior request that Contanda prepare a Supplemental Environmental Impact Statement (EIS) rather than simply amend the existing Final EIS prepared for its predecessor project proposal (by Westway) dated September 30, 2016.

The requirement to prepare a Supplemental EIS arises when there are substantial changes to the project or new information on a project's adverse impacts. WAC 197-11-600(3)(b)(i-ii). The 2016 FEIS analyzed Westway's proposal for receiving, storing, and loading crude oil for transport to overseas markets. It did not analyze or address any other product. Accordingly, the proposed project has changed substantially and requires new analyses through a Supplemental EIS under WAC 197-11-620, which is to be prepared in the same way as a Draft and Final EIS and must include public comment opportunity.

As previously noted, Ecology and the City as co-lead agencies under SEPA have confirmed that both the Westway and Imperium Terminal Services Expansion Projects EISs may be relied upon consistent with WAC 197-11-600(2) and (4). Because the Imperium Terminal Services Expansion Project included the liquids that would be handled by the proposed project, the analysis of potential impacts unique to those liquids were analyzed in that EIS. In other words, the potential impacts on environmental health and safety from the proposed liquids have already been analyzed in a prior EIS.

The remaining elements of the proposed project that are otherwise unrelated to the specific chemical properties of the liquids (i.e., construction, routine operations) are essentially the same compared to the analysis presented in the Westway Expansion Project EIS. This means the analysis in that EIS is applicable to these elements of the proposed project, and the potential impacts on environmental health and safety have already been analyzed in a prior EIS.

In addition, the proposed project is being reviewed under a different application than the Westway Expansion Project. Contanda has submitted a new application to the City, and as such, WAC 197-11-600(3) does not apply. However, the same threshold for when to complete a Supplemental EIS is captured in WAC 197-11-600(4)(d). Nonetheless, as noted in the detailed project description and the comparison between all three projects (i.e., proposed project, Westway Expansion Project, and Imperium Terminal Services Expansion Project) found in the January 2019 SEPA Evaluation Report, the proposed project does not represent substantial differences or new information indicating different probable significant adverse impacts than were already analyzed and disclosed in the prior EISs.

It is also worth noting that if the co-lead agencies decide to adopt the prior EISs and circulate an addendum consistent with WAC 197-11-600(4)(c), the addendum would be required to be circulated to all those who received the EISs per WAC 197-11-625. Additionally, the City of Hoquiam Municipal Code 11.05.730(1)(a)(ii)(B) requires that an open public hearing be held during the 30-day public comment period for the shoreline review process. Both requirements would afford an opportunity for public review.

Similarly, the Westway FEIS does not discuss or address the Ocean Resources Management Act (ORMA) as required by Ch. 43.143 RCW [Revised Code of Washington] and its implementing regulations. As we previously indicated by letter from Earthjustice dated January 26, 2017, we believe Contanda will be unable to demonstrate any significant public need for this facility. However, if a public need invoked by Contanda is a national, multi-state need (as is likely given that this project is intended to receive oil from outside of Washington and deliver that oil to refineries outside of Washington), national alternatives to the project will need to be considered. Because the FEIS only considered a single, no-action alternative, the FEIS will need to be supplemented to add consideration of national alternatives.

Contanda understands that an analysis of consistency with ORMA will be required; however, based on guidance provide by Ecology and the City, we understand ORMA to be a component of the City's shoreline permit review process that will be informed in part by completion of SEPA. Once a SEPA determination has been made, as part of our updated application to the City, Contanda will submit an evaluation of the proposed project's consistency with ORMA.

We also understand that the ORMA review must demonstrate the local, state, or national need for the proposed project and consider alternatives at that same scale. However, the code is clear that alternatives are to be considered in the context of compliance with ORMA and not SEPA. RCW 43.143.030(2)(b) is clear that it must be shown that no other reasonable alternatives exist that can meet the need for the proposed project, not that an environmental review of alternatives need be completed to satisfy ORMA.

Further, as part of the January 2019 SEPA Evaluation Report, Contanda also submitted a market analysis that addresses in part the question of supply and demand for the proposed project. The market analysis notes the relative isolation of the fuels market to the Pacific Northwest and particularly that focusing on the renewable fuels market further emphasizes a localized or regional context for distribution of the proposed liquids. The proposed project would help to support the state's need for renewable fuels and the State and country's low carbon fuel initiative.

Renewable Energy will reduce fossil fuel CO2 emissions somewhere between 50% and 90% as compared to petroleum fuel. The State of California expects consumption of Renewable Products to increase from, 500,000 gallons per year to 2 billion gallons per year by 2030. The State of Oregon is also increasing its percentage of Renewable fuel requirements from .25% to 10.0% over the next 10 years.¹

Finally, we reiterate our prior comments that the Public Trust Doctrine obligates the Department of Ecology to protect the shoreline of Grays Harbor from uses that impact navigable waters, fisheries, migrating birds and other aquatic resources, as well as the commerce and recreation dependent on those resources.

As previously noted, Contanda has worked closely with Ecology and the City to incorporate revised mitigation measures into the proposed project as environmental commitments. These measures initially came from the Westway and Imperium Terminal Services Expansion Projects EISs and were further refined with input by both agencies, including significant participation by

1. Source: CARB Illustrative Supply Scenario Calculator (<https://www.arb.ca.gov/fuels/lcfs/rulemakingdocs.htm>)

the Ecology Spills Program. Voluntary incorporation of all agency-recommended measures into the proposed project demonstrates Contanda's commitment to environmental stewardship.

Following our recommended process will ensure SEPA and ORMA are appropriately applied, as well as provide opportunity for the Quinault Nation, and the public, to fully review and assess potential impacts of this new project in order to provide comments that will guide permitting agencies as to whether to issue permits.

As previously noted, SEPA and ORMA are being properly applied, and there will be opportunity for the public to review the SEPA determination and shoreline permit application.

Thank you for your time and consideration on this very important issue related to carbon footprint reduction.



Gerald R. Cardillo

President and Chief Executive Officer