

Comments on Scope of EIS for Gateway Pacific Terminal Project
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- COE determination of extent of environmental review not consistent with definition of indirect impacts - Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.
 - Railroad crossings will need to be improved to accommodate the increased magnitude of rail traffic and new sidings will be required to accommodate the increased rail traffic.
 - Also, there will be an increase in traffic safety risks at road crossings with increased rail traffic.
 - These affects will occur at distance from the assumed project area as defined in the COE Memorandum for Record.
 - Therefore, COE's designation of the project area not consistent with NEPA guidelines.
- COE's NEPA documentation must include other federal actions (FRA) related to the proposed project (e.g., Railroad Rehabilitation and Improvement Financing Program – RRIFP). This should include:
 - Major funding for RR improvement
 - FRA actions related to increase rail traffic
 - Railroad crossing improvements
 - New construction of sidings
 - Increased risk at railroad crossings with increased traffic
 - The permit action with other Federal involvement (33 CFR Part 325)
 - Major funding
 - Railroad crossing improvement
 - New construction of sidings
- Certainly FRA will be involved with the Custer Spur. This, combined with all the other work along the transport line, are connected actions and federal actions that should be evaluated in this NEPA document.
- “There are no other Federal agencies with control over any other aspect of the proposed shipping terminal and/or rail improvement projects.” This statement is inconsistent with reality. FRA and FHA will be involved with the connected actions of existing facility upgrade and new construction required to transport bulk commodities to the terminal—all connected actions requiring Federal decisions.
- “Many of the activities of concern to the public, such as rail traffic, coal mining, shipping coal outside of US waters, and burning coal overseas, are outside the Corp's control and responsibility.” Which activities are?
- “These activities are too attenuated and distant from the proposed activities being evaluated by the Corp's to be considered effects of the Corp's permit actions.” This is inconsistent with the definition of “indirect effects”, and the guideline that one NEPA document address all Federal

actions including FRA actions pursuant to this proposed project, including rail road crossing improvements, public safety, and new construction such as new sidings.

- “Federal oversight of existing rail lines is limited to FRA authority over rail safety.” This is not consistent with FRA’s NEPA implementation guidelines. According to Section 4(e)(5) of FRA’s Procedures for Considering Environmental Impacts the following would disqualify connected actions of the proposal from a categorical exclusion – “The action will not cause a significant short-or long-term increase in traffic congestion, or other significant adverse environmental impact on any mode of transportation.” Thus, the EIS should address impacts beyond the project area arbitrarily designated by the COE and beyond just rail safety.
- Further, if the intent of COE NEPA implementation guidelines is to include all connected actions in a single NEPA document, Section 4(f) of FRA’s Procedures for Considering Environmental Impacts suggests that all connected actions should be considered in a single environmental assessment. Thus, the EIS should address impacts beyond the project area arbitrarily designated by the COE.
- Pursuant to Section 8(e) of the Memorandum for Review, the EIS should include an analysis of the illegal unpermitted clearing of wetlands and the direct, indirect, and cumulative impact of similar unpermitted actions.
- The determination of scope for the EIS disregards a full disclosure of impacts that the public expects. How can the COE make a well-informed decision on behalf of the public it serves if the geographic scope of review was too narrowly and arbitrarily designated, connected actions not considered, and the objective of addressing all Federal decisions in one NEPA document is not considered?
- The Memorandum for Review states at Section g(1) “Indirect and cumulative impact extents are based on the potential of project-related traffic to affect local traffic patterns and volumes.” Again, this is an arbitrary designation of the geographic scope of the EIS. The same project-related traffic increases that will occur in the arbitrarily designated geographic scope will also occur all across Washington State and beyond. Mount Vernon traffic will be similarly impacted as Bellingham, etc.
- Although there are other federal regulations, policies, and guidelines that address the government to government relationship re: treaty resources, NEPA also needs to address impacts on treaty resources. More than just the Lummi Nation and Nooksack Indian Tribe will be affected by the proposed project. Other Native American groups will be directly affected, yet the Memorandum of Review indicates that if such populations are outside of the project area resulting impacts will not be addressed. If so, such is not consistent with the intent of NEPA or government to government interaction, and substantive impacts to treaty resources could occur without documentation.