

Congress of the United States
Washington, DC 20515

July 28, 2015

The Honorable Jo-Ellen Darcy
Office of the Assistant Secretary of the Army (Civil Works)
108 Army Pentagon, Room 3E446
Washington, DC 20310

The Honorable Thomas P. Bostick
Lieutenant General
Commanding General and Chief of Engineers
441 G Street NW
Washington, DC 20314

Assistant Secretary Darcy and Lieutenant General Bostick:

We are writing regarding the environmental review currently underway by the U.S. Army Corps of Engineers for the Gateway Pacific Terminal (GPT) in Washington State. Once completed, this project will create a new export facility for dry bulk commodities, such as grain, potash, and coal to move out of our districts through the West Coast to Asian markets. This will help alleviate much of the congestion in existing ports in the Seattle area and expand trade opportunities for the nation.

It is our understanding the Seattle District of the U.S. Army Corps of Engineers (ACE) is considering making a de minimis determination on the project prior to the release of the draft Environmental Impact Statement (EIS). We are greatly concerned about the precedent such a decision could set on future projects in our districts. The GPT project has been undergoing an environment review from ACE since January 22, 2013. The latest estimates are the draft EIS will be completed next spring. With over 2 years and millions of private dollars already committed to completing a draft EIS, we question the judgement of the Seattle District to make a de minimis determination now when the draft EIS should be released in the next few months.

The impetus of the issue is concern raised by the Lummi Indian Nation (Tribe) about the impact the proposed project would have on their Usual and Accustomed fishing rights. While we agree the Tribe should have their treaty rights respected, allowing the draft EIS to be released in no way harms the Tribe. There is no planned construction at the site of the Gateway Pacific Terminal until after a final permit is issued. In addition, the project sponsor is responsible for expenses related to the draft EIS, so the financial burden rests with them. However, an early determination from the Seattle District will set a new regional and nationwide precedent for any similarly situated infrastructure project proposed in the future. Specifically, making this

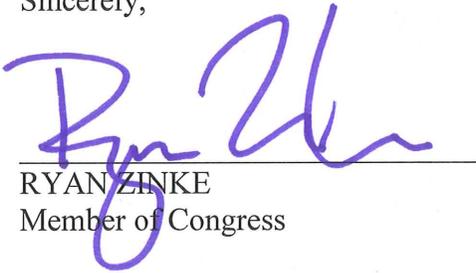
determination when EIS work is still pending sends exactly the wrong message about the importance and reliance that the ACE, the government, and the interested parties should be able to place on the EIS process.

The EIS process is an established tool used to identify potential environmental impacts and review opportunities to potentially redesign the project or operations to avoid or minimize these potential impacts. The de minimis threshold is supposed to be considered after examining potential opportunities to mitigate any negative impact. ACE has specific regulations that structure the conduct of an EIS process, but does not have equivalent regulations to structure the development of a factual record on Treaty rights issues outside of the EIS process. Therefore, conducting an EIS process before making a Treaty decision is prudent.

We urge you to withhold making an early de minimis determination prior to the draft EIS being released. Not only is it not needed at this time, this unprecedented move will establish a negative standard on future private investment.

Thank you for your consideration. We look forward to hearing your response.

Sincerely,



RYAN ZINKE
Member of Congress



CYNTHIA LUMMIS
Member of Congress



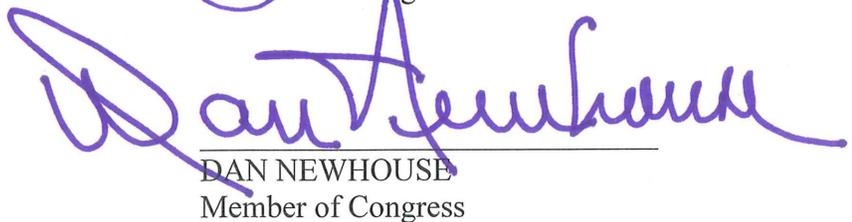
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