



**FOR IMMEDIATE RELEASE**  
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**Millennium Bulk Terminals Seeks Fairness in the Courts**  
*Ecology sued for withholding Critical Information*  
*Millennium appeals decision on Shoreline Permits*

**LONGVIEW, WA** – Millennium Bulk Terminals-Longview (Millennium) today filed a lawsuit in Thurston County Superior Court against the Washington State Department of Ecology for violating the Public Records Act by withholding essential information that the agency alleged was the basis for critical findings in Millennium's Final Environmental Impact Statement (FEIS). In a separate filing, Millennium appealed the November 14 decision on its Shoreline Permits to the Shoreline Hearings Board.

**Public Records Request Lawsuit**

Independent technical experts have not been able to reproduce or verify a portion of the technical conclusions of the EIS. Normally the background information to produce those results would be included as part of the EIS, but in Millennium's case, they were not.

"If a company paid millions to a consultant for a project, that consultant would provide the background information supporting their work to the client within weeks. Yet Ecology and their consultant have not been able to provide that information to us for over half a year. Why can't Ecology provide this information directly, or ask its consultant to provide the information?" said Wendy Hutchinson, Millennium Vice President.

"It is especially troubling when the limited information Ecology has provided shows the agency altered the Environmental Impact Statement in ways that ignore the analysis of the experts it hired. What is Ecology afraid to show us?"

The public disclosure request lawsuit filed today identifies evidence of Ecology dismissing their expert consultants and revising "critical findings".

"The lack of timely response to very specific requests for data is troubling," said Millennium Attorney Jon Sitkin. "The process to receive documents from Ecology has been very slow. Seven months after our request, Ecology has only released limited information. This is too long for information that should be readily available, given the FEIS was completed in April."

As part of the public records Millennium has received, there is an August 10, 2016 email from Ecology stating that their consultant, ICF, says that the Green House Gas (GHG) model cannot be used to recommend mitigation in the FEIS.



*"...ICF does believe the analysis prepared for the SEPA EIS is not adequate to develop a very specific GHG mitigation measures..." the email says.*

Yet, in direct contradiction of their own expert's opinion, Ecology used the results of the model to recommend GHG mitigation in the FEIS.

"Ecology has yet to produce modeling data to back up their GHG calculations," Sitkin continued. "It is data that is typically provided as backup or reference data for an EIS, but it was not included in the 14,000-plus pages for the Millennium project's FEIS that took more than five years to finish. Why?"

Records also show that Ecology's experts commented to Ecology that comparing train emissions to Cowlitz County emissions as part of the FEIS is an inaccurate approach:

*"This is not an apples to apples comparison. It compares a single facilities' emissions with countywide emissions instead of those from a comparable operation, almost always dwarfs the %. Recommend comparing with citywide emissions (if such granular data exist), or leave it out as it is misleading."*

"This time Ecology chose to leave the erroneous comparison in the FEIS," Sitkin stated, "and there have been no documents produced by Ecology that demonstrate why they disregarded the expertise of their consultant."

The lawsuit cites several key cases in supporting the requirement of Ecology to provide full records in a timely manner.

The Supreme Court's command is unequivocal: 'Responses to requests for public records shall be made promptly by agencies....' RCW 42.56.520. Additionally, where the Public Records Act is violated, trial courts must award penalties...The Public Records Act is a forceful reminder that agencies remain accountable to the people of the State of Washington...." *Yousoufian v. Office of Ron Sims*, 168 Wn.2d 444, 465-66 (2010).

### **Appeal of Shoreline Permits**

Today, Millennium also appealed the November 14 decision on its Shoreline Permits to the Shoreline Hearings Board. The appeal states:

*"...the Hearing Examiner's decision thoroughly and fundamentally misreads and, therefore, misapplies the State Environmental Policy Act and the Shoreline Management Act." It went on to say the Hearing examiner "exceeded his authority by considering issues beyond his statutory purview and creating an entirely new approval criterion..." calling the Hearing examiner's decision "erroneous and contrary to law" as well as "arbitrary in requesting further study as a basis for*



*denying approval while rejecting testimony regarding the Project and mitigation of impacts based on the finality of the EIS.”*

### **Millennium Wins Legal Arguments**

Millennium has been forced to take its case to the courts for permitting the construction and operation of a coal export terminal along the Columbia River that would create thousands of jobs. Last month a Cowlitz County Superior Court overturned a Department of Natural Resources decision to deny Millennium's sublease to operate docks on its site by ruling DNR acted without regard to the facts and asked the parties to reach agreement on a sublease and present it to the court for approval.

### **About Millennium Bulk Terminals-Longview**

Millennium Bulk Terminals-Longview is an operating bulk materials port on the Columbia River which was initially home to an aluminum smelter. Millennium is committed to the environmental cleanup and redevelopment of this 1940's era industrial site into a vibrant, world-class port facility that will create family-wage jobs and help keep Longview and Cowlitz County working. In addition to the coal export facility, Millennium is actively seeking development of the site for other bulk commodity import and export opportunities.

### **Facts and Figures**

- 2,650 direct and indirect jobs
- \$680 million private investment in Cowlitz County
- \$43.1 million in state and local taxes during construction
- \$5.4 million in state and local taxes each year when fully operational
- Supported by 15 labor unions and endorsed by Kelso-Longview Chamber of Commerce

For more information visit [www.MillenniumBulk.com](http://www.MillenniumBulk.com)

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