



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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REGIONAL
ADMINISTRATOR'S
DIVISION

September 12, 2022

Daniel A. Krenz
U.S. Army Corps of Engineers, Seattle District
4735 East Marginal Way South
Seattle, Washington 98134

Dear Mr. Krenz:

The U.S. Environmental Protection Agency has reviewed the U.S. Army Corps of Engineers' August 2022 Final Environmental Impact Statement for BP Cherry Point Dock (CEQ Number 20220111, EPA Project Number 06-050-COE). EPA has conducted its review pursuant to the National Environmental Policy Act and our review authority under Section 309 of the Clean Air Act. The CAA Section 309 role is unique to EPA and requires EPA to review and comment publicly on any proposed federal action subject to NEPA's environmental impact statement requirement.

The EIS was prepared to support, in part, a reevaluation process of the USACE permit issued for North Wing of the BP Cherry Point Marine Terminal located in Whatcom County, Washington. The Final EIS evaluates the incremental environmental risk of operating the existing North Wing and analyzes three alternatives: a No Action Alternative, the Proposed Action, and Alternative A. The No Action will revoke the existing permit; the Proposed Action is to modify the existing permit as necessary to ensure compliance with applicable laws and regulations; and Alternative A will leave the permit in place as issued.

In August 2014, EPA's comments on the Draft EIS expressed serious concerns with the project due to existing and potential increase in Cherry Point vessel traffic and oil spill risk. EPA recommended the analyses include missing information about potential impacts to marine resources at Cherry Point and in Puget Sound. EPA finds the Final EIS generally responsive to these comments and recommendations.

The Final EIS includes clarifying information regarding potential cumulative effects of increased vessel the traffic from future projects; risks from potential oil and refined petroleum spills under current and future conditions; and an oil spill response program at the terminal. EPA notes the Final EIS includes additional measures and plans to address project impacts and protect resources for protected (federal and state) species and habitats.

EPA provides the following recommendations for the Record of Decision:

- As neither the Draft EIS or Final EIS identify a preferred alternative action, indicate which action alternative will be implemented and factors considered in its selection process. EPA encourages project alternatives that minimize environmental degradation.

- For decision-makers and the public to better evaluate the risks and mitigation of those risks from the project, include information about permits, authorizations, and other approvals for the proposed project (e.g., similar to Table 9-1 of the FEIS).¹
- As the project activities appear to occur in Washington’s coastal management zones, clarify if the project will obtain Washington State Department of Ecology’s concurrence on Coastal Zone Management Act consistency determination.
- Describe outcomes of consultations with affected Tribes. The FEIS states that as of mid-2022, tribal consultations are ongoing, and does not clarify when the consultations will be concluded, issues raised in these consultations, and how they will be addressed.² EPA encourages the USACE to consult with Tribes and incorporate feedback from them when making decisions regarding the project.
- Due to the potential increase of vessel traffic and oil spill risk and impact on sensitive Salish Sea ecosystem, discuss an environmental inspection and mitigation-monitoring program to ensure compliance with, and assess effectiveness of, all mitigation measures.

If you have questions about our comments, please contact Theo Mbabaliye of my staff at (206) 553-6322 or at mbabaliye.theogene@epa.gov, or me at (206) 553-1774 or at chu.rebecca@epa.gov.

Sincerely,

Rebecca Chu, Chief
Policy and Environmental Review Branch

¹ FEIS, p. 9-4.

² FEIS, p. 4.9-1