

**Friends of the San Juans · Sound Action · Washington Conservation Action · Stand.earth  
Sierra Club · San Juan Islanders for Safe Shipping · Save Our wild Salmon Coalition  
Friends of the Earth · Communities for a Healthy Bay · Orca Network  
Evergreen Islands · Whatcom Environmental Council**

September 4, 2024

Amy Keenan  
Special Projects Manager  
Whatcom County Planning & Development Services

*Submitted via email: [AKeenan@whatcomcounty.us](mailto:AKeenan@whatcomcounty.us)*

RE: Notice of Application and the SEPA pre-threshold consultation process for the Major Project Permit Application (MPP2024-00002), State Environmental Policy Act (SEPA) Environmental Checklist (SEPA2024-00052), and Commercial Building Permits (COM2024-00083 through COM2024-00115)

Dear Amy Keenan,

Thank you for the opportunity to submit comments on the Notice of Application and the State Environmental Policy Act (SEPA) pre-threshold consultation process for AltaGas' major project permit application, SEPA Environmental Checklist (SEPA checklist), and commercial building permits for the Petrogas West, LLC/ALA Energy Liquid Petroleum Gas (LPG) export facility's 31 Unpermitted Prior Projects as well as the proposed Flare Project and Waste Gas Recycling Project. The undersigned represent 12 organizations that work on environmental issues in Washington State which include protecting the Salish Sea watershed, wildlife, human health, the climate, and public safety.

It is challenging to provide comments on both the Notice of Application and the SEPA pre-threshold consultation process. Whatcom County's regulatory authority for issuing any permits depends upon a thorough SEPA process.

Whatcom County's notification to the public about its March 2, 2023, compliance agreement with AltaGas' Petrogas West LLC (now being rebranded as ALA Energy) is titled [Whatcom County and Petrogas West LLC Reach Agreement on Compliance Path for Cherry Point Facility](#), stating:

The County has determined that, at a minimum, Petrogas must apply for and obtain a Conditional Use Permit, certain other building and construction permits, and prepare an Environmental Impact Statement (EIS) under SEPA that evaluates facility modifications

and changes in the amount of product throughput since the last SEPA evaluation for the plant was completed in 2016.

Whatcom County should follow through on its commitment to the public:

The permitting and SEPA compliance processes will follow standard County procedures and will be transparent and open to public participation during both the Conditional Use Permit process and the SEPA EIS process.

The permit applications and SEPA checklist require revisions including additional environmental impacts analyses.

Whatcom County should issue a threshold Determination of Significance and require an EIS under SEPA.

#### State Environmental Policy Act (SEPA) Environmental Checklist

A single State Environmental Policy Act (SEPA) Environmental Checklist (SEPA checklist) has been submitted for 33 projects:

- Flare Project
- Waste Gas Recycling Project
- 31 Unpermitted Prior Projects

Combining all 31 unpermitted prior projects with the two new projects in one SEPA checklist is appropriate in order to identify and address the cumulative impacts of all 33 projects. However, each project is not thoroughly addressed in the SEPA checklist. Furthermore, the SEPA checklist needs to clearly define the LPG export facility prior to the unpermitted projects that began in 2015, in order to understand the environmental impacts that have occurred and that continue to occur as a result of the 31 unpermitted prior projects.

The unpermitted prior projects have already resulted in significant adverse environmental impacts and potential additional significant adverse impacts that need to be thoroughly reviewed.

#### **Unpermitted Prior Projects' Increase in the Facility's Throughput/Transshipment Capacity**

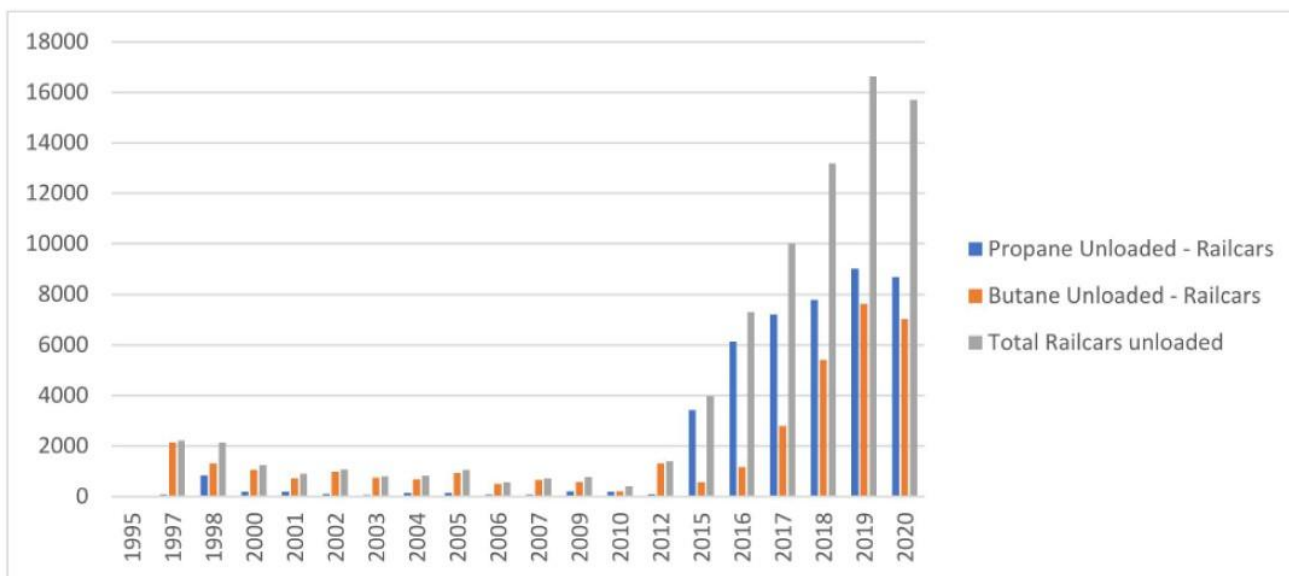
According to the Northwest Clean Air Agency in its letter to Whatcom County Planning & Development Services (see attached):

In 2016, NWCAA approved the facility's application to replace two aging compressors, which the facility stated were near end of life. The SEPA checklist submitted to Whatcom County for the compressor replacement project stated that there were "no future additions expansions or activities related to the proposed activities" and "the project will not increase the total number or frequency of rail cars to and from the terminal."

The details of this compressor replacement project should be thoroughly addressed in the permitting and the SEPA review process.

The Northwest Clean Air Agency's letter to Whatcom County further states, "Railcar unloading expanded from an average of about 1,000 cars/year to up to 16,633 railcars in 2019. Ship traffic also expanded from 2-5 berthing events per year to 26 in 2019."

Also included in the Northwest Clean Air Agency's letter is this chart:



The information included in the SEPA checklist and appendices is not consistent with the increase of approximately 15,633 railcars and 21-24 vessels per year as identified by the Northwest Clean Air Agency. [Appendix A01: ALA Energy Ferndale Trip Generation Analysis](#) states:

The Unpermitted Prior Projects include 31 projects which generally improve safety, emissions, efficiency, and storage without increasing the total number of vessels loaded per year or the total anticipated roadway traffic to and from the Facility. Similarly, the Proposed Flare and Waste Gas Recycling Projects will improve safety and emissions without increasing overall facility demand or capacity.

#### **Changes in Total Hydrocarbon Transshipment Capacity Are Not Accurately Evaluated**

Included in the application materials is an evaluation of the total hydrocarbon transshipment capacity of the current facility and the facility prior to August 15, 2016. The redacted [Appendix C.1 Current Capacity Assessment](#) as compared to the redacted [Appendix C.2 Prior 2016 Capacity Assessment](#) shows an overall decrease in the facility's estimated throughput or transshipment capacity of 8,503 BBL/D, with an increase of 14,640 BBL/D for propane and a decrease of 23,143 BBL/D for butane.

The October 15, 2021, letter from the Northwest Clean Air Agency to Whatcom County Planning & Development Services states:

The alleged violations address an unpermitted increase in the Petrogas facility's emissions of volatile organic compounds (VOCs) resulting from a material increase in the volume of propane delivered to the facility, beginning in 2015 and continuing through the present.

An assessment of the total hydrocarbon transshipment capacity of the facility prior to 2015 is needed in place of the assessment for the facility prior to August 15, 2016.

The Petrogas West/ALA Energy Ferndale facility is “the only LPG export terminal in PADD 5.”<sup>1</sup> The Petroleum Administration for Defense District 5 (PADD 5) is the West Coast region of the United States that includes Washington State. If AltaGas’ Ferndale, WA, facility is still the only LPG export facility in PADD 5, the US Energy Information Administration’s documentation of substantial increases in PADD 5 propane exports is relevant and supports the Northwest Clean Air Agency’s letter to Whatcom County. According to the US Energy Information Administration, PADD 5 propane exports to all countries in 2014 were 149,000 barrels per day (BBL/D) and in 2023 the total was 389,000 BBL/D, which is an increase of 240,000 BBL/D.<sup>2</sup> In 2024, the projected total for the year, based on the average per month from January - May, is 525,600 BBL/D, would be an increase of 376,600 BBL/D.<sup>3</sup>

This increase of 240,000 BBL/D in propane exports as of December 2023, and potentially 376,600 BBL/D is significantly greater than the increase of 14,640 BBL/D for propane that is included in the application’s total hydrocarbon transshipment capacity analyses.

If AltaGas’ Ferndale, WA, facility is still the only LPG export facility in PADD 5, the US Energy Information Administration also documents substantial increases in butane exports from AltaGas’ Ferndale, WA, facility. 2014 butane exports totalled 116,000 BBL/D and in 2023 the total was 280,000 BBL/D, which is an increase of 164,000 BBL/D. This 141% increase contradicts the application’s total hydrocarbon transshipment capacity analysis that shows a decrease of 23,143 BBL/D for butane.<sup>4</sup>

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<sup>1</sup> RBN Energy. June 21, 2017 (Excerpt). *Floating Bridge - West Coast Alternatives for Exporting LPG to Asian Markets*. By Housley Carr. <https://www.whatcomcounty.us/DocumentCenter/View/34560/20180605-Ury>. (Accessed 8-24-2024).

<sup>2</sup> US Energy Information Administration. PAD District Exports by Destination. [https://www.eia.gov/dnav/pet/PET\\_MOVE\\_EXPCP\\_D\\_R50\\_Z00\\_MBBLPD\\_M.htm](https://www.eia.gov/dnav/pet/PET_MOVE_EXPCP_D_R50_Z00_MBBLPD_M.htm) (Accessed 8-24-2024).

<sup>3</sup> The annual 2014 and 2023 propane exports, if calculated based on the Jan-May monthly average, are less than the actual annual total exports. 2014 total exports = 149,000 BBL/D and the total based on Jan-May monthly average = 146,400 BBL/D. 2023 total exports = 389,000 BBL/D and the total based on Jan-May monthly average = 379,200 BBL/D.

<sup>4</sup> US Energy Information Administration. PAD District Exports by Destination. [https://www.eia.gov/dnav/pet/PET\\_MOVE\\_EXPCP\\_D\\_R50\\_Z00\\_MBBLPD\\_M.htm](https://www.eia.gov/dnav/pet/PET_MOVE_EXPCP_D_R50_Z00_MBBLPD_M.htm) (Accessed 8-24-2024).

The US Energy Information Administration's PADD 5 data only includes exports and does not include the propane and butane sold domestically. As stated above, an assessment of the total hydrocarbon transshipment capacity of the facility prior to 2015 is needed in place of the assessment for the facility prior to August 15, 2016.

#### **Unpermitted Prior Projects' Increase in Railcars**

The SEPA checklist states (on page 28 of 30), "the Prior Projects did not change rail traffic . . . ."

[Appendix B.5: SEPA Environmental Checklist Rail Operations Analysis](#) clarifies (on page 8):

Importantly, the actual daily volumes moved by railcar to the Cherry Point Subdivision have been accommodated by one manifest train per day. Thus, while the actual number of rail cars has been variable, the number of trains destined for the Facility to and from the Cherry Point Subdivision have not changed due to the Prior Projects and will not change as a result of the Flare Project or Waste Gas Recycling Project.

There is no quantification or environmental impact analysis of the variability or increase in the number of railcars that correspond with the Unpermitted Prior Projects and the increased product throughput, but available evidence suggests that it is significant and deserves full consideration in a comprehensive EIS.

The rail-related risk mitigation measures in the Revised Appendix G: Table of Avoidance Minimization and Mitigation Measures (on page 1), and Appendix B.5: SEPA checklist Rail Operations Analysis (page 13), list the type of tank cars that will be leased for deliveries of propane and butane to the Facility, and the intent to apply for membership in entities to "explore opportunities to provide training and equipment specific to LPG incident response." There is no analysis of the probable significant adverse environmental impacts from the increase in railcars. There is no analysis to determine if the proposed risk mitigation measures sufficiently address the probable significant adverse environmental impacts from the unpermitted projects' increased rail-related throughput at the facility.

Appendix B.5 concludes:

BNSF is primarily responsible for the care, custody, and control of LPG while it is in transit to the Facility. Moreover, BNSF is not the applicant and there is no legal authority for the County to impose mitigating conditions of approval on BNSF operations through ALA Energy's permitting process for the Facility.

Whether or not the above statement is accurate, the permit applications, SEPA checklist and appendices are still required to comply with SEPA and evaluate all the probable rail-related environmental impacts.

### **Prior Projects' Increase in Terminal Vessel Traffic**

The Very Large Gas Carriers that export LPG are referred to as "Terminal Vessels." The increase in facility throughput has also increased Terminal Vessel traffic.

The information in [Appendix B.3 Marine Vessel Operations](#) is not consistent with the baseline 2-5 berthing events per year identified by the Northwest Clean Air Agency. This appendix states (on page 1):

Since 2016, the total vessel traffic at the Pier has ranged between 26 and 35 vessels annually. Historically, Terminal Vessel traffic averages approximately two Terminal Vessels per month from October to February and increases to approximately three to four Terminal Vessels per month from March to September primarily due to commercial factors.

The so-called historic vessel traffic of "approximately two Terminal Vessels per month from October to February and increases to approximately three to four Terminal Vessels per month from March to September" would be approximately 10 vessels from October to February and 21-28 vessels from March to September for a total of 31-38 vessels per year. Does this appendix state that vessel traffic was higher prior to 2016, given the range of 26-35 vessels annually since 2016? This would completely contradict the letter from the Northwest Clean Air Agency to Whatcom County.

The SEPA checklist states (on page 27 of 30): "More generally, the Pier continues to be limited to 48 aquatic vessels per year, regardless of the WGR Project." The Petrogas Pacific, LLC's Washington State Aquatic Lands Lease with the Department of Natural Resources (DNR), No. 20-A08488, states (on page 3 of 6, Plan of Operations): "A maximum of 48 vessels per year are allowed at the Intalco pier for all products." The same page of the lease also states: "Each year ... up to 24 vessels will utilize this facility for unloading liquid petroleum gas product."

The application materials, including the SEPA checklist, do not quantify the vessel traffic that has increased as a result of the facility's increased throughput, nor have any other aquatic vessels at the pier been identified and quantified and their probable environmental impacts have not been evaluated.

For example, Appendix B.3 states (on page 4):

Terminal Vessels must comply with tug-assist requirements under RCW 88.16.190(2) when carrying LPG as an additional safety precaution. Specifically, Terminal Vessels carrying LPG must be under tug escort when in the Puget Sound east of Discovery Island Lighthouse.

The number of tugs at the pier are not addressed in this appendix or the SEPA checklist. There are no mitigation measures identified for tugs in Revised Appendix G: Table of Avoidance Minimization and Mitigation Measures. The number of vessels at the pier for maintenance and

repair are also not addressed, such as the repairs related to the accident that occurred on December 15, 2019 (see more below).

In spite of the fact that, starting in 2015, vessel traffic has increased as a result of the facility's increased throughput, the SEPA checklist states (on page 16 of 30):

No threatened or endangered species are known to be present in the immediate vicinity of the Facility, nor were any observed during an onsite passive survey. The nearby Salish Sea is habitat for Listed salmon species and Southern Resident Killer Whale. However, the Facility is greater than 300 feet from the OHWM and has no direct impact on those species or their habitat.

Having stated that in the SEPA checklist, the applicant includes an [Orca Supplemental Environmental Checklist](#), which includes this question: "What frequency of vessel traffic is expected as a result of this project (e.g., the anticipated number of transits per year, etc.)?" The Orca Supplemental Environmental Checklist states:

The Projects do not change the number of marine vessels currently permitted through the Department of Natural Resources Aquatic Lands Lease (20-A08488). A maximum of 48 vessels per year are allowed at the Pier for all products.

This application and SEPA checklist do not include any documentation of any permits that have been issued by DNR. Only the DNR Aquatic Lands Lease (20-A08488) is provided.

As quoted above from Appendix B.3 of the SEPA checklist, "the total vessel traffic at the Pier has ranged between 26 and 35 vessels annually." The statement above, that "48 vessels per year are allowed at the Pier" hints that vessel traffic will increase from the current range, since 2016, of 26 to 35 vessels annually, to 48 vessels per year. This would be an increase of 13 to 22 Terminal Vessels per year. Such an increase in vessel traffic has not been addressed and must be evaluated through a full EIS.

Southern Resident killer whales are one of the most at-risk marine mammals in the world.<sup>5</sup> Since Governor Inslee's Executive Order established the Southern Resident Killer Whale Task Force (Task Force),<sup>6</sup> Washington State has made significant investments in the protection and recovery of Southern Residents.<sup>7</sup> The impacts to the Southern Resident killer whale population from ship strikes, disturbance from vessels, and vessel noise are well-researched and

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<sup>5</sup> NOAA Fisheries (National Oceanic and Atmospheric Administration National Marine Fisheries Service). 2021. *Species in the Spotlight, Priority Actions 2021-2025*. <https://www.fisheries.noaa.gov/resource/document/species-spotlight-priority-actions-2021-2025-southern-resident-killer-whale>.

<sup>6</sup> EXECUTIVE ORDER 18-02. SOUTHERN RESIDENT KILLER WHALE RECOVERY AND TASK FORCE. [https://www.governor.wa.gov/sites/default/files/exe\\_order/eo\\_18-02\\_1.pdf](https://www.governor.wa.gov/sites/default/files/exe_order/eo_18-02_1.pdf).

<sup>7</sup> Southern Resident Killer Whale Task Force website: <https://www.orca.wa.gov/about/> which monitors progress to date on the Task Force recommendations: <https://www.orca.wa.gov/progress/>.



documented.<sup>8</sup> Southern Residents are particularly vulnerable to oil spill impacts. According to NOAA Fisheries: “Their small population size and social structure also put them at risk for a catastrophic event, such as an oil spill, that could affect the entire population.”<sup>9</sup>

The Court of Appeals in [\*Phillips 66 Company v. Whatcom County Washington and Friends of the San Juans\*](#), (Case No. 82599-2-1) states (on page 10):

Expert opinions corroborated that increased vessel traffic would harm the [Southern Resident killer] whales. Clearly, if the evidence showed a probable increase in vessel traffic attributable to the project, an EIS would have been triggered. An MDNS would not have been an option.

In addition to SEPA’s requirements to identify and address the cumulative impacts of all 33 projects included in the permit applications and SEPA checklist, the cumulative impacts analysis of the facility’s increase in vessel traffic and the potential for an additional 13 to 22 Terminal Vessels per year needs to include the current and projected increases in vessel traffic in the region. This would need to include Canadian projects such as the recently completed Trans Mountain pipeline expansion project which will significantly increase oil tanker traffic, and Roberts Bank Terminal 2, which has received both federal and provincial permits and will significantly increase container ship traffic.

The increase in the facility’s transshipment capacity that began in 2015 may have also resulted in the use of Terminal Vessels that are too large for the facility’s pier. Petrogas Pacific, LLC’s lease with DNR states (on page 1 of 6, Plan of Operations), “The pier is capable of receiving and berthing ocean going bulk carriers with drafts of approximately 35 feet.” It’s concerning to see the use of Terminal Vessels that exceed drafts of 35 feet. For example, the Terminal Vessel AYAME has a draft of 11.63 meters or 38.16 feet. (For more information about the AYAME, see below.) The drafts of the Terminal Vessels should not exceed what the pier is capable of receiving and berthing.

The existing and probable environmental impacts from the use of Terminal Vessels with drafts greater than 35 feet have not been evaluated and should be included in the scope of a comprehensive EIS.

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<sup>8</sup> NOAA Fisheries. 2022. *2021 Southern Resident Killer Whales (Orcinus orca) 5-Year Review: Summary and Evaluation*. <https://www.fisheries.noaa.gov/resource/document/2021-southern-resident-killer-whales-orcinus-orca-5-year-review-summary-and-evaluation>.

<sup>9</sup> NOAA Fisheries. 2022. *2021 Southern Resident Killer Whales (Orcinus orca) 5-Year Review: Summary and Evaluation*. Page 5. <https://www.fisheries.noaa.gov/resource/document/2021-southern-resident-killer-whales-orcinus-orca-5-year-review-summary-and-evaluation>.



### **Appendix B.3: Marine Vessel Operations**

According to the Appendix's footnote #1:

This appendix is intended to address the requirements found in WCC 16.08.090(E) Evaluation/Worksheet for Fossil and Renewable Fuel Facilities subsection (3) Transits of tankers or barges and their support vessels that have the potential to create risks of spills or explosion or interfere with commercial and treaty tribe fishing areas.

However, there is no evaluation of the risks of spills or explosion and there is no evaluation of potential interference with commercial fishing and Tribal Nation Treaty Rights in usual and accustomed fishing areas. There is also no mention of the incidents and accidents that have occurred at the pier or to Terminal Vessels. For example, there is no mention of the accident that occurred on December 15, 2019, when the LPG carrier LEVANT struck the Petrogas terminal. Fortunately, no injuries and no pollution event occurred, but the LEVANT's forward ballast tank was penetrated and there were four hull breaches below the waterline. The terminal's south mooring dolphin and adjoining catwalk were destroyed. Total estimated damages were \$8.25 million. See the [National Transportation Safety Board Marine Accident Brief](#).

### **Appendix B.2: ALA Energy Ferndale Greenhouse Gas Emissions Analysis**

This appendix is deficient, and further analysis and revisions should be required. The Greenhouse Gas Emissions Analysis states (on page 8): "It was assumed that all modes were fueled by diesel, except for pipeline transportation..." (which uses electricity). This statement contradicts information in Appendix G: Table of Avoidance, Minimization, and Mitigation Measures, which states that some Terminal Vessels use Marine Gas Oil and some Terminal Vessels also use Heavy Fuel Oil.

Analysis is needed on the greenhouse gas emissions from Terminal Vessels. See below for more information on the Terminal Vessels that use Heavy Fuel Oil.

Please explain how Appendix B.2 meets the requirements of WCC 16.08.090 E.2. Lifecycle greenhouse gas emissions for the project's incremental change for renewable facilities and fossil fuel facilities.

### **Revised Appendix G: Table of Avoidance Minimization and Mitigation Measures**

We appreciate ALA Energy's voluntary commitment to mitigations in addition to meeting all federal and state regulatory requirements. However, these commitments are, in some cases, participation in merely voluntary programs, and all lack publicly accessible verification.

Appendix G states (on page 3) that Terminal Vessels will be screened by a qualified independent third-party vetting agent for compliance with a uniform inspection protocol. There is no information provided on what the uniform inspection protocol includes and if these mitigation measures are included, how the inspections will be documented, whether they will

be publicly verifiable, and whether the Terminal Vessels that are found non-compliant with the uniform inspection protocol can still be used to transport LPG.

In Appendix G, the applicant proposes (on page 3) to “Report all Terminal Vessel traffic of the preceding year to County on an annual basis.” There’s no information on what will be included in this report, whether an independent third party will make the report, and/or how this report will be made available to the public.

Appendix G states (on page 3-4) that Terminal Vessels will be provided with guidance to:

Operate non-dual fuel vessels to use Marine Gas Oil (MGO) or an alternative marine fuel that meets or exceeds the regulatory requirement within the ECA and if scrubbers are installed, any discharges from marine vessel scrubbers must be in compliance with all NPDES discharge requirements.

Allowing Terminal Vessels to use scrubbers (Exhaust Gas Cleaning Systems) is very concerning given the pollution that scrubbers discharge into marine waters, causing significant adverse environmental impacts, including to salmon, Southern Resident killer whales, and humans.

Scrubbers are installed on ships in order to use Heavy Fuel Oil instead of fuels that meet global and regional requirements. The International Maritime Organization requires the use of marine fuels with no more than 0.50% sulfur content to reduce harmful emissions. The North American Emission Control Area (ECA) has emissions requirements for sulfur oxides, particulate matter, and nitrogen oxide. The sulfur content of fuel oil in the ECA must be no more than 0.10%. Heavy Fuel Oil is a bottom-of-the-barrel fossil fuel. It is thick and full of carcinogens, heavy metals, and other toxic compounds known to harm humans and marine ecosystems. A Heavy Fuel Oil spill is far more difficult to contain and collect and causes more environmental, cultural, and economic damage as compared with an ECA-compliant fuel oil spill.

The Heavy Fuel Oil pollution that scrubbers remove from the exhaust is then discharged into marine waters. A [2019 presentation by the WA State Dept. of Ecology](#) shows that scrubber discharges don’t meet the Water Quality Standards for Surface Waters of the State of Washington ([Chapter 173-201A WAC](#)). The wastewater stream from scrubbers is very acidic. Scrubber discharges increase ocean acidification. Scrubber discharges contain some of the most toxic elements of the exhaust. Many of these toxic compounds are fat soluble, bioaccumulate up the food chain, and are known to be harmful to salmon, Southern Resident killer whales, and humans. Scrubber discharges exacerbate the toxin accumulations in Southern Residents, further threatening their survival.<sup>10</sup>

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<sup>10</sup> Lee, K., Raverty, S., Cottrell, P. *et al.* Polycyclic aromatic hydrocarbon (PAH) source identification and a maternal transfer case study in threatened killer whales (*Orcinus orca*) of British Columbia, Canada. *Sci Rep* **13**, 22580 (2023). <https://doi.org/10.1038/s41598-023-45306-w>.

The April 2024 report, [Vessel Pollution in Pacific Canada](#), states (on page 29):

ECCC [Environment and Climate Change Canada] estimates that over 26 million tonnes of scrubber washwater was discharged into SRKW [Southern Resident killer whale] critical habitat in 2022, including 69 kg of PAHphe [Polycyclic Aromatic Hydrocarbons as phenanthrene equivalents] and over 8,000 kg of metals. Cruise ships accounted for 44% of the washwater discharge and 40% of the PAHphe and 44% of the metals in this habitat. ...

ECCC estimates that marine vessel scrubbers contribute between 40-98% of the loading of priority contaminants within 300m of SRKW critical habitat. Further, ECCC calculated that scrubbers are estimated to be responsible for the largest proportion of vanadium within 300 m of the SRKW critical habitat.

The guidance provided to Terminal Vessels in advance of arrival to the Strait of Juan de Fuca is excellent; however, there is no assurance that this guidance will result in any mitigations. There is no publicly verifiable compliance mechanism.

Appendix G (on page 4) includes the guidance to “only use approved anchorage locations within the Puget Sound.” This was added as a result of information provided about Terminal Vessels that have anchored outside of designated anchorage areas, including anchoring within the Cherry Point Aquatic Reserve. For example, the Terminal Vessel AYAME that loaded LPG cargo from July 12-23, 2021, anchored a total of three times, twice within the Cherry Point Aquatic Reserve. See attached map (created from the AYAME’s AIS (Automatic Identification System) data). According to the DNR website, the [Cherry Point Aquatic Reserve](#) is a unique aquatic ecosystem that “protects unique habitat that supports marine and intertidal species that are crucial to the health of the Salish Sea.”

The AYAME was one of several Terminal Vessels that anchored outside designated anchorage areas. The environmental impacts since 2015 from the Unpermitted Prior Projects and the probable environmental impacts from the anchoring of Terminal Vessels have not been evaluated.

The permit applications, SEPA Environmental Checklist, and appendices raise several concerns and include several deficiencies.

1. Regarding the Notice of Application:
  - a. The details of the 2016 compressor replacement project and any effect that had on the facility’s throughput/transshipment capacity should be thoroughly addressed in the permitting process.
  - b. Please clearly define how the application meets the requirements in WCC 22.05.126 Supplemental procedures for fossil fuel refinery and fossil fuel transshipment facility permitting.
  - c. Revisions are needed to meet the requirements in WCC 16.08.090(E).

- i. Revisions are needed to Appendix B.3: Marine Vessel Operations to thoroughly address the facility's transits of Terminal Vessels and their support vessels that have the potential to create risks of spills or explosion or interfere with commercial fishing and Tribal Nation Treaty Rights in usual and accustomed fishing areas.
- ii. Revisions are needed to Appendix B.2: ALA Energy Ferndale Greenhouse Gas Emissions Analysis. Please explain how this appendix meets the requirements of WCC 16.08.090 E.2. Lifecycle greenhouse gas emissions for the project's incremental change for renewable facilities and fossil fuel facilities.

2. Regarding the SEPA pre-threshold consultation process:

- a. The details of the 2016 compressor replacement project and any effect that had on the facility's throughput/transshipment capacity should be thoroughly addressed in the SEPA review process.
- b. The submission of one SEPA checklist is appropriate in order to identify and address the cumulative impacts of all 33 projects.
- c. The 31 unpermitted prior projects have resulted in significant adverse environmental impacts and have potential significant adverse impacts and cumulative impacts have not been adequately addressed in the SEPA checklist and appendices as submitted.
- d. An assessment of the total hydrocarbon transshipment capacity of the facility prior to 2015 is needed in place of the assessment for the facility prior to August 15, 2016.
- e. The SEPA checklist needs to be revised to thoroughly address all the environmental impacts and any threatened or endangered species that have been and continue to be impacted by the increase in railcars that has occurred since 2015.
- f. The cumulative impacts analysis of the facility's increase in vessel traffic and the potential for an additional 13 to 22 Terminal Vessels per year needs to include the current and projected increases in vessel traffic in the region.
- g. Allowing Terminal Vessels to use scrubbers (Exhaust Gas Cleaning Systems) is very concerning given the pollution that scrubbers discharge into marine waters, causing significant adverse environmental impacts, including to salmon, Southern Resident killer whales, and humans.
- h. Analyses of the environmental impacts since 2015 and the probable environmental impacts from the use of Terminal Vessels with drafts greater than 35 feet are needed.
- i. Analyses of the environmental impacts since 2015 and the probable environmental impacts from the anchoring of Terminal Vessels are needed.
- j. The SEPA checklist needs to be revised to thoroughly address all the threatened or endangered species that have been and continue to be impacted by the increase in vessel traffic that has occurred since 2015 as a result of the

unpermitted prior projects as well as the implied further increase of 13 to 22 Terminal Vessels per year.

Whatcom County should require revisions to the application materials, SEPA checklist and appendices, and issue a threshold Determination of Significance that requires an EIS.

Thank you for your attention to these comments.

Sincerely,

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October 15, 2021

Mark Personius, Director  
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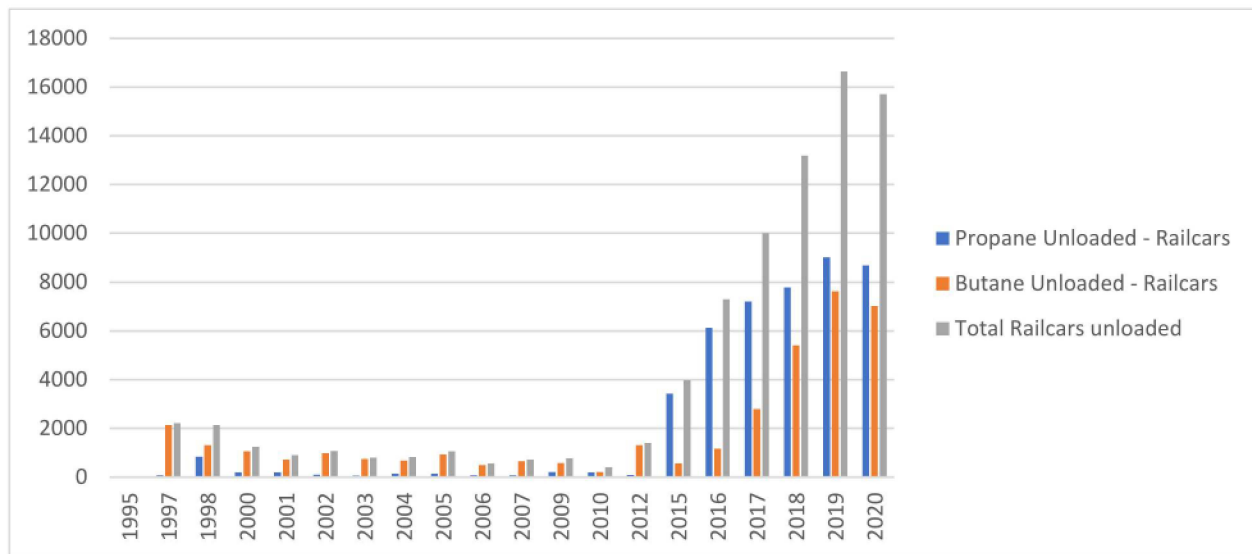
Dear Director Personius,

Northwest Clean Air Agency (NWCAA) has issued the enclosed Notice of Violation (NOV) to the Petrogas Ferndale Terminal facility located in the Cherry Point Industrial Area. The alleged violations address an unpermitted increase in the Petrogas facility's emissions of volatile organic compounds (VOCs) resulting from a material increase in the volume of propane delivered to the facility, beginning in 2015 and continuing through the present.

In 2016, NWCAA approved the facility's application to replace two aging compressors, which the facility stated were near end of life. The SEPA checklist submitted to Whatcom County for the compressor replacement project stated that there were "no future additions expansions or activities related to the proposed activities" and "the project will not increase the total number or frequency of rail cars to and from the terminal."

Beginning in 2015, the facility also made a number of changes that were not permitted by NWCAA that increased the facility's capacity for propane deliveries and handling. These changes allowed the facility to make use of the greater capacity of replacement turbines to materially increase propane deliveries. The enclosed NOV identifies violations of air quality permitting and regulatory requirements related to the facility changes, the increase in propane throughput, and the resulting increase in VOC emissions.

While materials may be received at the facility by pipeline, truck, and rail, most of the throughput expansion since 2015 has been attributable to rail receipts. Railcar unloading expanded from an average of about 1,000 cars/year to up to 16,633 railcars in 2019. Ship traffic also expanded from 2-5 berthing events per year to 26 in 2019. The following data presents the number of railcars unloaded at the facility since 1995.



NWCAA wanted to call this matter to Whatcom County's attention, since the County was the lead agency for SEPA purposes for the 2016 compressor replacement project and could be the SEPA lead agency for any future permitting action that stems from the enclosed NOV. Please let us know if we can be of further assistance or answer any questions regarding this action.

Respectfully,

Mark Buford, Executive Director



# LPG Vessel AYAME

7/12/2021 - 7/23/2021

