



Tribal Treaty Rights and Trust Responsibilities Fact Sheet



Fish species such as salmon are an important tribal resource

In the Draft Environmental Impact Statement (EIS), tribal resources refers to tribal fishing and hunting and gathering practices, including access to traditional cultural areas associated with a tribe's sovereignty or treaty rights. These resources may include plants, animals, or fish, used for commercial, subsistence, and ceremonial purposes. The primary focus is reserved tribal treaty rights, including fishing, hunting, and food gathering rights. As lead federal agency, the U.S. Army Corps of Engineers (Corps) has initiated consultation with potentially affected Indian Tribes. The Corps will continue to consult with tribes to identify potential project impacts that could affect protected tribal lands and resources.

Reserved tribal treaty rights refers to the rights of indigenous peoples that were reserved by treaties with the federal government, to continue their traditional access and harvest of natural resources on Indian reservations and off-reservation public land. The Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Confederated Tribes and Bands of the Yakama Nation are referred to as "the Columbia River Treaty Tribes." Other federally-recognized tribes addressed in the Draft EIS are the Cowlitz Indian Tribe and the Confederated Tribes of the Grand Ronde Community of Oregon.

Tribal concerns in regard to the proposed export terminal include potential impacts to fish, vegetation, wildlife, and water. The tribal resources assessment builds upon analysis done in those specific resource areas, and more directly looks at the potential impacts to the portions of those as it relates to tribal sovereignty and treaty rights. Impacts on cultural resources, another tribal resource of concern, are addressed in the Cultural Resources Fact Sheet.

How were impacts on tribal treaty rights and trust responsibilities identified and analyzed?

The analysis is based on original research and a review of past studies of northwest tribes and a review of state and federal treaties, laws, and policies that define the federal relationship with recognized tribes. The analysis considers information gathered through consultation with the affected tribes and comments provided during the National Environmental Policy Act (NEPA) process.

The Draft EIS describes Northwest Indian Treaties and Federally Recognized Tribes, and discusses tribal resources of concern, which include fish and fishing sites, vegetation, wildlife, and water. The study also describes federal tribal administration and treaty rights. The analyses assess the potential for the proposed export terminal to affect tribal resources and treaty rights during construction and operation.

How would the proposed export terminal affect tribal treaty rights and trust responsibilities?

The Draft EIS evaluated potential impacts on tribal resources of concern including fishing sites, fish, vegetation, wildlife, and water.

Fishing Sites

Tribal fishing generally occurs upstream of the project areas starting just below Bonneville Dam (Zone 6), as provided in agreements among the tribes and the states of Washington and Oregon. The Draft EIS concludes that there should be no measurable impact on tribal fishing.

Fish

Construction of the proposed export terminal would result in underwater noise associated with the installation of steel piles and turbidity during dredging and disposing of dredged material. These impacts could result in behavioral responses or injury to fish. New overwater structures and increased vessel traffic would affect fish with increased shading, noise, and an increased risk of fish stranding.

Vegetation

Construction of the proposed export terminal at either the On-Site Alternative or Off-Site Alternative location would permanently remove vegetation. However, no culturally significant plant species are known to be present in these areas. The implementation of best management practices during operation would reduce coal dust emissions in the project area.

Wildlife

Construction of the proposed export terminal would result in loss of both terrestrial and aquatic habitat. Noise from construction and operation could also affect both terrestrial and aquatic wildlife. Operation of the terminal would generate coal dust, which could affect wildlife through physical or toxicological means. The proposed export terminal could affect culturally significant species.

Water

Construction activities would not be expected to result in groundwater degradation. Construction and operation of the proposed export terminal could result in accidental releases of contaminants (such as fuel, oil, or chemicals). The Applicant would be required to obtain and comply with a National Pollutant Discharge Elimination System (NPDES) Industrial Stormwater Permit and an NPDES Construction Stormwater General



Tribes use fish, plant, and animal resources in and along the Columbia River. This photo shows a tribal fishing platform.

permit and develop and comply with a site-specific construction Stormwater Pollution Prevention Plan. Impacts related to vessel transport could cause temporary, localized increases in turbidity, and could release fuel or hazardous materials as a result of a vessel incident or collision. Federal and state emergency response and cleanup programs would require cleanup actions if a spill were to occur.

What measures could reduce impacts on tribal treaty rights and trust responsibilities?

Resources of tribal concern include cultural resources, water, vegetation, fish, and wildlife. A detailed list of mitigation measures for each of these resource areas can be found in the Draft EIS in Chapter 8, *Minimization and Mitigation Measures*.

How can I comment on the Draft EIS for the proposed export terminal?

All comments are valued equally, no matter how they are submitted. You can comment by mail, online, or in person at public hearings held during the public comment period. The comment period for this Draft EIS runs from September 30 through November 29, 2016.

Mail written comments to the following address:

Millennium Bulk Terminals—Longview NEPA EIS, c/o ICF International
710 Second Avenue, Suite 550
Seattle, WA 98104

Submit comments online at:

www.millenniumbulkeiswa.gov/submit-comments.html

Submit comments in person (orally or in writing) at one of two public hearings:

Monday, October 24, 2016 1:00 – 9:00 p.m.
Cowlitz County Event Center
1900 7th Avenue
Longview, WA 98632

Tuesday, October 25, 2016 1:00 – 9:00 p.m.
Clark County Event Center
17402 NE Delfel Road
Ridgefield, WA 98642

Where can I find more information?

Chapter 4, Section 4.5, *Tribal Treaty Rights and Trust Responsibilities*, of the Draft EIS has detailed information on current conditions, analysis and findings related to the potential impacts of the proposed export terminal related to tribal treaty rights and trust responsibilities. The following sections of the Draft EIS also include detailed information and analyses relevant to tribal resources: Chapter 4, Section 4.4, *Cultural Resources*; Chapter 5, Section 5.5, *Water Quality*; Section 5.6, *Vegetation*; Section 5.7, *Fish*; and Section 5.8, *Wildlife*.

Visit www.millenniumbulkeiswa.gov for more information on the proposed export terminal and the Draft EIS.