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# Proposed Methanol Manufacturing/Shipping Terminal (Kalama, Washington): Sierra Club Files National Environmental Policy Act Federal District Court Challenge

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The Sierra Club and several other organizations (collectively “Sierra Club”) filed a Complaint for Declaratory and Injunctive Relief (“Complaint”) in the United States District Court for the Western District of Washington alleging a violation of the National Environmental Policy Act (“NEPA”) associated with the proposed construction of a methanol manufacturing and shipping terminal (“Terminal”) in Kalama, Washington.

The Complaint describes the proposed terminal as including:

- a refinery to convert fracked gas to methanol
- a marine export terminal to load methanol for shipping
- a gas pipeline to supply the refinery with fracked gas

The Sierra Club challenges the United States Army Corps of Engineers (“Corps”) issuance of a Clean Water Act § 404 permit to build the terminal. The challenge is premised on the alleged failure of the Corps to comply with NEPA.

NEPA requires federal agencies to include environmental values and issues in their decision-making processes. This federal mandate is accomplished by agency consideration of environmental impacts of proposed actions and reasonable alternatives to those actions. The statute requires federal agencies in certain instances to prepare a detailed Environmental Impact Statement (“EIS”). However, the requirement to produce this document is only triggered in the event of a major federal action that will significantly affect the environment.

NEPA differs from action enforcing environmental statutory programs such as the Clean Air Act or Clean Water Act. It does not impose substantive mandates. Instead, it is limited to requiring federal agencies to meet procedural requirements such as preparation of an Environmental Assessment (“EA”) or EIS in certain defined instances. As a result, NEPA does not require a certain alternative or meet a particular standard.

The Complaint alleges that the Corps failed to fully consider greenhouse gas impacts of the terminal in an EIS. Instead, it is alleged that the Corps completed a limited EA and made a Finding of No Significant Impact in issuing the Clean Water Act permits.

The Sierra Club also challenges the alleged failure of the National Marine Fisheries Service's ("NMFS") Biological Opinion on the proposed terminal to set meaningful and required limits on Incidental Take of certain threatened and endangered species.

The Complaint asks that the Court:

1. vacate the EA/Finding of No Significant Impact, Clean Water Act Action 404 permit, and NMFS's biological opinion and its accompanying Incidental Take Statement;
2. remand to the Corps to prepare an EIS on the Proposed Project before reconsidering a new Clean Water Act Section 404 permit; and
3. remand to the Corps and NMFS to complete consultation on the Proposed Project.

A copy of the Complaint can be downloaded [here](#).