

Peter Huhtala  
PO Box 682  
Astoria, Oregon 97103  
503 468-8038

July 1, 2009

Clatsop County Board of Commissioners  
800 Exchange Street, #410  
Astoria, Oregon 97103

Re: Bradwood Landing LLC - LUBA #2008-052 remand hearing

Dear Commissioners:

Thank you for the opportunity to provide these comments as you reconsider your decisions on this application that were remanded by the Land Use Board of Appeals (LUBA). My standing according to the guidelines you have established is clear; I was a petitioner in the LUBA appeal.

These comments will be limited to the two substantive issues of the remand – (1) the size of the project and (2) your obligation to protect threatened and endangered species and salmon fishing grounds.

### **Project size**

The Columbia River Estuary Study Taskforce (CREST) states in their December 2007 comments to the Bradwood Landing environmental impact statement: “the scale of this project is unprecedented in the Lower Columbia.” I agree, and by reference incorporate this document into my comments.

LUBA correctly observed that the County had erred in not including the footprint of the proposed turning basin in calculating the size of the project. In fact the project is dependent upon this turning basin for the primary activities of maneuvering, offloading and guarding the massive LNG tankers, without which there would be no product for storage, processing and distribution in the other mutually dependent portions of the project.

Rezoning 46 acres (of 58 acres to be dredged) that were classed as Aquatic Conservation was considered by the applicant as necessary to construct the in-water portion of their project. This change is needed to accommodate a large-scale alteration of the river bottom, and required to operate this very large industrial operation.

Just as the in-water component is vital for the facility as a whole, so are the 36-inch high-pressure pipelines leaving the terminal to connect with existing pipelines. Without the pipelines the rest of the industrial facility could not operate. Clearly, all potential new pipelines associated with the project should be included when describing the size of the facility.

The sheer mass of the shore-side storage tanks, coupled with the re-gasification systems should have compelled a conclusion that this was a very large project. Add in the tanker turning basin and the pipelines and we have a situation that is “unprecedented.”

### **The meaning of protect**

The other central issue before the Commission involves two important sections of the Clatsop County Comprehensive Plan (Plan): CCCP Policy 20.2(1) provides that “[t]raditional fishing areas shall be protected when dredging, filling, pile driving or when other potentially disruptive activities occur.” CCCP Policy 20.8 provides that “[e]ndangered or threatened species habitat shall be protected from incompatible development.”

Common sense concludes that creating a turning-offloading-guarding basin to accommodate approximately 125 tankers per year in traditional fishing areas would not only fail to protect these areas, but would essentially eliminate fishing in the 58-acre turning basin and additional acreage where vessels may be excluded for safety or security reasons.

Again, common sense tells us that digging and maintaining the turning basin, the near-constant disturbance by in-water activity, and the intake of ballast water are not compatible with protecting endangered salmon.

Significant changes to the river hydrology would be expected; exactly how this would affect the survival of endangered salmon is not clear. It is clear that the development would reduce the amount and quality of shallow and middle depth habitat, removing juvenile rearing areas. Migrating juvenile salmon, generally preferring the shallow margins, would find less of this habitat and more exposure to predators, such a double-crested cormorants. The project would bring numerous additional threats

to fish and other animals listed under the federal Endangered species Act and similar state statutes.

Endangered or threatened salmon and steelhead would not be protected from this incompatible development, any more than traditional fishing areas would be protected. I can't imagine that the crafters of the Comprehensive Plan expected that semantic gymnastics would be used to change what they meant by "protect." Rather, it's reasonable to expect that these sections of the Plan were meant to implement Statewide Planning Goals 16 and 17, and to *protect* (to save or shield from loss, destruction, or injury or to save for future intended use) Columbia River resources and the fishing-dependent portions of our economy.

Goal 16 and 17, which CCCP Policy 20.2(1) and CCCP Policy 20.8 implement, both use the word "protect" which is defined in the Statewide Planning Goals as "save or shield from loss, destruction, or injury or for future intended use."

LUBA points to this definition as the required usage under the hierarchy established by LWDUO 1.035. The applicant might grasp at sources for a weaker definition of "protect," I presume because they realize that their project would otherwise be inconsistent with the Clatsop County Comprehensive Plan. However, the Commission cannot accommodate the applicant, being bound by LWDUO 1.035.

### **Conclusion**

The Clatsop County Commission is obliged to revisit these two areas of this application. Your review should determine that this is not a small to medium-sized project and that the definition of "protect" should be based upon the definition section of the Statewide Planning Goals.

We all count upon your fair and objective consideration.

Respectfully submitted,

Peter Huhtala