

Mr. Carlton,

I apologize if I am somehow not communicating effectively. I am striving to be clear and accurate. A decision to require an SEIS is solely a City decision. No State law or reported decision of Washington courts creates a right to demand an SEIS, and receive an appealable decision on that demand from the City. To date the City has no entirely new information that would support consideration of an SEIS, and therefore has not yet considered an SEIS. If you are seeking legal advice as to how someone might attempt to compel the City to conduct an SEIS, neither I nor anyone from the City can advise you on such a course of action.

Steve Victor

Deputy City Attorney

City of Tacoma

747 Market Street, Rm 1120

Tacoma, WA 98402-3767

Direct: (253) 591-5638

From: John Carlton [<mailto:ixora@harbournet.com>]

Sent: Monday, July 2, 2018 12:18 PM

To: Victor, Steve(Legal) <svictor@ci.tacoma.wa.us>

Cc: Woodards, Victoria <victoria.woodards@cityoftacoma.org>; Pauli, Elizabeth <elizabeth.pauli@cityoftacoma.org>; Huffman, Peter <phuffman@ci.tacoma.wa.us>; Schultz, Shirley <shirley.schultz@ci.tacoma.wa.us>; Munce, Ian <imunce@ci.tacoma.wa.us>; Duggan, Jim <JDuggan@ci.tacoma.wa.us>; Regan, Michelle <MREGAN@ci.tacoma.wa.us>

Subject: RE: PSE LNG FEIS

Mr. Victor (or somebody who knows),

Please answer my question: to whom and how should I appeal this decision (or supposed lack thereof)? Is there nobody in our city with the ability to do such? Should I appeal to the state? Please, to whom do I turn?

John Carlton

From: Victor, Steve(Legal) [<mailto:svictor@ci.tacoma.wa.us>]

Sent: Monday, July 02, 2018 12:05 PM

To: John Carlton

Cc: Woodards, Victoria; Pauli, Elizabeth; Huffman, Peter; Schultz, Shirley; Munce, Ian; Duggan, Jim; Regan, Michelle

Subject: RE: PSE LNG FEIS

Mr. Carlton,

On Friday, June 22nd, you did receive a reply directly from me. As I explained in detail in my letter, the City has made no decision regarding a supplemental EIS. In the letter, I provided the precise legal standards for an SEIS, and explained that if the City acquires entirely new information appearing to meet

those standards, the City will consider an SEIS. To date that has not occurred. In the event you somehow missed the letter and Q&A, I sent previously, I attach them again.

Steve Victor

Deputy City Attorney
City of Tacoma
747 Market Street, Rm 1120
Tacoma, WA 98402-3767
Direct: (253) 591-5638

From: John Carlton [<mailto:ixora@harbornet.com>]
Sent: Monday, July 2, 2018 11:40 AM
To: Victor, Steve(Legal) <svictor@ci.tacoma.wa.us>
Cc: Woodards, Victoria <victoria.woodards@cityoftacoma.org>; Pauli, Elizabeth <elizabeth.pauli@cityoftacoma.org>; Huffman, Peter <phuffman@ci.tacoma.wa.us>; Schultz, Shirley <shirley.schultz@ci.tacoma.wa.us>; Munce, Ian <imunce@ci.tacoma.wa.us>; Duggan, Jim <JDuggan@ci.tacoma.wa.us>; Regan, Michelle <MREGAN@ci.tacoma.wa.us>
Subject: RE: PSE LNG FEIS

Mr. Victor, or a City of Tacoma official who has the knowledge and courage to step forward and address this very concerning issue:

Last week I asked how I could appeal this decision by the Planning Dept. to not pursue an SEIS. I received no reply. What does a resident of Tacoma need to do at this point if they feel this project is unsafe and needs an SEIS? Please reply.

Thank you,
John Carlton

From: John Carlton [<mailto:ixora@harbornet.com>]
Sent: Monday, June 25, 2018 9:56 AM
To: 'Victor, Steve(Legal)'
Cc: 'Woodards, Victoria'; 'Pauli, Elizabeth'; 'Huffman, Peter'; 'Schultz, Shirley'; 'Munce, Ian'; 'Duggan, Jim'; 'Regan, Michelle'
Subject: RE: PSE LNG FEIS

Mr. Victor,
Thank you for your reply.
I believe the City is in error concluding that an SEIS for safety risks is unnecessary, in accordance with the standard you state:
"An environmental impact statement is adequate under the rule of reason if it presents a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the proposed development."

I believe the points I made in my request demonstrate the lack of “ ... a reasonably thorough discussion...” in the FEIS of some reasonable risks not even discussed or, when mentioned, unreasonably dismissed as insignificant.

I would like to appeal this decision. What action do I or the City need to take?

Thank you,
John Carlton

From: Victor, Steve(Legal) [<mailto:svictor@ci.tacoma.wa.us>]

Sent: Friday, June 22, 2018 12:40 PM

To: ixora@harbornet.com

Cc: Woodards, Victoria; Pauli, Elizabeth; Huffman, Peter; Schultz, Shirley; Munce, Ian; Duggan, Jim; Regan, Michelle

Subject: PSE LNG FEIS

Dear Mr. Carlton,

Attached is a response to your June 13 email to Peter Huffman.

Steve Victor

Deputy City Attorney

City of Tacoma

747 Market Street, Rm 1120

Tacoma, WA 98402-3767

Direct: (253) 591-5638

(the attached response was a .pdf image converted to text below.)

Tacoma City of Tacoma

— Office of the City Attorney

June 21, 2018

Mr. John Carlton

Sent via email: ixora@harbornet.com

Re: FEIS — SEP2014—40000230810

Dear Mr. Carlton,

I am legal counsel to the City of Tacoma’s Planning and Development Services Department. Because your email of June 13, 2018, raises legal questions, I was asked to respond. I understand that you are requesting that Tacoma require a Supplemental Environmental Impact Statement (SEIS) for the Puget Sound Energy (PSE) LNG facility in the Port of Tacoma.

A decision to require an SEIS is solely an administrative decision of the permitting agency, in conformance with the applicable law. No State law, or reported decision of Washington courts creates a right to request an SEIS, and receive an appealable decision on that demand from the permitting agency. If in its judgment the permitting agency requires an SEIS, that decision, and the SEIS when completed, are both appealable.

As a matter of law, such an agency determination is triggered only by either actual data showing substantial changes to a proposal such that the proposal is likely to have significant additional adverse environmental impacts, or by new factual information indicating a proposal's probable newly discovered significant adverse environmental impacts. The actual data showing substantial changes, and/or the new factual information about newly discovered impacts must be completely new, and the newly discovered or identified environmental impacts must not be within the range of alternatives and impacts already analyzed in the existing Final Environmental Impact Statement (FEIS). (WAC 197-11-600 (3)(b) and 197—11-620).

The City and the Washington State Department of Ecology are monitoring construction, and as of today's date, the City has received no actual data showing substantial changes to the PSE proposal that would result in additional impacts, nor has the City received any new information regarding impacts that were not within the range of impacts already analyzed within the scope of the previously prepared FEIS. Arguments, concerns, and criticisms, however sincerely held and expressed, do not constitute actual data on changes, or new factual information on newly discovered and unanalyzed impacts. Requests for an SEIS to date rely on critiques of the adequacy of the existing FEIS, which is legally adequate under the applicable standard:

An environmental impact statement is adequate under the rule of reason if it presents a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the proposed development. An environmental impact statement is not a compendium of every conceivable effect or alternative to a proposed project but is, simply, an aid to the decision-making process. The environmental impact statement need include only information sufficiently beneficial to the decision-making process to justify the cost of its inclusion. Impacts or alternatives having an insufficient causal relationship, likelihood, or reliability to influence decision makers are "remote" or "speculative" and may be excluded from the impact statement. *Preserve our Islands et al., Appellants, v. The Shorelines Hearings Board, et al*, 133 Wn. App. 503 (2006).

The existing FEIS was never timely appealed. Currently, Tacoma has no actual data showing any substantial changes causing increased impacts regarding the PSE proposal since the date of the FEIS, nor any new information showing probable new environmental impacts not already analyzed within the scope of the existing FEIS. Should information meeting the legal test develop, the City will consider an SEIS.

In addition, I note that concerns and questions raised in the requests for an SEIS that we have received essentially align with the matters that were at issue in the appeal of the Shoreline Substantial Development Permit for the PSE project which was rejected

by both the State Shoreline Hearings Board, and Division | of the Washington State Court of Appeals. To attempt to open an additional appeal over the same issues and FEIS would be inconsistent with State law. When notice of action like an FEIS is given, project opponents must legally challenge the FEIS within twenty—one days. They cannot wait to challenge the FEIS based on a subsequent governmental action on the same subject. This is to ensure that land use challenges are addressed in an efficient manner with legal uncertainties promptly resolved and land development not unnecessarily slowed or defeated by litigation-based delays. *Summit-Waller v. Pierce County*, 77 Wn. App. 384, 394 (1995).

I hope you find this information helpful. I have additionally attached a Q&A based on questions we have received regarding the project. Please contact me should you have any additional questions. I can be reached at (253) 591—5638.

Sincerely,
(signature)

Steve Victor
Deputy City Attorney
SV/ak
cc: City Manager
Planning Director

End of attached pdf

From: John Carlton [<mailto:ixora@harbournet.com>]
Sent: Wednesday, June 13, 2018 4:02 PM
To: 'phuffman@cityoftacoma.org'
Cc: 'shirley.schultz@cityoftacoma.org'; 'imunce@cityoftacoma.org'; 'mregan@cityoftacoma.org'; 'Duggan, Jim'; 'Woodards, Victoria'
Subject: Request for SEIS of PSE LNG facility - safety risks. Attn: Tacoma's Planning and Development Services Dept.

Director Huffman:

I am a Tacoma resident, citizen and home owner. I also am an active member of a number community groups concerned for this city's future. I have spent considerable time on the Port of Tacoma for a variety of reasons; I feel I know the area and its people well. I believe we live in an important geographic location with safe access to the waterways its most obvious source of value.

The reason I am writing today is because I have significant concerns about the risks the proposed Puget Sound Energy Liquefied Natural Gas facility will place upon the local community.

I have read the Final Environmental Impact Study (FEIS) focused on safety concerns, examined the referenced accident modeling videos, Fire Protection Evaluations, Siting Studies, and related City of Tacoma's webpages:

https://www.cityoftacoma.org/government/city_departments/planning_and_development_services/planning_services/pse_proposed_tideflats_lng_facility
<http://www.cityoftacoma.org/cms/One.aspx?portalId=169&pageId=113653> » [Government](#) » [City Departments and Offices](#) » [Planning and Development Services](#) » [Planning Services](#) » [PSE Proposed Tideflats LNG Facility](#) » [Frequently Asked Questions](#)

I have done considerable outside research on this topic and had dialogue with other federal, state and city departments with a focus to gather information and direction of the legal permitting “mechanics” of this issue. All sources point to the City of Tacoma as lead State Environmental Policy Act or SEPA agency, with the Planning Department being the sole arbiter, so it is to this department I formally make this request for an SEIS.

Myself, and many others (including some experts of the gas and chemical industries, as well as health, safety and risk managers) have analyzed the FEIS and believe it falls significantly short in demonstrating this facility will be safe for those who live, work, recreate or pass nearby at the wrong time.

One of the most obvious and alarming failings of the FEIS in risk analysis is its dismissal of determining the possible outcomes if the main tank structure were to be damaged due to catastrophic accident, natural disaster or terrorist act. Why was no study done of this? The computer simulations are not too expensive or time consuming, once they are set up with the details of the site, as they had been for this project. Why not evaluate major recognized risks?

The site is on a major geo fault line, built upon toxic fill waste in a tideflats with a history of tsunamis and high tides, and in the path of potential lahars, surrounded by gas/oil storage tanks/distribution hubs, refineries, tanker trains, tanker trucks and a myriad of pipelines all within a busy ship/rail/truck network, surrounded by significant populace. But catastrophic disaster was not considered a significant enough issue to even run a computer simulation?

The dismissal of potential terrorist acts as needing analysis is ironic, since PSE/CB&I categorized their risk analysis documents for the FEIS as Critical Energy Infrastructure Information (CEII) - to keep the public from having access to the safety studies for supposed concern for terrorist acts. So why then were no studies done for these types of risks?

The FEIS declares that all potential accidents would be contained within the 550' perimeter of the property (“the fenceline”). However, just by trucking it out twice a day (and that is declared in the FEIS) the PSE LNG site would be creating potential large scale LNG risks well beyond the “fenceline” of the property. Shouldn't there be analysis of these risks to the community in the FEIS? Note: if a 10,000 gallon lng tanker truck has an accident offsite and spills its load the LNG would expand to 600 times its volume to 6 million gallons of methane, until it found a flame. Such an accident happened just a few months ago in Australia, causing a huge explosion and everyone within 2.6 km was evacuated.

The FEIS also has no analysis of the risks of rail tanker filling or locomotive refueling. The FEIS does mention intent for rail tanker distribution and PSE's website does state they plan to do these processes from the facility. Is this not also a reason for a SEIS? And what added risks would these be to Tacoma Rail facilities, as well?

There are also no analyses of risks in the FEIS of underground pipeline leakage of lng or gas, yet there will be significant amounts of gas and lng distributed via underground pipeline, under public property,

road and under Tacoma Rail lines. The line to the Tote dock will be the first underground cryogenic pipeline in the state. These pipelines are being put through some of the most unstable, permanently wet and saline soil imaginable – tideflats fill. Why was no risk assessment drawn up for these pipelines? There have been numerous accidents via pipeline gas leaks elsewhere, and this project will be a hub of pipelines. Why doesn't the FEIS doesn't even mention the added offsite pipeline risks as needing attention?

Another reason for needing an SEIS: the simulations were created with a design of an above ground pipeline structure to deliver LNG to the Hylebos dock. But now that dock (and that pipeline structure) will not be built. Would not the accident simulations produced for the FEIS be different if the Hylebos structures were not there? (as they will not be) New evaluations should be done due to changes in the design of the site; even if those changes were not expansion, the result in different scenarios with potentially different results exists.

In the FEIS (3.5.3.1 Safety History of the LNG Industry) it is stated "In the 70+ year operating history of United States LNG facilities, only two LNG safety-related incidents have occurred that resulted in adverse effects to the public or environment: a fire at an LNG facility in Cleveland, Ohio, on October 20, 1944, and an ignition of enclosed vapors in Lusby, Maryland, in 1979."

This is not even close to accurate and is outright misleading. There have been multiple other safety related incidents within the United States: some more substantial than others, but to reduce it to merely two is an obvious misstatement. And to only address accidents from LNG facilities is also misleading. There will be methane, butane and other gasses being refined and distributed from this site, as well as LNG.

A list of the many (but not all) of the LNG and methane gas accidents in recent history is below.

In conclusion, analysis of the potential site and its actions shows considerable risk well beyond the "fenceline" of the property, contradicting the simplified claims of PSE /CB&I in the FEIS and shows the need for a more complete Quantitive Risk Assessment to the local community.

Therefore, for these reasons and others, I formally request the lead permitting agency of this project, the Planning and Development Services Dept. of the City of Tacoma take action and form a Supplemental Environmental Impact Study for the risks and hazards of the PSE LNG refinery/storage/distribution facility not adequately addressed in the FEIS. I further request that if this action is not taken a statement be made by the Planning Dept. for the reasons of its denial, and directions for appeal, with a timeline expected for these processes to be carried out. I also request those cc'd in this email to please assist.

Thank you,
John Carlton

Cleveland, Ohio - 1944 - LNG facility gas leak and resulting massive explosion. 130 dead, many more injured

https://en.wikipedia.org/wiki/Cleveland_East_Ohio_Gas_explosion

Staten Island, New York - 1973 - LNG facility gas leak and resulting massive explosion. 40 dead

http://www.silive.com/news/2013/02/40_years_ago_today_staten_isla.html

Lusby, Maryland – 1979 – LNG facility gas leak and resulting explosion. 1 dead, 1 injured and millions of dollars in damages

https://www.washingtonpost.com/archive/local/1979/10/31/explosion-causes-probes-of-md-liquefied-gas-facility/e6e1f760-b2f0-47e9-afbf-25a9a5803115/?utm_term=.2036ef18e221

Tivissa, Spain - 2002 – LNG tanker truck accident resulted in huge flames and explosion - one person killed, two people over two hundred meters from accident were seriously injured. The motor and cabin of the truck were tossed over 250 meters from explosion.

https://webcache.googleusercontent.com/search?q=cache:jwlspp_lG78J:https://www.ecosakh.ru/index.php/va-doc/item/download/603_1a21405aac0f58f291410d73073154ca+&cd=3&hl=en&ct=clnk&gl=us&client=firefox-b-1

Skikda, Algeria - 2004 - LNG facility gas leak and resulting massive explosion. 30 dead, 74 injured

<https://www.nytimes.com/2004/02/12/business/algerian-explosion-stirs-foes-of-us-gas-projects.html>

Ghislenghien, Belgium – 2004 - gas pipeline explosion. Twenty-four people died, 150 injured.

<http://www.spiegel.de/panorama/katastrophenalarm-in-belgien-drei-fabriken-in-flammen-viele-tote-und-verletzte-a-310969.html>

Port Harcourt, Nigeria – 2005 - 11 people killed when a gas pipeline of the Nigeria Liquefied Natural Gas Limited Co. exploded

<http://nm.onlinenigeria.com/templates/?a=5062>

Murcia, Spain - 2011 - a Liquefied Natural Gas tanker truck accident resulted in the cargo exploding.

Building windows were shattered and large tanker fragments were tossed hundreds of meters away from the explosion. http://www.gastechnology.org/Training/Documents/LNG17-proceedings/Safety-4-Juan_M_Bonilla.pdf

Andhra Pradesh, India – 2014 - Local officials say that at least 14 people were killed and another 20 injured in a blast and fire at a gas pipeline

<https://www.lngworldnews.com/india-gas-pipeline-explosion-kills-14-people/>

Plymouth, Washington - 2014 – Explosion at facility caused major damage, injured 5, and caused hundreds of people to be evacuated within a two mile radius.

<https://www.seattletimes.com/seattle-news/lquomiraclersquo-nobody-died-in-blast-at-eastern-washington-lng-plant/>

Porter Ranch, California - 2015 – A major well leak there vented almost 100,000 tons of methane into the atmosphere before it was plugged. Methane is a very powerful greenhouse gas. More than 2,200 families from the Porter Ranch neighborhood were temporarily relocated.

https://en.wikipedia.org/wiki/Aliso_Canyon_gas_leak

Seattle, WA – 2016 – Massive PSE gas leak and explosion in Greenwood neighborhood – 9 injured

<https://www.cnn.com/2016/03/09/us/seattle-explosion/index.html>

Accra, Ghana - 2017 - Explosion at LNG storage and gas distribution station. 7 dead, 132 injured

<https://www.theguardian.com/world/2017/oct/07/petrol-station-explosion-ghana-accra-fireball>

Pilbara, Australia – 2018 – An LNG tanker truck accident caused a major spill and explosion, and resulting in a 2.6 km evacuation zone. Fortunately, there were no injuries.

<https://www.perthnow.com.au/news/traffic/fire-after-lng-tanker-crash-in-pilbara-ng-b88709022z>

Cameron Parish, Louisiana – 2018 - Federal regulators ordered Cheniere Energy Inc. to shut down part of its liquefied natural gas terminal after multiple leaks from storage tanks were discovered. Fortunately, none of the leaking tanks caught fire, though they had been leaking for years. Unfortunately, the methane dissipated into the atmosphere. The company contracted for general maintenance services of this facility is CB&I, the company that is constructing the Tacoma LNG facility.

<https://www.eenews.net/stories/1060073537>

<http://investors.cbi.com/news/press-release-details/2015/CBI-Announces-Maintenance-Contract-for-Chenieres-Sabine-Pass-LNG-Facilities/default.aspx>

Marshall County, West Virginia – 7 June, 2018 - A powerful gas line explosion sent flames shooting into the sky... The flames could be seen for miles around.

<https://www.cbsnews.com/news/gas-pipeline-explosion-rocks-moundsville-area-northern-west-virginia-sends-flames-high-in-air/>

China's Guizhou Province - 10 June, 2018 - A natural gas pipeline operated by the state-owned China National Petroleum Corp. exploded. At least 24 people were "seriously injured" .

http://www.xinhuanet.com/english/2018-06/11/c_137246424.htm