



208.265.9565 • PO Box 2308, Sandpoint, ID 83864 • www.idahoconservation.org

Grant Pfeifer
Eastern Regional Director
Washington Dept. of Ecology
4601 N. Monroe
Spokane, WA 99205

Submitted via electronic filing

October 26, 2018

RE: PacWest Silicon Smelter EIS Scoping Comments

Dear Mr. Pfeifer:

Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 35,000 supporters, many of whom have a deep personal interest in protecting Idaho's human health and environment.

Attached, please find my comments on behalf of the Idaho Conservation League regarding the EIS Scoping process for the PacWest Silicon Smelter.

Please do not hesitate to contact me at (208) 265-9565 or mnykiel@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Thank you for your time and consideration.

Sincerely,



Matthew Nykiel
Conservation Associate

ICL SCOPING COMMENTS

Scope of Analysis

ICL requests Ecology assess and report the significance of impacts from PacWest's proposal on, at least, Idaho's five northern counties, Boundary, Bonner, Kootenai, Shoshone and Benewah counties. See WAC 197-11-070(4)(b). Included below is a summarized list of potential impacts that ICL requests Ecology address. In each case, ICL requests Ecology analyze any potential direct, indirect, and/or cumulative impacts that may result from PacWest's proposal.

Air Quality

ICL requests a comprehensive analysis of the potential impacts to air quality. In analyzing these impacts, ICL requests the following:

1. Pursuant to WAC 197-11-402(b), Ecology prepare the EIS concurrently and coordinated with Ecology's emissions and air quality assessment process, pursuant to the Prevention of Significant Deterioration program under the Clean Air Act, 42 U.S.C. § 7401 et seq. ("CAA");
2. Ecology disclose any and all emissions factors used to determine the total emissions output for the proposed project.
3. Ecology analyze potential air quality impacts based on the unique geographic and meteorological characteristics of the Pend Oreille River Valley. To do this, we request Ecology collect site-specific weather data for a full year. We are concerned prognostic data will not reflect with sufficient accuracy the air pollution transport and deposition. If Ecology's analysis of air quality impacts is not based on site-specific weather data, we request Ecology explain the scientific and legal justification for its decision;
4. Ecology analyze and present an analysis that describes the likelihood and frequency with which PacWest's proposal will contribute to Air Quality Index values over 50 in northern Idaho. We request Ecology present this data to specifically inform how the project proposal may impact air quality during times of the year that air quality in northern Idaho is most degraded (e.g. during wildfire season and when winter inversions are frequent and woodstove use is high);
5. Ecology model alternatives where emissions from the project proposal are limited according to the following program requirements under the CAA: Best Available Control Technology ("BACT") and Lowest Achievable Emission Rate ("LAER"). We request Ecology model these alternatives so the public can better understand how emissions can be mitigated;
6. Ecology model the project proposal as proposed and at full build-out. PacWest signaled that their facility layout leaves room for two additional furnaces alongside the two furnaces under the current proposal; and

7. Ecology model and explain how the project proposal would impact cancer risk and risk of respiratory illness. In addition, ICL requests Ecology present an analysis that specifically details how emissions from the project proposal will impact the most vulnerable – children, elderly, and individuals suffering from respiratory illness.

ICL request Ecology consider the following mitigation measures:

- Require that PacWest cease operations, whenever the AQI value in any location in Bonner or Boundary County exceeds 100.
- Require PacWest meet LAER standards.

Odor

1. ICL requests Ecology analyze and report the likelihood of nuisance odors from the project proposal, by evaluating complaint records from similar smelter facilities in the United States and abroad. This analysis should report the anticipated frequency, duration, and extent of potential odor impacts.

Climate

1. ICL's requests Ecology analyze and report the annual greenhouse gas ("GHG") emissions that would result from the project proposal directly or proximately. Sources of GHGs directly or proximately caused by the project proposal include but are not limited to:
 - a. Scope 1
 - i. Direct stationary combustion of fossil fuels once the project is complete;
 - ii. Vehicle fleet emissions once the project is complete;
 - iii. Loss of carbon storage from the permanent conversion of forested lands;
 - b. Scope 2
 - i. Purchased electricity or steam consumed by project
 - c. Scope 3
 - i. Heavy-machinery emissions during site preparation, construction, or clean-up activities;
 - ii. New on-going product transportation emissions that are caused by the project;
 - iii. Vehicle trips generated by the project during construction and operation, including those of employees, customers, vendors, or residents. This should include vehicle, rail, and marine vessel trips associated with transport of all raw materials and final products (i.e. Ecology must analyze emissions according to any and all transportation methods proposed by PacWest, including Blue Gem coal shipments from central Colombia).

2. ICL requests Ecology not offset the project proposal's GHG emissions inventory based on use of the silicon from the proposal in solar cells, unless PacWest secures contractual agreements confirming a specific percentage of silicon from the project proposal will be utilized in the production of solar cells. Similarly, Ecology should not base mitigation actions for the project proposal's GHG emissions and air quality impacts based on supposed, but not verified, use of the project's silicon in the production of solar cells.

ICL requests Ecology consider the following mitigation measures:

- Require all trains transporting raw materials utilize Tier 4 locomotives compliant with EPA locomotive emissions standards.
- Require PacWest to provide fuel efficiency training program to vehicle, locomotive, vessel, and construction equipment operators.
- Require PacWest implement an anti-idling policy.
- Require PacWest to incentivize the use of electric vehicles by providing charging stations.
- Require PacWest to prepare a GHG mitigation plan that mitigates 100% of the GHGs it will directly and proximately emit.

Water Quality

ICL requests Ecology analyze the deposition of air pollution into water bodies in Idaho, including but limited to Lake Pend Oreille, Pend Oreille River, Priest Lake, Priest River, Kootenai River, and high alpine lakes in the Selkirk Mountains, Cabinet Mountains, and Coeur d'Alene Mountains. Ecology should analyze any potential direct, indirect, and/or cumulative impacts to fish, bird, and other species that utilize these water bodies. Ecology should pay particular attention how air pollution deposition in these water bodies may be ingested and impact vulnerable species, including but not limited to bull trout, woodland caribou, Canada lynx, wolverine, and grizzly bear.

Lichens and Selkirk Herd of Woodland Caribou

ICL requests Ecology utilize the United States Forest Service's National Lichens and Air Quality Database and Clearinghouse and associated studies and scientific literature to model and analyze the potential air quality impacts to lichens in northern Idaho and the indirect impacts to woodland caribou.

The South Selkirk Herd of woodland caribou is on the verge of extinction. In the authoritative guidebook on lichens, "Lichens of North America," the authors describe lichen sensitivity to air pollution:

"For over 140 years, lichens have been known to be extremely sensitive to air pollution. This sensitivity derives from their ability to absorb chemicals rapidly from the air and rainwater, and from the delicate balance within the lichen symbiosis between the needs of the fungus and those of the photobiont. If a

pollutant even slightly affects the well-being of one component – for example, by damaging the photosynthetic ability of the alga – the partnership quickly breaks down and the lichen dies.”

“Lichens can be harmed by a variety of pollutants, especially sulphur dioxide, a by-product of the burning of fossil fuel. Sulphuric and nitric acids (components of acid rain), fluorides, ozone, hydrocarbons, and metals such as copper, lead, and zinc are other important pollutants affecting lichens.”¹

In Bonner, Boundary, and Pend Oreille Counties (the areas most likely to be impacted by air pollution from the proposed smelter), there are at least 33 unique species of lichen.² Among these are the arboreal lichens, *Alectoria* spp. and *Bryoria* spp., which the South Selkirk herd rely almost exclusively on in the winter months.³ In fact, woodland caribou of the South Selkirk herd generally depend on arboreal lichens for up to 6 months of the year.⁴ At least three of the lichen species that the caribou rely on in this area are sensitive to air quality, including *Alectoria imshaugii*, *Alectoria sarmentosa*, and *Bryoria capillaris*.⁵

Wildlife Migration Routes

ICL requests Ecology analyze and report the impact of the project proposal on wildlife migration routes, both in proximity to the facility site and along all vehicle, rail, and marine vessel transportation routes that may be used to transport raw materials to the facility and transport final products and waste away from the facility.

Transportation

1. ICL requests Ecology analyze and report the daily, weekly, and annual increase in vehicle and rail traffic in northern Idaho that will result from the project proposal. This report should include a detailed description of all the transportation routes PacWest will use, as well as the impacts PacWest’s traffic will have on local traffic, public safety, and road maintenance.
2. ICL requests Ecology analyze air quality and health impacts of silica and dust emitted from rail cars and truck in transit to the smelter facility. This analysis should particularly analyze whether BNSF Railway Company’s Coal Loading Rule will apply to coal or

¹ Brodo, M. Irwin, et al., *Lichens of North America* (2001) at 89.

² Lichen Species Data, National Lichens & Air Quality Database and Clearinghouse, United States Forest Service,

² Lichen Species Data, National Lichens & Air Quality Database and Clearinghouse, United States Forest Service, last accessed February 19, 2018, available at <http://gis.nacse.org/lichenair/index.php>.

³ Recovery Plan for Woodland Caribou in the Selkirk Mountains, First Revision (1994), United States Fish and Wildlife Service at 11-14.

⁴ Id.

⁵ Lichen Species Data, National Lichens & Air Quality Database and Clearinghouse, United States Forest Service, last accessed February 19, 2018, available at <http://gis.nacse.org/lichenair/index.php>.

silica transported as a result of the project proposal.⁶ This rule only requires shippers loading at Montana or Wyoming mines to ensure coal dust losses in transit are reduced. However, PacWest indicated it proposes only to use Blue Gem coal sourced from Kentucky and/or Colombia, meaning BNSF or another train company may not take similar precautions to reduce coal or silica dust emissions from rail cars. If PacWest employs another railroad company, Ecology must similarly evaluate that company's requirements for reducing dust emissions from rail cars.

ICL requests Ecology consider the following mitigation measures:

- Require all rail cars and trucks shipping coal or silica be covered.

Public Service and Utilities

ICL requests that Ecology analyze and report how and where PacWest will dispose of waste products and how this waste disposal will impact public health and the environment. In addition, ICL requests Ecology analyze the impacts PacWest's waste disposal will have on municipal facilities including but not limited to the City of Newport's Wastewater Treatment Plant and municipal, county, state, or federal disposal sites. For example, Ecology should analyze how treatment of PacWest's wastewater may increase treatment costs or lower capacity at the City of Newport's Wastewater Treatment Plant.

Release or Potential Releases to the Environment Affecting Public Health

ICL requests Ecology analyze and report the risks to public health and the environment from potential compliance violations at the proposed facility, including but not limited to air emission violations, accidents transporting silica and coal by rail or truck, and solid waste disposal accidents.

Substantive Authority to Deny the Project

ICL requests Ecology analyze and discuss Ecology's substantive authority to deny PacWest's proposal pursuant to Ecology's substantive authority under SEPA. In addition, ICL requests Ecology specifically address whether project denial is appropriate given the discrepancies between the proposed project and land use and zoning regulations in Pend Oreille County.

Alternatives

ICL requests Ecology analyze offsite alternatives for the proposed project. In addition to considering a no action alternative and reasonable alternative for achieving the proposal's objective on the same site, see WAC 197-11-440(5)(d), a public-project EIS must also include a discussion of offsite alternatives to the proposal. *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26 at

⁶ See <http://www.bnsf.com/ship-with-bnsf/energy/coal/coal-dust.html>

39 (1994). To determine whether a project is private or public, Washington courts look at: (1) which entity primarily sponsored or initiated the project or (2) whether the public entity is seeking to fulfill its responsibility to perform a traditional government function by way of a private project. *Opal v. Adams County*, 128 Wn.2d 869 (1996).

In this case, the State of Washington declared PacWest's proposal a "project of statewide significance" and contributed \$300,000 of taxpayer money for engineering costs.⁷ The Washington State legislature also granted the proposal a utility-sales-tax break, and the Pend Oreille Public Utility District sold PacWest the 192-acre site at cost. It appears PacWest has benefited from other local and state government programs and grants as well. As such, the public has significantly sponsored PacWest's project proposal, warranting Ecology to analyze offsite alternatives. If Ecology chooses not to analyze offsite alternatives, ICL further requests Ecology explain its decision.

⁷ See <https://www.commerce.wa.gov/news-releases/community-grants/state-invests-300k-to-help-bring-new-300-million-silicon-smelter-jobs-to-pend-oreille-county/>.