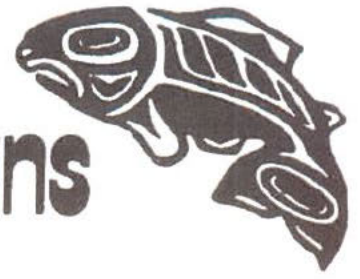




Puyallup Tribe of Indians



November 14, 2019

VIA CERTIFIED MAIL AND ELECTRONIC MAIL (Title_VI_Complaints@epa.gov)

U.S. EPA External Civil Rights Compliance Office (2310A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

(b) (6) Privacy

RE: Title VI Complaint re: Puget Sound Clean Air Agency

I. Identities of the Complainant and of the Entity Receiving Financial Assistance From the EPA

The complaining party is the **Puyallup Tribe of Indians** ("Tribe"), a federally recognized Indian Tribe with its Reservation located in the State of Washington. The entity receiving financial assistance from the U.S. Environmental Protection Agency ("USEPA") to which this complaint pertains is the **Puget Sound Clean Air Agency** ("PSCAA"). PSCAA is a regional air authority having primary authority for implementing the Clean Air Act in Pierce County, Washington, and is located at: 1904 Third Avenue, Suite 105, Seattle, Washington 98101.

This Complaint concerns the manner in which PSCAA is carrying out its authority, delegated to it by the USEPA, with respect to a liquefied natural gas facility ("Tacoma LNG") being constructed in Tacoma, Washington, in a location that will impact the airshed the facility shares with the Tribe and its Reservation. Tacoma LNG is largely enveloped by the 1872 boundary of the Tribe's Reservation. A significant portion of the Tribe's population is located within the Reservation boundary, as are virtually all of the Tribe's cultural resources. Much of the Tribe's population is comprised of low-income individuals.

Upon information and belief, PSCAA is a recipient of EPA funding and oversight with regard to its implementation of the Clean Air Act. Accordingly, the programs and activities of PSCAA, including its issuance of orders and permits for the Tacoma LNG facility under the Clean Air Act, are subject to the requirements of Title VI of the Civil Rights Act and EPA's implementing regulations (including 40 C.F.R. 7.35).

II. Summary of Conduct Necessitating this Complaint

Despite the fact that the Puyallup Tribe and other low-income and minority populations in the immediate vicinity of the Tacoma LNG facility already bear a disproportionately high level of pollution, including air pollution (industrial and otherwise), the project proponent, Puget Sound

Energy (“PSE”) has sought government authorization to construct a liquefied natural gas facility that includes a 8-million gallon tank for storing explosive materials, vaporizers and flares on over thirty (30) acres of land located on the Reservation’s border.

On July 22, 2019, PSCAA issued a preliminary determination (PD), signaling its intent to issue an Order of Approval – the air permit for Tacoma LNG. The permitting records indicate that PSCAA did not analyze the facility’s disparate impacts, nor did PSCAA assess the risks the Facility poses to health and safety (to ascertain whether Facility’s impacts will be sufficiently benign to protect human health and safety from carcinogenic and other toxic effects). This is notable because, as discussed above, the facility will emit a significant quantity of hazardous and toxic air pollutants into an airshed that the facility shares with the Tribe, residential neighborhoods consisting of minority and low-income populations, and the adjacent Northwest Detention Center. Both individually, and cumulatively, emissions of these pollutants pose significant health risks to the public that the Final Environmental Impact Statement (“FEIS”) for the project failed to consider or disclose.¹ Indeed, the FEIS contains no explanation of how toxic air emissions would affect residents that live near to the project. FEIS at 3.2-9 to 3.2-12.

The FEIS also fails to discuss cumulative air toxic impacts from industrial activities adjacent to the Tacoma LNG project. FEIS at 3.13-5, 3.13-6. The proposed location of the Tacoma LNG facility is surrounded by facilities that emit air pollution. The zip code for Tacoma LNG includes nine (9) major sources of air pollutants, and seven (7) minor sources. The FEIS acknowledges that the facility is next to two oil refineries, a paper mill, and other industrial facilities. FEIS at 3.2-6. However, it never analyzes the cumulative effects on human health of air pollutant emissions from these facilities, in addition to the current project.

Further, in the preliminary determination that it issued, PSCAA grossly underestimates the facility’s emissions. For example, the Tacoma LNG facility will have a nearly constantly operating flare to burn waste gases and pollutants. PSCAA assumes the flare will have a 99% destruction efficiency, meaning that the flare will destroy 99% of pollutants at all times operated, under all conditions. As indicated in a 2012 EPA technical report concerning flares,² this is an overly-optimistic assumption that fails to account for real world operating conditions. A destruction efficiency of even 1% less means that hazardous air pollutant emissions from the flare will double.

The Tribe recently pointed out (in its comments on the preliminary determination) a host of errors in PSCAA’s emission estimations for the facility, which errors – individually and in the aggregate – have resulted in a significant underestimation of those emissions. Correcting these errors and performing a proper analysis of the facility’s emissions may very well yield that the facility is a major source of VOCs and perhaps other air pollutants.

¹ The Final EIS can be accessed at:

[https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20\(11-9-15\).pdf](https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20(11-9-15).pdf).

² <https://www3.epa.gov/airtoxics/flare/2012flaretechreport.pdf>

III. Environmental Justice Background

The purpose of Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” is to prevent or reduce the disproportionately high pollution burden on racial minority and low-income populations. The EPA additionally developed the “Environmental Justice Implementation Plan,” which sets out a strategy for integrating environmental justice in regulatory review of permits and other activities pursued through compliance assurance and enforcement. EPA, Environmental Justice Implementation Plan, EPA/300-R-96-004, April 1996. In the context of EPA’s regulatory function, the goal of the Environmental Justice Implementation Plan is to,

Ensure that EPA’s enforcement and compliance assurance activities include a focus on minority communities and low-income communities which suffer from disproportionately high and adverse human health and environmental effects.

Id. at 16.

It is notable that prior to EO 12898, the EPA published “Environmental Equity: Reducing Risk for All Communities,” which explained how provisions of the 1990 Clean Air Act Amendments, in addition to other environmental statutes, served as tools for protecting racial minority and low-income communities that were “surrounded by multiple sources of air pollution” and other serious environmental health risks. EPA, Environmental Equity: Reducing Risk for All Communities, EPA230-R-92-008A, Volume 2, June 1992, p. 1. The report was based on health studies that identified racial minority and low-income individuals as being sensitive to the adverse health effects of air pollution and several demographic analyses on the concentration of air pollutants in predominantly racial minority and poor communities. *Id.* at 21. The report identifies and analyzes key environmental laws that govern permit issuance and enforcement as a means to target environmental protection on “problems [that] pose the greatest risks nationwide to human health and the environment.” *Id.* at 1.

Pursuant to this environmental protection strategy, EPA set a priority for protecting racial minority and low-income communities that are disproportionately burdened with the adverse environmental and health effects of pollution.

IV. Information Specific to the Tacoma Tidelands and the Environmental Burdens Faced by Tribe

Clearly, the EPA acknowledges the vital necessity of protecting communities like the Reservation as part of its mission to ensure environmental protection for all people by focusing on those who are the most vulnerable to pollution. As a recipient of EPA financial assistance, the programs and activities of PSCAA, including its issuance of the NOC and operating permits for the Tacoma LNG facility under the Clean Air Act, are subject to the requirements of Title VI of the Civil Rights Act and EPA’s implementing regulations (including 40 CFR 7.35).

Environmental health disparity tools, including EPA's EJSCREEN³ and the Washington State Department of Health's Environmental Health Disparities Map⁴, indicate the population situated near Tacoma LNG – including the Puyallup Tribe – suffer disproportionately high environmental burdens. Additionally, environmental justice materials developed by PSCAA itself indicate the Puyallup Tribe's members living on its reservation breathe among the highest levels of air pollution in its jurisdiction.⁵

V. The Tacoma LNG Facility constitutes an additional source of toxic air pollution to an area that already bears a disproportionately high level of pollution

Tacoma LNG's permit application itself establishes that a host of Toxic Air Pollutants (TAPs) and Hazardous Air Pollutants (HAPs) will be emitted from the facility, including the following pollutants which will be emitted above *de minimis* levels: **7,12-Dimethylbenz(a)anthracene⁶; Benzene⁷; Formaldehyde⁸; Hydrogen sulfide⁹; Arsenic¹⁰; Beryllium¹¹; Cadmium¹²; Manganese¹³; Vanadium¹⁴; Carbon monoxide¹⁵; Nitrogen dioxide¹⁶; Sulfur dioxide.¹⁷** These chemicals are of great concern because of their known or suspected toxic effects on humans. For example, the facility's aforementioned flare would emit large quantities of hazardous air pollutants, including benzene, toluene, and xylene. Benzene causes blood disorders, and chronic exposure can cause leukemia.¹⁸ Toluene can cause respiratory illness and is a developmental

³ <https://ejscreen.epa.gov/mapper/>

⁴ <https://www.doh.wa.gov/DataandStatisticalReports/EnvironmentalHealth/WashingtonTrackingNetworkWTN/InformationbyLocation/WashingtonEnvironmentalHealthDisparitiesMap>

⁵ See <https://www.pscleanair.org/DocumentCenter/View/3207/Hi-C-Report---Final?bidId=> (at pg. 19, Figure 10)

⁶ CAS No. 57976; listed as a TAP at WAC 173-460-150.

⁷ CAS No. 71432; listed as a HAP at 42 U.S.C. 7412.

⁸ CAS No. 500000; listed as a HAP at 42 U.S.C. 7412.

⁹ Potentially a HAP. See 42 U.S.C. 7412(n)(5). Identified as a TAP at WAC 173-460-150.

¹⁰ Identified as a HAP at 7412(b)(1).

¹¹ Identified as a HAP in table at 7412(b)(1).

¹² Identified as a HAP in table at 7412(b)(1).

¹³ Identified as a HAP in table at 7412(b)(1).

¹⁴ Identified as a TAP at WAC 173-460-150.

¹⁵ CAS No. 630080; identified as a TAP at WAC 173-460-150.

¹⁶ CAS No. 10102440; identified as a TAP at WAC 173-460-150.

¹⁷ CAS No. 74460905; identified as a TAP at WAC 173-460-150.

¹⁸ U.S. Env'tl. Prot. Agency, "Benzene," <https://www.epa.gov/sites/production/files/2016-09/documents/benzene.pdf>

toxicant.¹⁹ Xylene can cause developmental effects such as delayed bone development in fetuses, and chronic exposure can cause neurological effects.²⁰ But the issues are by no means limited to three chemicals; many of the others listed above are carcinogenic, some are mutagenic or teratogenic, and most can have toxic effects on the respiratory system, the skin, and other vital organs.²¹

In short, there can be no serious dispute that the Tacoma LNG facility will represent an increase in a number of pollutants to Washington's air. Yet these contaminants will not be spread out throughout the state; they will be confined to the area near the Tacoma LNG facility, including the Puyallup Tribe's Reservation. And significantly, many of the chemicals the Tacoma LNG facility will emit into the Tribe's airshed are persistent and bioaccumulative and, therefore, would remain in the environment for generations and accumulate through the food chain. This poses a danger to tribal food sources and cultural practices.

This constitutes an addition of too much additional air pollution to an area that bears a disproportionately high level of industrial pollution from existing facilities.²² In other words, the granting of these permits, for this facility in this location constitutes an instance of disparate impact discrimination. This fact was recently recognized by the Tacoma Human Rights Commission (THRC) in a letter seeking a Supplemental Environmental Impact Statement focusing on "the potential environmental hazards and human-rights injustices to vulnerable, frequently marginalized populations in and near the [Tacoma] Tideflats area."²³ See Attachment A.

¹⁹ U.S. Env'tl. Prot. Agency, "Toluene," <https://www.epa.gov/sites/production/files/2016-09/documents/toluene.pdf>

²⁰ U.S. Env'tl. Prot. Agency, "Xylenes (Mixed Isomers)," <https://www.epa.gov/sites/production/files/2016-09/documents/xylenes.pdf>

²¹ Indeed, the toxic chemicals that PSE plans to release have been termed "hazardous air pollutants" by Congress, 42 U.S.C. § 7412(b)(1), and have been determined by peer-reviewed scientific studies to be carcinogenic and otherwise damaging to humans.

²² Additionally, as to safety, the Washington State Department of Health's Environmental Health Disparities Map's "Proximity to Risk Management Plan Facilities" tool indicates the Tribe's reservation is already disproportionately exposed to environmental risks. In fact, the geographic area making up the Tribe's Reservation ranks at the top of the tool's exposure risk scale (10 out of 10). See <https://fortress.wa.gov/doh/wtn/WTNIBL/>.

²³ The THRC is an arm of the City of Tacoma created to "study and investigate problems of prejudice, bigotry, and discrimination and to encourage and coordinate the implementation of programs consistent with the needs and the rights of all residents of the City of Tacoma." See, https://www.cityoftacoma.org/government/committees_boards_commissions/human_rights_commission/

VI. PSCAA Has Refused to Consult with the Tribe

As a final matter, PSCAA has, to date, refused to engage in government-to-government consultation with the Tribe regarding (*inter alia*) the issues and concerns outlined in this Complaint. PSCAA's unwillingness to consult not only violates the Tribe's and its members' rights under the Treaty of Medicine Creek, but also ignores the agency's legal obligation to exercise its delegated authority in a manner consistent with applicable State and Federal law.

VII. Conclusion

PSCAA's failure to look at the Environmental Justice implications of the permitting decision before it necessitates this Complaint and request for USEPA intervention. PSCAA should be required to perform a thorough analysis of Tacoma LNG's disparate impacts before making a final permitting decision. Additionally, PSCAA should be required to engage in meaningful consultation with the Tribe.

Please contact Lisa Anderson, of the Law Office, with any questions or concerns regarding this matter at (253) 573-7852.

Sincerely,



Lisa A. H. Anderson
Environmental Attorney

Attachment

ATTACHMENT A



Delivered via email

April 18, 2019

Mayor Victoria Woodards
Councilmembers
City of Tacoma
Tacoma Municipal Building
747 Market St., Suite 1200
Tacoma, WA 98402

RE: Recommendation to initiate a supplemental review of the proposed LNG plant

Dear Mayor Woodards and Councilmembers:

Pursuant to our authority under Tacoma Municipal Code 1.29 (TMC 1.29), and for the reasons set forth below, we, on behalf of the Tacoma Human Rights Commission (Commission), strongly recommend that you request the City of Tacoma to initiate a Supplemental Environmental Impact Statement (SEIS) review of the Liquefied Natural Gas (LNG) plant proposed for the Tideflats. Based on information available on the City's website, we believe Tacoma, as the lead SEPA agency¹, would be justified in undertaking the SEIS. This would allow the City to consider up-to-date, critical new information on the proposed LNG plant's potential risks, including those bearing on the human rights of two often marginalized groups in our community: the Puyallup Tribe and immigrants detained at the Northwest Detention Center (NWDC).

The Commission's Human Rights Mission and the Proposed LNG Facility

The Human Rights Commission's mission statement provides for it to, among other things, "study and investigate problems of prejudice, bigotry and discrimination, and to encourage and coordinate the implementation of programs consistent with the needs and rights of all residents of the City of Tacoma." TMC 1.29.010. The code empowers the Commission to "[s]tudy, investigate, mediate, and hold public meetings on community-wide problems arising in the City of Tacoma which may result in intergroup tensions or discrimination," including on the basis of "race [and] national origin or ancestry[.]" TMC 1.29.020.3.

To fulfill this mission, the Commission may consult with "national origin groups, community organizations concerned with interracial, interreligious and intercultural understanding, social welfare organizations, and any other such organizations and institutions ... the Commission shall deem advisable to further the objectives of this chapter." TMC 1.29.020.4. The Commission has

¹ The City of Tacoma is the designated State Environmental Policy Act (SEPA) agency. [https://cms.cityoftacoma.org/planning/pse/Tacoma%20LNG%20FEIS%20Summary%20\(5-5-16\).pdf](https://cms.cityoftacoma.org/planning/pse/Tacoma%20LNG%20FEIS%20Summary%20(5-5-16).pdf)

a duty to “[m]ake written recommendations to the Mayor, the City Council, City Manager, and City department heads toward the development and implementation of programs and practices for the purpose of furthering the objectives of this chapter.” TMC 1.29.020.5.

The Tribe and the City disagree on whether they engaged in meaningful consultation during the 2014-2015 period regarding the proposed LNG plant, although all concur that the 1990 Land Claims Settlement requires such consultation. Omitting the Tribe from more integral involvement in the City’s 2014-2105 EIS scoping and drafting process, regardless of the legalities, appears inconsistent with the spirit of TMC 1.29’s race and national origin/ancestry protections. The Commission believes that addressing this disagreement by recommending a City SEIS aligns with its codified human-rights mission to help resolve intergroup tensions within the Tacoma community.

Further, as new data and information show, the operation of the LNG facility would potentially expose the South Sound community to grave environmental risks and potentially subject Tribal members and NWDC detainees, in particular, to a disparate environmental impact in violation of their human rights. Many Tribal members live in the areas directly surrounding the proposed LNG plant so are more likely to be adversely affected by the vapors, pollution, and other emissions that such a facility could create. The additional marine traffic and other environmental changes generated by his project are likely to impact the salmon-fishing industry so vital to the Tribe, and to pose an imminent threat to other traditional cultural practices that Tribal members carry forth today. The Commission therefore recommends requesting the City to initiate the SEIS process immediately to review potential environmental hazards and human-rights injustices to vulnerable community members residing in the Tideflats area.

Lack of Meaningful Consultation during the 2014-2015 EIS Process

- **Consultation with the Tribe was required regarding the proposed LNG plant**

Congress approved the Puyallup Tribe of Indians Settlement Act in 1989² and the following year, consistent with such law, the Puyallup Tribe, along with the City of Tacoma and several other local governmental entities, signed the 1990 Land Claims Settlement.³ It “requires the City to consult with the Tribe on land use matters” involving the Tideflats, as Tacoma expressly recognized in the 2018 Tideflats Plan Resolution.⁴ As part of this consultation process, the Settlement’s technical procedures regarding land-use proposals specifically require the City to provide the Tribe with “a summary of the request, a copy of the project plans, any environmental documents, and any other pertinent information filed in conjunction with the application.”⁵ This language appears to call for greater consultation than one or two communications during a public-

² <https://www.congress.gov/bill/101st-congress/house-bill/932/text>

³ <https://www.upi.com/Archives/1990/03/24/Historic-Indian-treaty-signed-to-settle-land-claims/2082638254800/>

⁴ Resolution 40113, Req. 18-1114, p. 1 (passed 9/25/18), <https://cms.cityoftacoma.org/Planning/Tideflats/Sub-area%20Plan/Resolution%2040113.pdf>

⁵ See 1990 Land Claims Settlement, Sec. VIII.C.a-k (“Future Consultation between the Tribal Government and Local Governments”), pp. 57-58, & Technical Documents, Document 7, Sec. C.3.a (“Procedures”), pp. 170-171 <https://babel.hathitrust.org/cgi/pt?id=pst.000018284096;view=1up;seq=2>.

comment period.⁶ In addition, Washington state law mandates governmental entities to “[i]dentify and resolve key land use conflicts along the edge of the core area, and minimize and mitigate, to the extent practicable, incompatible uses along the edge of the core area.”⁷

Tacoma’s Priorities and LNG Project have Changed Substantially since 2014-2015

Since the City conducted the 2014-2015 EIS scoping and preparation process, the City has broadened and elevated its environmental priorities through a 2016-2020 Environmental Action Plan (EAP).⁸ In the past few years, the scope and details of the project have changed in ways that are inconsistent with Tacoma’s proclaimed environmental goals, particularly given new scientific research on greenhouse gas emissions, which indicate that LNG production will have greater and more adverse effects on the environment than was understood in 2014. The City’s current EAP seeks to protect the right to clean air and water for all Tacomans and to restore the damage to shorelines and wildlife. Tribal members and NWDC detainees, as members of long-marginalized groups, particularly merit attention to and respect for their rights.

The potential damage to shorelines and marine ecosystems caused by projects like the LNG plant would be an assault on the very culture of the Puyallup Tribe, which has existed on this land Since Time Immemorial, and its operation could destroy the Tribe’s traditional way of life. Many environmental and social justice organizations stand with the Tribe in opposing the proposed LNG plant. In a joint statement issued on April 2, 2019, following the release of PSCAA’s flawed March 29 SEIS, a broad coalition of more than a dozen such groups amplified the Tribe’s call for the City of Tacoma and the Washington Department of Ecology to initiate a supplemental environmental review of the proposed facility.⁹

According to the City’s own webpage detailing the status of the LNG project and providing information responsive to “Frequently Asked Questions,” the City can initiate the SEIS based upon “actual data showing substantial changes to a proposal such that the proposal is likely to have significant additional adverse environmental impacts” or “new factual information indicating a proposal’s probable newly discovered significant adverse environmental impacts.”¹⁰ In light of the above, as well as the information detailed below, both criteria appear to be met, although either one, alone, would be sufficient according to the webpage.

⁶ The City provided the Commission with a September 14, 2014, email sent during the EIS scoping public-comment period to various recipients including the Tribe. The City’s 2015 EIS Appendix also includes two August 2015 letters from the Tribe to the City during the draft EIS public-comment period. The Tribe does not believe that such communications constituted the consultation required by the 1990 Land Claims Settlement. *See* 2/21/19 and 3/21/19 Comments of Annette Bryan, Tribal Council Representative, to the Commission; *see also* March 29, 2019, Puyallup Tribe press release regarding PSCAA final SEIS, <http://news.puyalluptribe-nsn.gov/puyallup-tribe-projects-flawed-new-review-of-tacoma-lng/?fbclid=IwAR21cs7f6UYjwgHXQGp3GeK6dcWdgP3fmD5OqLYQktPCy116dgxwJHCf264>

⁷ RCW 36.70A.085(3)(c).

⁸ https://cms.cityoftacoma.org/Sustainability/Tacoma_EAP.pdf

⁹ https://wecprotects.org/tacoma-lng-facility-eis/?fbclid=IwAR1p0E5sCDto9iPLB8Uo0K_wJT5L_OAVwH-ZbAalAznqS0ybWiArj2naJE

¹⁰ <https://www.cityoftacoma.org/cms/One.aspx?portalId=169&pageId=154554>

For example, since the 2014-2015 EIS process was completed, the following events have occurred:

- In 2016, The City of Tacoma adopted its 4-year EAP to
 - Sustain and improve Tacoma's natural environment.
 - Ensure that all Tacomans have access to clean air and water, can experience nature in their daily lives and benefit from low-impact development.
 - Foster appreciation and stewardship of wildlife and natural resources.
 - Restore damaged shorelines and marine ecosystems and protect salmon habitat along the many rivers and streams that flow into Commencement Bay¹¹;

- In the 2016-2020 EAP, the City noted that
 - “The concentration of greenhouse gases in the atmosphere is projected to increase dramatically over the rest of the 21st century absent changes in policies and practices to substantially reduce those emissions,” and the City must “[i]dentify which public infrastructures and facilities are at unacceptable risk from climate change” and adapt accordingly¹²;

- In April 2017, PSCAA issued the PSE “a Notice of Violation for failure to obtain a Notice of Construction approval prior to construction”¹³;

- On January 24, 2018, PSCAA notified PSE that it was required to undertake its own Supplemental Environment Impact Statement, “to identify and analyze greenhouse gas (GHG) emissions and impacts for this Notice of Construction (NOC) to supplement” what was in the City’s 2015 EIS ¹⁴;

- On October 8, 2018, PSCAA issued a draft SEIS for public comment which generated critical responses from many organizations and entities including the Washington State Attorney General and the Washington State Department of Ecology, and its March 29, 2019, final SEIS contains many of the same flaws¹⁵;

- In a November 21, 2018, public-comment letter, the Attorney General criticized the draft PSCAA SEIS for assuming that “all gas associated with the Project will come from Canada, and bases its calculations on the assumption,” without explaining why that source

¹¹ https://cms.cityoftacoma.org/Sustainability/Tacoma_EAP.pdf, p. 19.

¹² *Id.*, p. 27

¹³ <https://tacomaweekly.com/news/puyallup-tribe-calls-psc-out-for-lng-work-without-permit/>; <https://www.thenewstribune.com/news/local/article186435953.html>

¹⁴ <https://www.pscleanair.org/DocumentCenter/View/3124/LTR-to-PSE-re-NOC-Process-and-SEIS-w-Encl-1-24-18?bidId=>

¹⁵ PSCAA draft SEIS <https://www.pscleanair.org/DocumentCenter/View/3482/Draft-Supplemental-EIS-Tacoma-LNG-October-8-2018?bidId=>; <https://assets.documentcloud.org/documents/5689670/Letter-to-PSCAA-CEP.pdf>; <https://assets.documentcloud.org/documents/5689676/Letter-to-PSCAA-WDOE.pdf>; PSCAA final SEIS <https://www.pscleanair.org/DocumentCenter/View/3616/Tacoma-LNG-FSEIS-032919?bidId=>; Joint Statement on PSCAA final SEIS https://wccprotects.org/tacoma-lng-facility-eis/?fbclid=IwAR1p0E5sCDto9iPLB8Uo0K_wJT5L_OAVwH-ZbAaAznqs0ybWiArj2naJEs

would remain constant for the 40-year lifespan of the facility “especially as United States natural gas production has increased substantially in recent years”¹⁶;

- In that same public comment, the Attorney General also criticized the PSCAA draft SEIS for “evaluat[ing] a No-Action Alternative that can only be described as fictional” because the draft SEIS did not “acknowledge that construction” on the LNG site had continued to the present despite the PSCAA’s April 2017 Notice of Violation for failing to obtain a Notice of Construction,¹⁷;
- The final SEIS issued by PSCAA on March 29, 2019, warns that “actual realized fugitive emissions from natural gas production in the United States appear to be 60 percent higher than published fugitive emission factors (Alvarez et al. 2018),”¹⁸ and Canadian sources have more GHG emissions than the PSCAA SEIS, which recommended sole-sourcing from Alberta/British Columbia, acknowledged¹⁹;
- In addition, engaged organizations and citizens in our community have raised these and other concerns about the proposed plant including the following:
 - According to a 2016 scientific research letter estimated that methane production from fracking will be 20-25% higher than previously estimated²⁰ and a local climate-change group, based on this article and other research, estimates that greenhouse gas emissions from methane gas produced by fracking will exceed that for coal over a 20-year period than because methane is 86 times worse than carbon dioxide²¹;
 - Changed assumptions, based on the PSCAA SEIS, include an increase in the number of ships to be fueled at the LNG facility, and bunkering and onsite-restoration/offset activities occurring on the Blair Waterway instead of on the Hylebos Waterway.²²

¹⁶ <https://assets.documentcloud.org/documents/5689670/Letter-to-PSCAA-CEP.pdf>

¹⁷ *Id.* PSCAA’s final SEIS, issued on March 29, 2019, retained the assumption of “no action alternative” – despite the ongoing construction at the site – thereby effectively dismissing the Attorney General’s concerns as unimportant. See discussions of the “no action alternative.” <https://www.pscleanair.org/DocumentCenter/View/3616/Tacoma-LNG-FSEIS-032919?bidId=>

¹⁸ <https://www.pscleanair.org/DocumentCenter/View/3616/Tacoma-LNG-FSEIS-032919?bidId=>, p. 4-11

¹⁹ *Id.*, pp. 3, 2-1, 4-11; <https://davidssuzuki.org/press/b-c-lng-announcement-ignores-magnitude-fracking-climate-pollution> (“Peer-reviewed research from the David Suzuki Foundation confirms that fugitive methane emissions from B.C.’s oil and gas industry — emitted during fracking for LNG — continue to be vastly underreported by government and industry”).

²⁰ “Radiative forcing of carbon dioxide, methane, and nitrous oxide: A significant revision of the methane radiative forcing,” <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1002/2016GL071930>

²¹ <https://www.scientificamerican.com/article/how-bad-of-a-greenhouse-gas-is-methane/>; <https://www.350tacoma.org/pselng/>

²² [https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20\(11-9-15\).pdf](https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20(11-9-15).pdf); <https://www.pscleanair.org/DocumentCenter/View/3482/Draft-Supplemental-EIS-Tacoma-LNG-October-8-2018?bidId=>

Conclusion

In 2018, the City entered a new, more productive, relationship with the Tribe, as reflected by the Tideflats Agreement, the designation of Indigenous Peoples' Day, and permanent installation of the Puyallup Nation flag on the City Council dais. If the City and Tribe are to remain strong allies, and the City recognizes that its commitment to human rights must include environmental justice for vulnerable populations, then the City has an important opportunity to show respect for such groups and strengthen this new relationship with the Tribe by initiating a Supplemental Environmental Impact Statement regarding the proposed LNG plant.

In that spirit, and based on the information and authority set forth above, The Commission strongly and respectfully recommends that you request the City to initiate a supplemental review as soon as possible, particularly because PSCAA, having now issued its widely-criticized SEIS in final, may grant PSE a Notice of Construction Permit in the next few weeks.²³ The City's SEIS should consider the potential environmental hazards and human-rights injustices to vulnerable, frequently marginalized populations in and near the Tideflats area, particularly Puyallup Tribal members and detainees housed at the Northwest Detention Center.

Thank you for considering the Commission's recommendations regarding this vital matter of human rights and environmental justice.

Respectfully submitted,

s/Michealea Lemons, Chair

s/Melvin Nobles, Jr., 1st Vice Chair

On behalf of the Tacoma Human Rights Commission

²³ <https://www.pscleanair.org/460/Current-Permitting-Projects>

