



# NEWS RELEASE

**U.S. ARMY CORPS OF ENGINEERS**

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## **Army Corps halts Gateway Pacific Terminal permitting process**

SEATTLE – After careful consideration of all the information available to him, Seattle District Commander Col. John Buck has determined the potential impacts to the Lummi Nation's usual and accustomed (U&A) fishing rights from the proposed Gateway Pacific Terminal are greater than *de minimis*.

Because the district has determined the effects to the Lummi's rights are more than *de minimis* and because the Lummi maintain their objections to this proposal, the project cannot be permitted by the Corps.

In 2015 the Seattle District received a request from the Lummi Nation for the Corps to deny a permit requested for the GPT project proposed by Pacific International Holdings, LLC. (PIH). The Lummi cited impacts to their usual and accustomed treaty rights and included affidavits about their fishing practices and statements about potential impacts from the construction and operation of the terminal. The Lummi Nation signed the Treaty of Point Elliot in 1855, which established the Suquamish [Port Madison](#), [Tulalip](#), [Swinomish](#), and [Lummi](#) reservations and guaranteed fishing rights in perpetuity at each tribes' Usual and Accustomed (U&A) fishing areas. The GPT project area is included in their U&A fishing area.

"I have thoroughly reviewed thousands of pages of submittals from the Lummi Nation and Pacific International Holdings," said Col. Buck. "I have also reviewed my staff's determination that the Gateway Pacific Terminal would have a greater than *de minimis* impact on the Lummi Nation's U&A rights, and I have determined the project is not permissible as currently proposed."

Both the Lummi Nation and Pacific International Holdings, LLC, provided voluminous information regarding fishing practices, potential impacts, and mitigation to support their positions. The district's evaluation of effects of the proposal on the Lummi's U&A fishing rights is undertaken to fulfill the federal government's responsibility to protect treaty rights. The Corps may not permit a project that abrogates treaty rights.

As part of its evaluation of the permit application for the Gateway Pacific Terminal proposal at Cherry Point near Ferndale, Washington, the Corps had been overseeing development of a Draft Environmental Impact Statement consistent with National Environmental Policy Act requirements until the applicant suspended this work April 1. As part of standard regulatory procedures, the Corps has continued evaluating the proposal consistent with the requirements of other federal laws and conducting consultations as needed consistent with the requirements of the Endangered Species Act, the National Historic Preservation Act, and our tribal treaty trust responsibility.

Consistent with standard regulatory process, if any one of the Corps' required substantive evaluations concludes with a finding the proposal cannot be permitted, then the project proponent is notified of such finding and advised the project is not permissible. PIH was notified the GPT Project as currently planned is not permissible, and they requested a decision on the application. Because this proposal cannot be permitted due to effects on the Lummi Nation's treaty rights and because of the Lummi Nation's objection to this proposal, Col. Buck denied this project without prejudice.

If in the future the Lummi Nation withdraws its objections to the proposal, the proponent could reinstate processing of the application. A number of other tribes have expressed concern about effects of the proposal on their treaty rights, so if processing of the application resumes, consultation with those tribes would occur as needed to collect information and make decisions with respect to effects of the proposal on their rights.

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