

## Jacyn Normine

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**From:** Mike <mkherdrich1@gmail.com>  
**Sent:** Wednesday, January 24, 2024 10:51 PM  
**To:** Planning Department.UserGroup  
**Subject:** DR 21-03 MOD & CU 23-11 Testimony in opposition  
**Attachments:** 1-24NXT\_Opposing comments.docx

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I am submitting this testimony to register my Strong opposition to the entire application by NEXT/NXT to site an oil refinery on PA-80 lands at Port Westward, Columbia County, Oregon. Specifically, modifications to the Rail Yard, (DR 21-03 MOD & CU 23-11) requested by NEXT/NXT etc. should be denied because:

1) The dikes preventing this site from flooding cannot be certified by ACE, (Army Corps of Engineers), and in fact are already deteriorated by prior heavy construction rendering them very likely to fail.

Per ORS chapters 190 and 195, Columbia County and the Columbia County Commissioners are required to coordinate with the Drainage Company on any activities within the Drainage company's boundaries.

Per ORS 215.296, the Drainage Company, as the Local Governing Body over the lands within its boundaries, has the ability to deny any land uses which will significantly impact the financial or operational conditions of agricultural operations within its boundaries. The Drainage Company board will not approve the Mitigation Plan, and has concerns about the Plant Site due to the afore-mentioned impacts and therefore the Application for Permits by NEXT is incomplete and cannot be approved by the County Commissioners.

2) This entire project was originally presented and approved as 'Water Dependent', 'Ship in/Ship out'. So why are you/we being asked to approve 3 ½ miles of track to accommodate 'approximately' 660 rail cars per week? Bait and Switch? Have you adequately considered the impact of adding 6 plus 'Jumbo Manifest' unit trains per week, cutting communities in half and preventing access for Fire, EMT, Police to serve the public for 30-45 minutes? What about the response to a catastrophic spill of flammable or caustic or toxic products? East Palestine, Ohio sound familiar?

3) As a Taxpayer and constituent, I am concerned and skeptical about NEXT/NXT/TransMessis Columbia Plateau, et al. ability to even undertake such a project. After defaulting on \$1.85 million in contracts and leaving behind an EPA designated 'Immediate Hazard' site, at Odessa, Washington ([https://response.epa.gov/site/site\\_profile.aspx?site\\_id=9819](https://response.epa.gov/site/site_profile.aspx?site_id=9819)) and costing you and me another ~\$600,000 in clean up costs. Even the Port and city of Longview, who are not bashful about recruiting heavy industrial uses, wanted nothing to do with them. Note, too, the recent failed merger with ITAQ II resulting in a loss of \$176 million in capital.

4) Quoting from the SEC Filing relating to the withdrawal of a proposed SPAC by ITAQII: ..." NXT does not currently have the funding necessary to build and operate either the Port Westward Refinery or the Lakeview Facility. Furthermore, the terms of any financing may include covenants which may affect NXT's ability to obtain additional financing and may affect the terms on which NXTCLEAN can purchase feedstock and sell renewable fuel."

Continuing with the SEC Filing:

"NXT's management does not have experience in the development, construction or operation of facilities that manufacture and sell RD, SAF, RNG or hydrogen. NXT has not yet designed the Port Westward Refinery or the Lakeview Facility, and there is no guarantee a contractor would be able or willing to do so."

Further:

"Once the Port Westward Refinery and Lakeview Facility is built and produces fuel, the fuel cannot be sold until it receives EPA approval, which may not be obtained for years, if ever. NXT may also face substantial delay in obtaining regulatory approvals, which are necessary for NXT to commence construction of its refinery."

Finally:

"NXTCLEAN may be unable to successfully negotiate final, binding terms related to its current non-binding renewable fuel supply and distribution agreements, which could harm NXTCLEAN's commercial prospects. NXT's renewable fuel may also be less compatible with existing transportation infrastructure than NXT believes, which may hinder its ability to market its renewable fuel product on a large scale."

(As filed with the U.S. Securities and Exchange Commission on October 17, 2023.

Registration No. 333-273337)

5) If the rezone requested by the Port of St. Helens, and approved by the BOC, per Ordinance 2018-1 is still under remand by LUBA, No. 2021-97 as of 5/9/2022, how can you move forward with this matter either legally or logically? The proposed Land use action, including initial Conditional Use and Site Design Review, appears to suffer from a fatal flaw, aka 'Putting the cart before the horse'.

M.K. Herdrich  
Deer Island

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