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19 January 2022

Columbia County Board of Commissioners
230 Strand St.
Columbia County Courthouse Annex
St. Helens, OR 97051

RE: NEXT Renewable Fuels Oregon, LLC (NEXT) Biodiesel Plant at Port Westward (2d letter)

Columbia County Board of Commissioners,

This letter supplements my letter dated 1/17/22. The purpose is to reinforce my main concerns. I am not against bio-based diesel (BBD) production facilities if they are compatible with land use and don't adversely impact the local environment (wetlands, farmland and waters of the Columbia River) and are built and managed in an environmentally responsible way. This proposed plant should also compliment the local culture and not place a burden on area farmers, ranchers and area residents on either side of the Columbia River.

I read NEXT's report on the economic impact of this renewable fuels facility and it may be based on unrealistic assumptions, that the plant will operate at full capacity, all the time, and that there will be no shutdowns or reductions in output over the lifecycle of the plant. (Refer to my letter dated 1/17/22 for the likelihood of production interruptions and shutdowns.) Table 3-3 of the economic impact report shows direct employment at 233 and 919 for indirect and induced labor. NEXT used the IMPLAN Model for long-term operations and applied the industry category "163-Other basic organic chemical manufacturing" to calculate the "Annual Impacts During Operating Years." (Note the caveat "During Operating Years.") It shows a total annual economic output impact of \$1.712 million (labor) and annual tax revenues of \$45.5 million, the total annual long-term benefit being \$1.757 million. But what were the inputs for operational hours, days and years using the IMPLAN Model? These key data elements were not mentioned in the report. Perhaps, as a condition of the permit, NEXT should be required to purchase a 10-year \$17.57 million economic benefit and performance bond as insurance should the plan not deliver the economic benefits purported.

As stated in my letter of 1/17/22 biodiesel refineries historically face regulatory, financial and market challenges. Changes in Renewable Fuel Standard (RFS) regulations and the value of RIN credits (on a dollar/gal. basis), reliable supplies of feedstock (CO, UCO & tallow), variable transportation costs (ship, barge, rail, and truck), variable energy costs (primarily natural gas), EPA air and water regulatory changes, market conditions (recessions, pandemics, petroleum blending facilities closings), and transportation industry electrification all increase project risk. There's a long list of plants that closed,

were shut down by state or Federal regulators, or reduced production due to lagging demand and/or insufficient feedstock supplies. Biodiesel plants like the Grays Harbor Imperium biodiesel plant (WA), Renewable Environmental Solutions (Carthage, MO), Renewal Energy Group's (Houston, TX), and many others that reduced capacity or closed, were promoted to government officials using invalid assumptions. (A valid assumption is an action that is more likely to occur than not occur.) Remember, Christopher Efird and Louis Soumas were defendants in a Lincoln County Superior Court, WA, lawsuit (the latter no longer on the NEXT Board of Directors.) They promoted the biodiesel plant in Odessa, WA, received feedstock on credit and then walked away leaving a super-fund site and over \$1.9 million in unpaid bills. This is described in the enclosed article. The PDF version includes hyperlinks.

Area residents are concerned with area air, water, noise and light pollution, as well as odors coming from the plant. The Army Corps of Engineers (ACoE) permit request has a methodology error that must be addressed, or the permit could be challenged in court. It omitted any of the waters of the Columbia River and concluded there would be no impact on salmon, steelhead or sturgeon habitats. The "action area" is defined in the Clean Water Act waste and stormwater regulations. "Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." This includes the areas upstream and/or downstream from the stormwater discharge into a stream segment that may be affected by these discharges. Any failure in the wastewater or stormwater system, the effluent not meeting NPDES permit specifications at the point of discharge, could indirectly affect the effluent entering the Port Outfall, thus affecting the action area and endangered species.

I am also concerned that the renderings of the plant didn't show what it would look like with a 300 ft. tall flare tower and water vapor tower in operation. Drawings showing a non-operational facility, with no methane flaring, no water vapor cloud, and no description of the noise and light pollution are deceiving. Are there any other BBD facilities in operation in the US, processing beef or poultry tallow that could be used as references? Pictures of these plants in operation would help in this evaluation. Area stakeholders should be provided references from other BBD facility managers, and community stakeholders, to address some of our concerns. We don't know of any tallow-based BBD facilities that don't smell, but we do know of many that have been shut down or changed their feedstock.

Lastly, the NEXT proposal states the facility will process up to 50,000 barrels per day of feedstock. But it doesn't state how much is produced from 50,000 barrels (output) so we don't know how much this will add to the West coast supply, which affects the demand-side economics. The report also doesn't state that the facility won't be used as a blending facility. I have a suspicion that diesel fuel may be brought in by rail or ship and blended with biodiesel and then reshipped to buyers on the West coast. This would increase ship or rail traffic so a "no-blending" clause should be condition of the permit, if issued.

V/r

Mark Uhart
Kalama, WA

Attached: Article published Feb 8, 2016, on the TransMessis Columbia Plateau facility



(https://mediad.publicbroadcasting.net/p/shared/npr/styles/x_large/nprshared/201602/466127177.png)

This photo obtained by the Columbia Riverkeeper through a records request to the U.S. Environmental Protection Agency shows workers inside the TransMessis Columbia Plateau biofuels plant in Odessa, Washington. After being abandoned in 2014, the plant required more than \$400,000 worth of environmental cleanup.

COURTESY OF COLUMBIA RIVERKEEPER

Originally published on February 8, 2016 9:46 pm

The state inspector thought his visit to Odessa, Washington, would be routine: a knock on the door, a chat with the operators, a look around the corrugated metal warehouse where they ran a biodiesel plant.

But when Jerry French arrived at the TransMessis Columbia Plateau facility in eastern Washington this past March, the door was locked. It seemed abandoned, but he could see chemical drums inside through the windows.

It just didn't look right, he thought.

After getting the door unlocked, French discovered the mess.

He saw sulfuric acid leaking from crusted valves. He found chemicals stored beside each other in corroded containers that could catch fire or explode if they mixed. Storage tanks holding thousands of gallons of methanol and other dangerous chemicals were left outside unsecured.

French, a longtime inspector with the Washington Department of Ecology, knew these were red flags. The site was a threat to human health and the environment and needed to be cleaned up. He alerted the U.S. Environmental Protection Agency later that day.

He sent an email with 18 different bullet points, each detailing a potentially dangerous situation at the abandoned plant.

“Serious issues with chemical waste management were observed inside the facility,” he wrote.¹

TransMensis acquired the Odessa plant in late 2013 with plans to crush canola seed and produce an annual 10 million gallons of biodiesel. It operated for less than a year. After a crash in the biofuels market, TransMensis fired its employees and shut down operations, never telling state regulators. The ensuing cleanup has cost \$400,000 so far, paid for through the EPA’s superfund program.²

Now, the backers of that failed biofuels project are proposing a \$1.25 billion refinery and propane terminal at the Port of Longview on the Washington side of the lower Columbia River.

Waterside Energy, operated by Lou Soumas, Damon Pistulka and Chris Efird, announced the proposal in May. It calls for a refinery capable of processing 30,000 barrels of oil and 15,000 barrels of biofuel each day. Pistulka served as CEO of TransMensis, which was backed by both Soumas and Efird.³

Their initial proposal for Longview has since expanded to include a separate 75,000-barrel-per-day propane and butane terminal. Waterside says the project would generate 700 construction jobs and 180 full-time jobs while capitalizing on the West Coast demand for cleaner-burning fuels (<http://www.opb.org/news/article/nw-push-for-clean-fuels-could-mean-more-crude-new-refinery/>).

Details of their biofuels project in Odessa can be found in documents the Columbia Riverkeeper, an opponent of the plan, sent in January to commissioners at the Port of Longview. Along with the \$400,000 environmental cleanup, the records show more than \$1.6 million in unpaid bills and taxes from TransMensis.⁴

Environmental groups are worried about the company’s ability to handle a larger, more complex facility with more environmental risk than its last venture.

“To have the kind of track record that these proponents have of unpaid debts, major cleanup liabilities, public expenditures, certainly creates a lot of reason for doubt,” said Ross Macfarlane, a senior adviser at Climate Solutions, a Seattle-based nonprofit that promotes clean energy.

Macfarlane talked with Waterside about its refinery plans last year at the suggestion of the Washington Department of Commerce. He has since come to oppose the project.

"The overall circumstances of this project raise a lot of red flags," Macfarlane said.

TransMensis leaders describe the outcome in Odessa as the consequence of a market crash, not the result of mismanagement.

Soumas, the project owner for the Longview proposal whose company co-owned TransMensis, said in a phone interview Friday he had not seen the specific documents released by Columbia Riverkeeper.

"During the very brief time the group I was involved with operated that facility, which was about five months, they cleaned up a massive amount of problems that were at the facility from the seven years prior to our being there and left that facility in much better shape than when we got there," Soumas said.

Soumas made clear he and the other refinery proponents did not physically operate the TransMensis plant but were involved in its parent company.

"Our team was not at that facility after July of 2014, and the cleanup was a result of people who were in the plant after us, not during our time there," Soumas said.

Damon Pistulka, the CEO of TransMensis now listed on the Waterside Energy proposal, said the chemicals left behind were owned by a creditor and could not be removed, but were stored without spills. Pistulka said TransMensis offered to help sell the chemicals. He said TransMensis deserves credit for improving the condition of the property.⁵

Their version of events contradicts much of what the Department of Ecology and the Odessa plant's property owner have documented.

French, the Department of Ecology inspector, said he also observed the plant before TransMensis took it over, and that it was unlikely previous operators left a significant environmental mess.

Stacey Rasmussen, manager of the Odessa Public Development Authority, which owns the property, said the plant had no other uses between the time TransMensis vacated it and the state inspected it. She said the chemicals found in the facility were items from when TransMensis was operating. Rasmussen said TransMensis owes more than \$200,000 in back rent, an amount the company disputes.

In October 2014 the Washington Department of Revenue issued a warrant to TransMensis for \$6,544 in unpaid taxes, which TransMensis still has yet to pay.

In April, the Wolfkill Feed & Fertilizer Corporation, based in Monroe, Washington, filed a lawsuit over \$1.6 million the company claims TransMensis owes it for canola seed. Wolfkill also alleged TransMensis submitted a false credit report. Wolfkill did not respond to requests for comment.

Pistulka did not dispute the money owed in the lawsuit. He said TransMensis has made many unsuccessful attempts to reach a settlement agreement with Wolfkill over the balance owed. He did dispute the allegation of a false credit report.

“Wolfkill managers toured the facility prior to startup and were fully aware that the credit report was based on revenue projections for the facility,” Pistulka said.

Details of the abrupt plant closure and the ensuing lawsuit, back taxes and environmental cleanup issues did not surface until several months after state and local officials entered preliminary discussions with Waterside in 2014.

Miles Johnson, attorney for the Columbia Riverkeeper, questioned why the economic and environmental fallout from the Waterside Energy backers’ previous venture was not disclosed sooner.

“I think a good question is why the people proposing the facility in Longview didn’t bring this up and explain what happened there to the port and to the state of Washington,” he said. “And also, why the staff at the port and within the state of Washington when they were making their initial contacts, why all this information didn’t come out.”

In June, OPB and EarthFix reported Governor Jay Inslee’s administration had been in discussions with Soumas for months (<http://www.opb.org/news/article/governor-inslees-administration-facilitated-refinery-proposal/>) before the project was announced. Soumas wrote in emails to the Port of Longview that Inslee’s advisors were “anxious to tie us in with their just issued draft Clean Fuels Standard process.” He also told the port the governor’s staff members asked when the refinery could be announced and that “they hope for a positive update on concrete progress on the project.”

Inslee’s office has characterized top state officials’ dealings with Soumas as “due diligence.”

Under the state’s permitting process, overseen by the Energy Facility Site Evaluation Council, the governor has the final say in whether projects win state approval. As such, the governor and his administration say they have not taken a position on the proposal.

The project presents a mixed bag for an administration pushing clean energy: Its biofuels component aligns with Inslee’s environmental and economic policies, yet the project also increases the state’s capacity to refine crude petroleum and calls for three more oil trains per week along the Columbia River.

A review of emails released in June from Inslee’s office, the state Department of Ecology and the state Department of Commerce concerning top officials’ dealings with Soumas and his company found no mention of the environmental cleanup or the many unpaid bills from the Odessa project. Much of the state’s documented interactions with Soumas predate the facility’s environmental inspection and the lawsuit from Wolfkill Feed & Fertilizer.⁶

Inslee administration spokeswoman Jaime Smith said staff in the administration “were aware of the federal clean up issues but don’t recall details.”

“No proposal has yet been submitted to the state from the company. If they submit a proposal, I’m sure during the environmental review process – likely led by – the accompanying public discourse will ensure a thorough vetting of the company’s record,” (sic?) Smith said in an email.

Months after the Odessa plant was abandoned, Soumas described it as an active project in proposals sent to state and local officials.⁷

Approval for the project also depends on commissioners at the Port of Longview, who recommended in May that port staff work with Waterside to vet the refining project.

A review of emails released in June spanning the port's dealings with Waterside found little discussion of the company backers' previous biofuels project, but notes and research packets compiled by port staff indicate they were aware of the plant's abrupt closure and unsettled debt.⁸

Port commissioner Bob Bagaason said the new documents released by Columbia Riverkeeper were very informative, and that commissioners and port staff were studying them.

"We've received so much information," Bagaason said when asked if he was previously aware of problems caused by the biofuels plant. "Some of it's repetitive, some of it's new. That's where I'm at."

1. The full set of documents released by the Columbia Riverkeeper: <https://www.documentcloud.org/documents/2698502-2016-1-26-Transmessis-Press-Packet.html#document/p3> (<https://www.documentcloud.org/documents/2698502-2016-1-26-Transmessis-Press-Packet.html#document/p3>)
2. Ecology email to EPA describing conditions in the plant: <https://goo.gl/HLTaaF> (<https://goo.gl/HLTaaF>). Estimated EPA cleanup cost: <https://goo.gl/HLTaaF> (<https://goo.gl/HLTaaF>)
3. TransMessis Renewable Energy Inc. is reportedly (<http://goo.gl/9vLVoM>) a joint venture founded by Evergreen Renewable LLC and Access Global Investments LLC. Both Lou Soumas lists himself as the CEO of Evergreen Renewables LLC (<https://www.linkedin.com/in/lou-soumas-70519012>). Chris Effird is listed as the Managing Director and CEO of Access Global (http://www.aglb.com/Key_Personnel.php). Pitsulka lists himself as the CEO of TransMessis (<https://www.linkedin.com/in/damonpistulka>).
4. TransMessis currently owes \$1.6 million (\$1.9 including interest) to Wolfkill Feed & Fertilizer (<https://www.documentcloud.org/documents/2698502-2016-1-26-Transmessis-Press-Packet.html#document/p17>), \$200,000 to Odessa Public Development Authority: According to Stacey Rasumussen at the Odessa Public Development Authority, \$8,800 to Poland and Sons for fire suppression equipment (<https://www.documentcloud.org/documents/2698502-2016-1-26-Transmessis-Press-Packet.html#document/p27>) and \$6,500 to the Washington Department of Revenue for unpaid taxes (<https://www.documentcloud.org/documents/2698502-2016-1-26-Transmessis-Press-Packet.html#document/p25>).
5. Damon Pistulka of TransMessis and Waterside Energy answered questions through a spokesman. His full answers can be found here: <https://goo.gl/Ozy5mV> (<https://goo.gl/Ozy5mV>)
6. The request for these records was made by OPB and EarthFix to the Washington governor's office covering "all correspondence, regardless of format, to and from Gov. Jay Inslee, Brian Bonlender, Keith Phillips, Charles Knutson, Kelly Ogilvie, and Louis (Lou) Soumas, CEO of Riverside Energy since the beginning of 2013." An additional request to the Department of Ecology covered "all correspondence, regardless of format, to and from Stuart Clark (ECY), Brian Bonlender (COM), Keith Phillips (GOV), Charles Knutson (GOV), Kelly Ogilvie (GOV), Ross Macfarlane of Climate Solutions, and Lou Soumas, CEO of Riverside Energy since the beginning of 2013.". The request to the

Department of Commerce was for "all correspondence, regardless of format, between Brian Bonlender and Louis (Lou) Soumas, CEO of Riverside Energy, since the beginning of 2014 to May 4, 2015."The full set of documents can be accessed here: <http://goo.gl/XMR47e> (<http://goo.gl/XMR47e>).

7. In an overview of the refinery proposal dated September 2014 (<https://www.documentcloud.org/documents/2703020-Longview-Refinery-Update.html>), Soumas wrote his company "participates in the management and operation of a virgin oil bio-diesel and feed operation facility in Odessa Washington. Upon completion of the refinery Riverside intends to transfer biodiesel to the Longview refinery for blending with ULSD."

8. The request for records was made by OPB and EarthFix to the Port of Longview and covering all records related to the proposed refinery and Waterside Energy, or other names of the company. The full set of documents can be accessed here: <http://goo.gl/XMR47e> (<http://goo.gl/XMR47e>).

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