

FILED  
Court of Appeals  
Division II  
State of Washington  
12/28/2018 4:56 PM  
No. 52215-2-II

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**IN THE COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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MILLENNIUM BULK TERMINALS-LONGVIEW, LLC, and  
COWLITZ COUNTY,

Petitioners,

vs.

STATE OF WASHINGTON SHORELINES HEARINGS  
BOARD, et al.,

Respondents.

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**OPENING BRIEF OF PETITIONER COWLITZ COUNTY**

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## **I. INTRODUCTION**

Cowlitz County would incorporate the Introduction of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own, with the following additions:

As previously raised by the County and as recognized by the Shorelines Hearings Board (SHB) and Cowlitz County Superior Court in their proceedings on these matters<sup>1</sup>, the County was and is a proper party to separately challenge the final decision of an independent Hearing Examiner and to defend County's legislative and administrative, interpretations and applications of its laws and permitting processes.

## **II. ASSIGNMENTS OF ERROR**

Cowlitz County would incorporate the Assignments of Error of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own.

## **III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

Cowlitz County would incorporate the Issues on assignments of effort of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own.

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<sup>1</sup> County standing to separately appear in these matters was also recognized in *Lighthouse Resources, Inc, Millennium Bulk Terminals-Longview, LLC, et al. vs. Jay Inslee, et al.*, United States District Court, Western District, No.: 3:18-CV-05005-RJB, allowing *Brief of Amicus Curiae* from the County.

#### **IV. STATEMENT OF THE CASE**

Cowlitz County would incorporate the Statement of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own.

#### **V. STANDARD OF REVIEW**

Cowlitz County would incorporate the Statement of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own.

#### **VI. ARGUMENT**

Cowlitz County would incorporate the Argument of co-petitioner Petitioner Millennium Bulk Terminals-Longview, LLC's ("MBT-Longview"), as its own.

#### **VII. CONCLUSION**

For the reasons set forth above, the Court should reverse the Board's order dismissing MBT-Longview's petition and remand the case to the Board for a full hearing.

Respectfully submitted this 28th day of December, 2018.

RYAN JURVAKAINEN, Prosecuting Attorney

*/s/ Douglas E. Jensen*

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**COWLITZ CO PROSECUTING ATTY - CIVIL DIV**

**December 28, 2018 - 4:56 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 52215-2  
**Appellate Court Case Title:** Millennium Bulk Terminals-Longview, LLC, et al, Respondents v. Dept.of Ecology, et al, Appellants  
**Superior Court Case Number:** 18-2-00571-1

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**Comments:**

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