

Responsible Growth * NE Washington Newsletter Update

Fall Edition 2019



Sign the petition @ www.rgnew.org

Gov. Inslee receives RG * NEW petition

RG * NEW was able to hand off its *Stop the Smelter* petition, which garnered more than 1,000 signatures in a relatively short period of time, urging Governor Inslee to call off the proposed Newport silicon metal smelter. We intercepted the governor's team prior to him speaking at the worldwide Youth Climate Strike held in Spokane, Friday, September 20th at the Gathering Place in Spokane, Washington. The petition reads:

This energy-intensive, coal-burning smelter will emit hundreds to thousands of tons of greenhouse gases and other coal toxins annually. The carbon footprint will be tremendous. The Pend Oreille River Valley, the Little

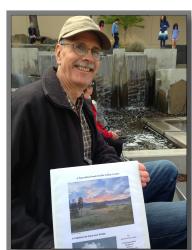


Figure 1: John Endres & petition

Spokane watershed and North Idaho will be blanketed with toxic emissions. This smelter will be located within one-to-two miles of eight Newport schools, athletic fields, parks, the Newport Hospital, and downtown Newport.

HiTest/PacWest claims it will be a "green" facility, but only 5% of its product will be for solar cells. The tremendous carbon and toxic coal footprint of the smelter will never be offset.

Governor Inslee: you claim to be the "climate candidate". But your support for this proposed smelter only demonstrates a contradictory approach to climate change. Our livelihoods, health and economy will be devastated. Governor Inslee: we ask that you please withdraw your support and endorsement of the HiTest/PacWest Newport smelter.



Figure 3: Youth Climate Strike

Legal cases continue in higher courts

Responsible Growth * NE Washington is continuing its legal battles to stop the proposed Newport silicon metal smelter in spite of two disappointing legal decisions.

In our first case, which we refer to as the "illegal land sale," oral arguments were heard before the Superior Court of Judge Julie M. McKay, January 11, 2019, in Spokane, Washington. We asked the court, in our cross motion for summary judgement, to issue declaratory judgment to declare the PUD land purchase and the HiTest Sands land sale void as ultra vires, meaning PUD did not have legal authority to purchase and sell the land the way they did.

Unfortunately, Judge McKay did not rule in our favor. The Appellants filed a Reply Brief, October 22, 2019, in the Court of Appeals, Division II of the State of Washington. It will be winter before a hearing date is set.

Our second case argues that the County was not in Compliance with SEPA Procedural Requirements in issuing a Determination of Non-significance of the Environmental Checklist for its Comprehensive Plan Amendment CPU-18-001. The DNS and Checklist failed to disclose or consider the development and environmental impacts (maximum potential impacts) of the proposed Newport smelter as required under SEPA.

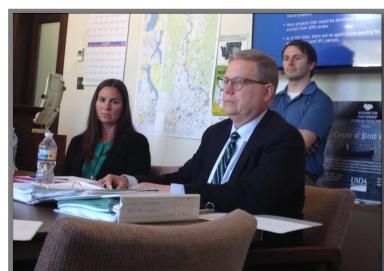


Figure 2: GU Legal Assistance Clinic Team

Pend Oreille

County Hearing Examiner, David W. Hubert, conducted an open public hearing on July 25, 2019, in the Pend Oreille County Commissioner's Meeting Room. Hubert rubber-stamped the County's argument and ruled in its favor on Sept. 30, 2019.

RG * NEW and GU legal team is awaiting the County's approval or denial of its own Comp. Plan Amendment CPU-18-001 before taking further legal action. Any further action will be taken up with the Washington Growth Management Hearing Board.

Growth Management Act in summary

There has been a lot of talk lately within Pend Oreille County about the GMA (Washington Growth Management Act), but what is it? RG * NEW sums it up in one sentence. It's the Land Use Bible for Washington State. In broader terms, the intent of the GMA was to prevent unnecessary urban-sprawl from spreading into our forestlands, agricultural lands, open spaces and critical areas. Urban growth areas in counties were established under the GMA to set a limit on urban sprawl.

The GMA was adopted in 1990 because Washington was growing rapidly, faster than Washington had ever grown. The sprawling, low-density urban developments were costly to serve with public facilities and services, increasing costs for taxpayer and ratepayers. Cities and counties lacked the tools to cope with rapid growth. The GMA was adopted to set state policy and to give cities and counties the tools they need to effectively manage growth.

The idea was to focus growth into areas where there are existing public facilities and services. The tools the Counties and cities were given involved early, continuous and inclusive public involvement; county legislative authority to designate urban growth areas large enough to accommodate a planned population range of 20-year population projections for the county; Counties, cities and towns adopt an internally consistent comprehensive plan that includes maps, text and required elements – land use, housing, capital facilities plan, utilities, rural, and transportation. Other elements can be included such as economic development, a parks and recreation element and neighborhood plans.

The county comprehensive plan must include a process for identifying and siting essential public facilities. Counties and cities are required to identify lands useful for public purposes and open space corridors linking together fish and wildlife habitats, parks, and open spaces into networks of green spaces. There are many other provisions and tools in the GMA.

Understanding some of the basic principles behind the GMA is essential for understanding our legal fight with the proposed silicon smelter. According to RCW.70A.040 each county shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. The City of Newport is urban in nature. The present location of the PacWest properties is outside of the Urban Growth Area. A proposed smelter is most assuredly urban in nature and legally cannot be sited outside the Urban Growth Area.

Pend Oreille County opted in to the Growth Management Plan with its own comprehensive plans. These local plans have to be consistent with the GMA.

More information on GMA and UGAs can be found at these links:

<https://app.leg.wa.gov/RCW/default.aspx?cite=36.70A&full=true#36.70A.110>.

<http://www.futurewise.org/growth-management-act>

<http://www.gmhb.wa.gov/Information/Index>

County Comprehensive Plan Update

Presently, Pend Oreille County's Planning Commission is in the process of updating the County's Comprehensive Plan. This 2020 update is required by law and has to be completed June of 2020. When completed and approved this Comp Plan will set the County's Land Use Plan for the next 20 years. It can only be amended once a year and update every 7 to 10 years. The County has hired Whitebluffs Consulting to facilitate the update.

The Comp Plan 2020 update process began in the spring



Figure 4: Visioning Session

with public visioning sessions held in Cusick, Lone and Newport, respectively. There have been bimonthly meetings with the Planning Commission and Whitebluffs.

The Plan is being expansively updated with significant changes. Most notably are map zoning changes that would delete Public Lands altogether. These Public Lands include 67% of Pend Oreille County and PacWest properties.

The Comp Plan 2020 meetings are generally held on the second Tuesday of every other month and are well attended by the public. We are able to provide comments during the sessions.



Figure 5: Planning commission meeting

Whitebluffs is concerned that enough time has not been allocated in completing the job and there may be a possibility that an extension would be needed. The County is already operating under an extension granted by the state.

Supporting the Arts & Humanities

It may come as a surprise to some to know that Responsible Growth * NE Washington not only works toward stopping the proposed silicon metal smelter and encouraging our public officials to look towards responsible economic growth, but we also support the Arts & Humanities and Ecology.

On Wednesday, September 18th we partnered with Selkirk Science for Alliance to bring in Michael Hamilton,



geologist, teacher, field trip guide, and member of the Ice Age Institute/Cheney, Washington chapter.

Figure 6: Michael Hamilton, geologist

Michael's program
“Beneath our feet:

The geological story of Northeast Washington” told the geological story of our area which goes back billions of years and formed the land we walk on today. It was standing room only at CREATE, with over 80 community members showing up. We were all spell-bound in Ice Age history for the next two hours.

Michael's program was so well-received that we have asked him to come back during the summer of 2020 for a two-day field trip.

Owl pellets at the Farmer's Market

RG * NEW and Selkirk Alliance for Science teamed up September 7th, at the Farmers' Market 40th year celebration. Barn owls was the theme of our booth.

Anyone who stopped by and was fearless enough got the opportunity to dissect barn owl pellets. The young folks and many parents would discover that barn owls' diet consist of mice, shrews, other rodents and small birds. The owls will digest the small rodent/bird soft tissue, but they form a pellet with the hair and bones and regurgitate it. It was a lot of fun and a good informational and hands-on experience for all.



Figure 7: Father and son dissecting pellets

We also had our smelter information out and was able to discuss the negative effects of the smelter while the kids dissected pellets.

1st Nations Climate Change Summit

Responsible Growth * NE Washington is as concerned about the growing threat to our environment from global warming and climate changes as we are the proposed smelter. It is industries like the smelter with its coal-burning and massive greenhouse gases emissions that are contributors to the warming up of our atmosphere resulting in devastating environmental and ecological consequences.

RG * NEW was invited to take part in the 1st Nations Climate Change Summit held July 30-31, at Northern Quest Casino and Resort. We had an informational booth display, and were also afforded the opportunity to present a five-minute PowerPoint on the proposed smelter in front of entire gathering of over 200 people representing more than 40 tribes.

Tribes and First Nations across the region came together to learn from past work and to discuss how to continue climate change studies, adapt to environmental change, and reduce greenhouse gasses, providing the support communities need to adapt and thrive for generations to come. The Summit focused on tribal climate change resiliency, protecting and applying Traditional Knowledges in climate change initiatives, and implementing a unified tribal climate change policy agenda.



Figure 8: Phyllis Kardos,
1st Nations Climate
Summit

Teaming up at the Pend Oreille County Fair

Responsible Growth * NE Washington teamed up with CANSS at the County Fair Aug. 15-18, with a smelter informational booth. We were in an excellent location and garnered a lot of walk-by fair-goers who were interested in getting more information about the proposed smelter. There are still some folks who had not heard of it, but saw the posted signs on the highway and were curious as to what it was all about. We informed them.



Figure 9: Tracy Morgan and fair-goer

RG * NEW advocacy work

Stopping a major industrial silicon metal smelter is not for the faint of heart. It requires a tremendous amount of time, energy, resources, dedication, creativity and sheer will-power to not give up the fight. We would not be as far ahead in the game as we are now without our advocacy work in supporting a healthy and clean environment by stopping a massive industrial polluter.



Figure 10: RG * NEW & Senator Patty Murray

Through our advocacy work we have met with and discussed the proposed smelter to our state and federal officials including: Rep. Cathy McMorris Rodgers, Washington's Attorney General Bob Ferguson, Director of Commerce Lisa Brown,

Senators Maria Cantwell and Patty Murray, WA State leaders Timm Ormsby and Marcus Riccelli, plus on more than one occasion, Governor Inslee and many others.

Our advocacy work includes attending and speaking out at County Commissioner meetings, City of Newport Council meetings, Planning Commission meeting, Economic Development meetings and elsewhere.

We also partner with other groups who share our vision of keeping our environment clean and our families healthy. RG * NEW recently helped sponsor the "Vigil for the Healing of the Earth" at Cataldo Mission on Sunday, October 8th.



Figure 11: Smelter Informational table @ Cataldo

We write letters and submit them to any newspaper throughout the state and elsewhere that will print them. We have done several radio interviews.

Last, but not least, RG * NEW has hosted more than 50 public presentations and smelter informational booths throughout the region to raise awareness to the devastating toxic effects of the proposed silicon smelter.

Contact Information:

Responsible Growth * NE Washington
P.O. Box 960
Newport, WA 99156



The official status of smelter is "on hold."

RG * NEW is asked all the time, "Is all your work paying off?" Our reply is always the same, "PacWest is not up there turning dirt." In fact, the Department of Ecology has placed the project "on hold." at the request of the company.

In a series of e-mails (obtained through the FOIA) between the DOE and PacWest Vice President John Carlson, Carlson stated on Wednesday, July 24, 2019, "Just to clarify we do not want any more work done by ecology until we have the zoning of our land straighten away. Once that has been completed, we will re-engage with Ecology."

It needs to be noted that their proposed project is woefully behind schedule not only in construction and production, but in the Environmental Impact Statement.

The final EIS was to be completed by Winter 2019. It hasn't even started, and it would take another year to start it up.

2018			2019			
Summer	Fall	Winter	Spring	Summer	Fall	Winter
Scoping Public Comment Period Public meetings			Draft EIS Public Comment Period Public meetings	Draft EIS Public Comment Period Public meetings		Final EIS

According to PacWest's Project Timeline commissioning of the proposed smelter project was to commence about now – October 2019.

Whether the County gives a green light to its own Amendment CPU-18-001 to rezone 65% of Pend Oreille County including PacWest properties and eliminate Public Lands, the proposed smelter properties are still outside the Urban Growth Area and an urban industry can't be sited there.

Any attempt to do so would be cause for more litigation. As it is, the existing cases and other appeals will be tied up in the court system for years. So, have we been successful in stopping the propose smelter for the time being? Absolutely.

Upcoming event

RG * NEW will be hosting a workshop with Futurewise Lands Attorney Tim Trohimovich, December 17, 2019. Tim will be discussing the Washington Growth Management Act, RCW's pertaining to Urban Growth Areas, Annexation, Comprehensive Plans and other land use issue. Time and place of the event is still being determined. Mark your calendars. This is going to be a good one.