

COAL

Fight over Wash. export terminal heads to 9th Circuit

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Published: Monday, May 13, 2019



The proposed Millennium coal export site in Longview, Wash. Millennium Bulk Terminals

The coal company backing a beleaguered export terminal proposed for the Pacific Northwest is heading to a federal appeals court to fight Washington state's blockage of the project.

Lighthouse Resources Inc. filed a notice of appeal Friday targeting several lower court orders related to Millennium Bulk Terminals.

At issue is the Washington State Department of Ecology's 2017 decision denying a water permit for the 44-million-ton export facility in Longview. Lighthouse, joined by BNSF Railway Co., argued that the decision violated the Constitution and was preempted by federal laws governing interstate commerce and ports.

The U.S. District Court for the Western District of Washington has served up a series of losses for Lighthouse: It rejected the company's related claims against the head of the state Department of Natural Resources in October; tossed the preemption argument in December; and threw out a constitutional claim last month.

One argument involving interstate protections under the Constitution's commerce clause remains unresolved, but the federal court last month put the case on hold pending the outcome of a related case in state court ([E&E News PM](#), April 12).

Lighthouse wants the 9th U.S. Circuit Court of Appeals to review the DNR order, the preemption order and the decision to freeze the case.

The legal battle has attracted increased attention recently as the Trump administration seeks to reel in states' use of their authority to review projects under Section 401 of the Clean Water Act. Trump officials and fossil fuel advocates have accused Democrat-led states like Washington and New York of abusing that power to block energy infrastructure ([Energywire](#), April 10).

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