Emails pertaining to Gateway Pacific Project for July 2-8, 2011
Laurie and Henry,

Thank you for contacting the county council with your concerns regarding the possible terminal at Cherry Point. I am copying this e-mail to Tyler Schroeder at TSchroed@co.whatcom.wa.us because he is the lead Environmental Impact Statement (EIS) official for Whatcom County government. He will ensure your comments are part of the public record that county council members will receive when this issue comes before us. He is also available for you to contact if you would like to add more information, if you have any questions, and/or if you would like to be notified of opportunities to participate in the public process.

At this time, according to our county attorney, county council members cannot participate in discussions, meetings, or research on this important issue because it will be coming before us as a quasi judicial matter in which we will be sitting as judges. Since I have never before been prevented from obtaining information on a county-wide issue when I wanted, I contacted the state attorney general's office to confirm our attorney's opinion. I am including below the response I received from the Open Public Meetings Ombudsman from the Washington State Attorney General's office. His response does confirm what our county attorney told us. When this issue comes before us, county council members will have ample time and opportunity to obtain all relevant information as well as receiving all input that has been sent to the county.

I regret I cannot comment specifically at this time because of legal restrictions. I am frustrated about this as you may be. However, if you would like to contact me to better understand how I process issues, as long as we do not specifically discuss this issue, please either e-mail correspondence to my council address, bbrenner@co.whatcom.wa.us for retention of complete public records or call me anytime at 384-2762.

Thank you.

Barbara Brenner, Whatcom County Council Member

-----Original Message-----
Subject: FW: Appearance of Fairness Doctrine re: Quasi Judicial Matters
Date: Tue, 3 May 2011 13:36:40 -0700
From: "Ford, Tim (ATG)" <TimF@ATG.WA.GOV>
To: <bbrenner@co.whatcom.wa.us>

Barbara,

I would follow the advice of your attorney in Whatcom County. My
impression of the emails below is that Michael may be frustrated for not having access to you on an issue related to coal.

Council members are right to be alert for issues that might end up before the council in a quasi-judicial capacity. If a council member's participation in a quasi-judicial decision violates the appearance of fairness doctrine and that participation was challenged in a timely manner, a court can invalidate the decision. A new hearing and decision will then need to be made without the disqualified council member. Council members are elected in part to rule on applications in a quasi-judicial capacity and should exercise caution not to violate the appearance of fairness doctrine.

The general rule is that ex parte contacts on "pending" quasi-judicial issues is prohibited. See RCW 42.36.060 <http://apps.leg.wa.gov/rcw/default.aspx?cite=42.36.060>. The underlying "fairness" rationale may also lead council members to exercise prospective caution for broader communications on issues that are likely to become quasi-judicial. The public's perception of bias is not limited to merely the statutory prohibition. Broader communications, not just limited to ex parte communications, may create a perception of bias.

A council member must balance the public's ability to communicate with them on any issue against the probability of a perception of bias for communications on issues that are likely to become quasi-judicial. A council member may choose to communicate with a citizen on an issue that is not "pending" in a quasi-judicial proceeding. If the issue later becomes subject to a quasi-judicial proceeding, a council member is not disqualified if the communication is made part of the record for the quasi-judicial proceeding. It is a matter of balancing interests when an issue is not "pending". This is not legal advice, just common sense.

Contrary to Michael's assertion, I am confident you will be very educated on the coal issue for your quasi-judicial duties.

Here is a link to an excellent resource on the Appearance of Fairness Doctrine <http://www.mrsc.org/Publications/afd11.pdf>.

Sincerely,

Tim Ford

Open Government Ombudsman
Assistant Attorney General for Government Accountability
Attorney General of Washington

1125 Washington St, SE

Olympia, WA 98504

(360) 586-4802

timf@atg.wa.gov

DISCLAIMER: This email is not intended or offered to provide legal advice or legal representation by the Office of the Attorney General to any recipient.

In a message dated 6/30/2011 3:49:00 P.M. Pacific Daylight Time, BBrenner@co.whatcom.wa.us writes:

-----Original Message-----
Date: Thu, 30 Jun 2011 15:48:46 -0700
From: "Council Council" <Council@co.whatcom.wa.us>
To: "Barbara Brenner" <BBrenner@co.whatcom.wa.us>,
"Bill Knutzen" <bknutzen@co.whatcom.wa.us>,
"Carl Weimer" <CWeimer@co.whatcom.wa.us>,
"Kathy Kershner" <kkershne@co.whatcom.wa.us>,
"Ken Mann" <kmann@co.whatcom.wa.us>,
"Sam Crawford" <SCrawfor@co.whatcom.wa.us>,
"Tony Larson" <TLarson@co.whatcom.wa.us>
Subject: Fwd: Choices

-----Original Message-----
From: "Henry T. Stein, Ph.D." <htstein@att.net>
To: Council@co.whatcom.wa.us
Subject: Choices
Date: Thu, 30 Jun 2011 15:41:19 -0700

To: Whatcom County Council Members

From: Laurie and Henry Stein
2565 Mayflower Lane
Bellingham, WA 98226

Date: June 30, 2011

Bellingham faces two mutually exclusive, character-defining choices.
On the one hand, we can develop the downtown waterfront into an architecturally significant, eco-friendly magnet area of shops, restaurants, galleries, and a first-class hotel. Someone with vision could even create a Bellingham Theater Festival and build a state of the art theater designed for that purpose. After all, Ashland was once just a sleepy little town in Oregon; we do not have a modern, major theater facility; and artists are the heart of a community. Think culture combined with commerce. Think big. This project would bring a multitude of local, permanent jobs and enhance our quality of life. It would attract residents and tourists alike, stimulating the downtown economy.

On the other hand, we can forget about ever developing the waterfront by seriously limiting access to it. Up to eight coal
trains a day, blocking intersections and spewing coal dust, and a vastly expanded Cherry Point Terminal, will profit a few at the expense of the many. Do we really want to choose far fewer, mostly non-local jobs; a health hazard; and pollution of our irreplaceable environment over a beautification project with only positive consequences? Please, let’s not be seduced by the expensive PR of a self-serving, multi-national corporation. Choose what will enhance Bellingham, not degrade it. Choose the waterfront, not coal trains.

======================================
Henry T. Stein, Ph.D., Director & Senior Training Analyst
Alfred Adler Institutes of San Francisco & Northwestern Washington
Distance Training in Classical Adlerian Psychotherapy
Web site: http://www.Adlerian.us
E-mail: HTStein@att.net
Tel: (360) 647-5670
This week's weekly update is now posted at
<https://secureaccess.wa.gov/ofm/iprmt24/DesktopModules/Articles/ArticlesView.aspx?tabID=0&alias=1357&ItemID=83&mid=38796&wversion=Staging>

Highlights include:

1. Comments requested on:
   b. DRAFT MAP Team Quarterly Report.
   c. DRAFT Reports, Reviewers, and Sub-committee Matrix.

2. New Regulatory Documents Posted for Team Information:
   a. WA Department of Ecology letter on status of 401 certification.
   b. Department of Natural Resources right of entry for sediment sampling.

Have a great rest of the week!

Jane and Scott

Accessing and Logging-on to GPT MAP Team Website:

Here again are instructions for new users to access and log-in to the secure GPT MAP Team Website:
Go to Secure Access Washington (https://secureaccess.wa.gov) and log-in. If you have not already created an account then you will need to do so (follow the directions at Secure Access Washington).

After you sign-in to Secure Access Washington, enter iprm24 in the server code field to request access to iPRMT and the GPT MAP Team Website.

After you have done this, we will be able to see you and will send you an email letting you know you can now access the GPT MAP Team Website.

Good luck! [Note: Once you have accessed the GPT MAP Team Website, future log-ins will be much simpler and more straightforward.]

_____________________________
Scott Boettcher
SBGH-Partners, LLC
219 - 20th Ave SE
Olympia, WA  98501-2924
360/480-6600
mailto:scottb@sbgh-partners.com scottb@sbgh-partners.com
From: Royce Buckingham
To: Tschoed@co.whatcom.wa.us
Date: 7/5/2011 9:32 AM
Subject: Re: GPT Clarification letter

I am out of the office from July 1-8. I will return July 11.

Thank you.
I am out of the office until Wednesday, July 6th. If you need assistance, please contact my secretary, Frances (620-6439), paralegal, Terri Vancil (620-6553) or partner, Margaret Archer (620-6550).
Thank you

Sent from my iPhone

On Jul 5, 2011, at 9:32 AM, "Tyler Schroeder" <Tschroed@co.whatcom.wa.us> wrote:

> Bill,
> >
> > I have received your clarification letter this morning. We were out of the office for the 4 days for the Fourth and will respond as soon as we can.
> >
> > Thanks,
> >
> > Tyler
> >
> > Tyler R. Schroeder
> > Current Planning Supervisor
> > Phone: (360) 676-6907 ext. 50202
> > Fax: (360)738-2525
> > Email: Tschroed@co.whatcom.wa.us
> > Address:
> > Whatcom County Planning and Development Services
> > 5280 Northwest Dr.
> > Bellingham, WA 98225
> >
> >>>> "Lynn, Bill" <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
> > Please let us know if you require additional information.
> >
> >
> > William T. Lynn
> > Attorney at Law
> >
> >
> > 1201 Pacific Avenue, Suite 2100
> > Tacoma, Washington 98402
> > T 253 620 6416
> > F 253 620 6565
> > NOTICE: The information contained in this e-mail communication is
> > confidential and may be protected by the attorney/client or work product
> > privileges. If you are not the intended recipient or believe that you
> > have received this communication in error, please do not print, copy,
> > retransmit, disseminate, or otherwise use the information. Also, please
> > indicate to the sender that you have received this email in error and
> > delete the copy you received. Thank you.
> >
> >
Hi Tyler,
When you have a second, could you please drag any of your rec'd & sent emails over to the GPT shared folders for dates through July 1st so I can work on last weeks batching for the web.

Let me know when you're done.

Thanks,
Stephanie

Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201
Hello Tyler--
I have been told that SSA has sent a letter to the county requesting reconsideration/clarification of the ruling on the validity of their earlier permit and the completeness of their current application.
If there is such a letter from SSA, can that letter be made available for public inspection? Thanks.

John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com
Visit us at www.bellinghamherald.com
John,
Tyler asked me to email this letter to you. It is also posted on our website:
http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp

Thank you,
Stephanie

Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201

>>> Tyler Schroeder 7/5/2011 11:11 AM >>>
Could you put this on the GPT website. It is from the applicant.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> "Lynn, Bill" <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6416
F 253 620 6565
NOTICE: The information contained in this e-mail communication is
confidential and may be protected by the attorney/client or work product privileges. If you are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this email in error and delete the copy you received. Thank you.
June 29, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: MDP2011-000001/SHR2001-00009 - Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit Request for Reconsideration - Gateway Pacific Terminal Major Project Permit Application

Dear Mr. Schroeder:

We are writing on behalf of Pacific International Terminals, Inc. to request reconsideration, or more accurately, clarification, of your letter dated June 23, 2011, a copy of which is attached. We were directed by the County Planning & Development Services staff to the reconsideration process under WCC 23.60.150.H, and have been advised there is neither a form nor a filing fee associated with this request. Even without that provision, an agency has the inherent authority to clarify its letters.

The matter before the County Planning & Development Services Department was simply a review of the above-referenced application by Pacific International Terminals, Inc. for completeness. We are prepared to address the comments in your letter and will get the necessary information to you shortly.

To clarify your letter, we request confirmation that:

1. Your letter did not diminish or affect any rights held by Pacific International Terminals in the current Shoreline Substantial Development Permit issued by the County under SHS 92-0020, and determined to remain in effect by the County administrative determination dated October 22, 2008;
2. Your letter did not diminish or affect Pacific International Terminals' rights or obligations under the Settlement Agreement concerning SHS 92-0020 dated August 31, 1999, and executed by Pacific International Terminals, Inc., Whatcom County, and others;

3. The effect of the existing Substantial Development Permit issued under SHS 92-0020 and the August 31, 1999 Settlement Agreement on the current shoreline permit application shall be determined through the County shoreline permit process, including any appeals; and

4. Decisions as to the scope of environmental review under SEPA will be made through the processes found in WCC Ch. 16.08, RCW Ch. 43.21C and WAC Ch. 197-11.

Please let us know if anything further is necessary to perfect this request or to assist you in making the determination.

Very truly yours,

[Signature]

WTL:fto
Enclosure
cc:  Royce Buckingham, Prosecuting Attorney
      Pacific International Terminals, Inc.
is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of "revision," but instead requires application for a "new permit." It is our reading that a "new permit" is not a second type of revision,\(^2\) and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not "within the scope and intent of the original approval" as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

**Major Project Permit (MDP2011-00001)**

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1 e, f, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have **90 days** from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

\(^2\) On June 23, 2011, Whatcom County consulted with the Washington State Attorney General’s Office, which confirmed this interpretation
Okay. Thanks. I'll use email until further notice.

John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com
Visit us at www.bellinghamherald.com

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Tuesday, July 05, 2011 12:32 PM
To: Stark, John
Subject: Re: SSA letter to county re: Gateway Pacific

Hi John,

We received an email with the Request for Clarification letter from SSA's attorney on Thursday evening. I am having the letter posted on the County's GPT website page today. I will forward you the email with the letter shortly.

In the future if you are unable to track me down by phone please don't hesitate to send me an email. It is the best way to get in touch with me.

Thanks,

Tyler
Hello Tyler--
I have been told that SSA has sent a letter to the county requesting reconsideration/clarification of the ruling on the validity of their earlier permit and the completeness of their current application. If there is such a letter from SSA, can that letter be made available for public inspection? Thanks.

John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com Visit us at www.bellinghamherald.com
Thank you. By the way, my letter references WCC 23.60.150 H--while we discussed that section, the reconsideration discussion is in WCC 23.60.150 D.

William T. Lynn
Attorney at Law
T 253 620 6416
F 253 620 6565

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Tuesday, July 05, 2011 9:32 AM
To: Lynn, Bill
Cc: Chad Yunge; Sam Ryan; Royce Buckingham; Randall Watts
Subject: Re: GPT Clarification letter

Bill,

I have received your clarification letter this morning. We were out of the office for the 4 days for the Fourth and will respond as soon as we can.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> "Lynn, Bill" <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6416
F 253 620 6565

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A special thank you to ALL who helped clean up Birch Bay today. A BIG job well done!

The proposed cargo terminal will, without doubt, effect us at Birch Bay if built. I propose to follow the process and keep you informed accordingly. For myself, I'm not ready to spend a whole lot of energy getting all excited about it until I find out exactly what is being proposed and the best way to have my questions heard and answered in the official public participation process which I think is the SEPA process. This is one of those issues where an incorporated Birch Bay would have a lot more credibility and clout than we have as individuals or as a steering committee. But we do have elections coming up - more coming soon on that front. -kb

SSA attorney seeks "clarification" of county ruling on cargo terminal
July 5th, 2011
From Stark in the Politics blog of the Bellingham Herald

William Lynn, an attorney representing SSA Marine in that company's quest to build a major coal and bulk cargo terminal at Cherry Point, wants the county to clarify a June 23, 2011 ruling that requires SSA to seek a new permit, instead of obtaining a revision of a 1997 permit that envisioned a much smaller facility.

Lynn's letter to Tyler Schroeder, the county's planning supervisor overseeing the project, still implies that the 1997 permit can have some impact on the environmental review process that lies ahead for the Gateway Pacific project.

The above link connects to the letter on a Whatcom County Planning and Development Services web page that provides a wealth of old and new documents related to Gateway Pacific. The county is making it easy for all of us to delve into the details of the regulatory process.

That project has stirred up some passionate opposition because of the likelihood that it will handle huge volumes of Rocky Mountain coal headed to China.
Tyler, regarding your forthcoming response to our letter from Bill Lynn requesting a reconsideration of your Notice of Incomplete Application, we urge you to respond as quickly as possible, as the deadline for an appeal is next Wednesday (7/13/11), and Pacific International Terminals, Inc. will need to deliberate on its course of action, dependant on your response.

Thanks,

Cliff Strong
Senior Land Use/Environmental Planner
and Office Sustainability Coordinator
email: cliff.strong@amec.com

Direct: 425.368.0952
Cell: 360.631.7918
Office: 425.368.1000
Fax: 425.368.1001

AMEC Earth & Environmental, Inc.
11810 North Creek Parkway N
Bothell, WA 98011

website: www.amec.com/earthandenvironmental
Be more sustainable - think before you print.
Business sustainability starts here... AMEC is committed to reducing its carbon footprint.
Business sustainability starts here... AMEC is a signatory to the UN Global Compact.
Business sustainability starts here... AMEC supports SOS Children

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If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message.
Good morning Tyler - hope you had a nice holiday.

We have reviewed Mr. Lynn's letter sent to you on June 29, 2011.

It is difficult to discern if that letter is a request for reconsideration, or, is it an appeal?

Unfortunately, Mr. Lynn has muddled "reconsideration" with the WCC reference for "appeals."

We intend to send a "what is it?" letter to you in short order but in the meantime a three-minute phone call to discuss would be helpful.

Thank you Tyler.  778-8359 direct to my desk.

Steven Sundin
Planner - City of Bellingham
360-778-8359
My incoming/outgoing emails are subject to public disclosure.
tyler - if you could forward those emails from Mr. Lynn we discussed this morning that would be helpful for our purpose at hand, thank you.

Steven Sundin
Planner - City of Bellingham
360-778-8359
My incoming/outgoing emails are subject to public disclosure.
Hello Tyler:

My clients and I received Bill Lynn's June 29 letter yesterday and are interested in submitting a response before the County makes a decision. Briefly, while Mr. Lynn's letter requests "reconsideration" of the Department's June 23 completeness decision, it actually is asking for the County to offer legal opinions on a variety of subjects that were not part of the County's completeness decision. In our view, it would not be appropriate for the County to offer such legal opinions on the company's rights and obligations as part of a "reconsideration" request and urge you to simply affirm your completeness decision without getting drawn into answering Mr. Lynn's specific legal questions, which will be resolved in due course if they have not already been resolved.

We hope to provide you with more detail tomorrow - will we have time before the County makes a decision?

Thank you for your consideration,

Jan Hasselman
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA  98104
Ph: 206-343-7340 x.1025
Fx: 206-343-1526
www.earthjustice.org
I am out of the office returning on July 8th.
Hello Mr. Kennedy,

The Gateway Pacific Terminal project is being managed by Tyler Schroeder. I have forwarded your request as Mr. Schroeder is handling all the specifics of the project. You can reach Mr. Schroeder at 676-6907.

Good luck with your class,

Roland

Roland Middleton, LEG,  
Whatcom County Public Works  
Special Projects Manager  
Project Development  
(360) 676-6876

>>> Tim Kennedy <timkennedy82@gmail.com> 7/7/2011 10:05 AM >>>
Hi Roland,

I am a student at WWU majoring in economics and environmental education. I am taking an Environmental Impact Assessment class this summer and I was wondering if you could help answer or recommend a way to find out a couple of questions I had.

I am looking at both Land and Shoreline use. Most of the information I have found doing research but do you have a source or recommendation for these parts of the environmental checklist:

* c. Describe any structures on the site  
 d. Will any structures be demolished? If so, what?  
 k. Proposed measures to avoid or reduce displacement impacts, if any:  
 l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:*  

The same goes for Aesthetics, any contact person that you can think or links to more specific project sites?

*  
10. Aesthetics  
a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?  
b. What views in the immediate vicinity would be altered or obstructed?  
c. Proposed measures to reduce or control aesthetic impacts, if any:
* I know you are very busy. I really appreciate any help you can give me.

Thanks so much!

-Tim Kennedy
Hello, Tyler:

Karen Frakes will be attending a special council COTW next Tuesday, immediately following our Natural Resources Committee meeting, to give the council a "general" update on what's happening with the SSA project now that a permit has been filed. Would you be available to attend, also, to answer any questions councilmembers may have for you?

Please advise.

Thank you.

Dana

Dana Brown-Davis, CMC
Clerk of the Council
Whatcom County
311 Grand Avenue, Suite 105
Bellingham, WA  98225
dbrown@co.whatcom.wa.us

Please note:  Emails are public records subject to public disclosure upon request
Great. Thank you, Tyler.

:) 

Dana Brown-Davis, CMC
Clerk of the Council
Whatcom County
311 Grand Avenue, Suite 105
Bellingham, WA  98225
dbrown@co.whatcom.wa.us

Please note: Emails are public records subject to public disclosure upon request

>>> Tyler Schroeder 7/7/2011 10:19 AM >>>
I am available.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschoed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> Dana Brown-Davis 7/7/2011 10:14 AM >>>
Hello, Tyler:

Karen Frakes will be attending a special council COTW next Tuesday, immediately following our Natural Resources Committee meeting, to give the council a "general" update on what's happening with the SSA project now that a permit has been filed. Would you be available to attend, also, to answer any questions councilmembers may have for you?

Please advise.

Thank you.

Dana
Dana Brown-Davis, CMC  
Clerk of the Council  
Whatcom County  
311 Grand Avenue, Suite 105  
Bellingham, WA  98225  
dbrown@co.whatcom.wa.us

Please note: Emails are public records subject to public disclosure upon request
Dear Katharine,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
- Threatened and endangered species and ESA Section 7 consultation including the most recent research related to pier construction and vessel movement impacts on marine species;
- Indian fishing and fishing treaty rights;
- Cultural resources and NHPA Section 106 consultation;
- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

- Impacts to aquatic habitat and species, including listed species under the Endangered Species Act
Impacts resulting from fill of wetlands and offsetting wetland mitigation;
· Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham Waterfront Redevelopment, as well as Whatcom County;
· Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
· Fugitive dust impacts related to bulk materials handling and rail transportation;
· Tribal fishing rights and impacts to fisheries;
· Impacts to cultural resources;
· Air Quality impacts, including Green House Gas Emissions; and
· Other issues identified through the Scoping process and in response to all comments, including your's, regarding the Draft EIS (DEIS).
Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
County Executive

>>> Katharine Devine <mail@change.org> 7/5/2011 10:36 PM >>>

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Bellingham.

Please consider that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus 6 million tons per year of other commodities, for a total commodity handling and export 7 times the size of the original permits.
§ Capacity export of coal will add 18 uncovered coal trains a day through Bellingham, with train lengths about 1.6 miles long (by contrast, today's trains are about 1 mile long).
§ Total Bellingham rail traffic will grow to an average of 32 trains per day - one train every 45 minutes, around the clock.

Impacts of this unprecedented volume of train traffic, carrying uncovered coal, are unknown. We need to know how critical facets of our lives will be impacted, including:

§ Our community’s economy (e.g. waterfront redevelopment, downtown businesses, marine trades, property values).
§ Our community's environment (e.g. air quality, noise, erosion).
§ Our community's livability (e.g. quality-of-life measures including access to public parks, safety, health impacts of coal dust, diesel fumes, vibration effects on adjacent property).

As a community, it is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and on our children's lives. Therefore, we ask that:

1. Offsite impacts – the impacts on Bellingham of 48 million metric tons of uncovered coal trafficked annually through our community -- be included in the scope of the Gateway Pacific Terminal EIS.

2. That mitigation and / or elimination strategies for each of the identified impacts be explored.

It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that Bellingham will directly bear -- not just temporarily – but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

Katharine Devine
Bellingham, WA

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/bellingham-round-the-clock-coal-train-traffic-still-bellingham. To respond, email responses@change.org and include a link to this petition.
June 23, 2011

Pacific International Terminals, Inc.
c/o Mr. Cliff Strong
AMEC Earth & Environmental, Inc.
11810 North Creek Parkway N
Bothell, WA 98011

Re: MDP2011-000001/ SHR2011-00009 – Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit

Dear Mr. Strong:

Upon review of the application materials submitted on June 10, 2011, as well as the subsequent letter from your legal counsel dated June 23, 2011, it has been determined that the requested revision to the existing shoreline substantial development Permit (SHS1992-00020) does not meet the applicable revision criteria outlined in WCC 23.60.170 and Washington Administrative Code (WAC) 173-27-100. As such, a new shoreline substantial development permit is required to review the entire proposal within the jurisdiction of the SMA.

In addition, in review of the application materials submitted on June 10, 2011, it has been determined that the above Major Development Permit (MDP) is incomplete, as the submittal requirements of Whatcom County Code (WCC) 20.88.200 and WCC 2.33 have not been met.

**Shoreline Substantial Development Permit Revision (SHR2011-00009)**

According to Section 23.60.170.B, the County decision maker may only approve a request for revision upon a finding that the proposed changes are within the scope and intent of the original approval. In order to make such a determination, all of the criteria outlined in WCC 23.60.170.C.1 through 23.60.170.C.5 must be met. Whatcom County Code 23.60.170.E states that a new permit shall be required if the proposed revision constitutes development beyond the scope and intent of the original approval as set forth in 23.60.170.C.

Your letter of June 23, 2011 indicates that the revision proposed is not sought under the provisions of 23.60.170.C but rather on the sole basis of 23.60.170.E. "While the revisions now proposed by PIT were contemplated at the time of the original approval, PIT is not seeking a revision "within the scope and intent of the original approval" under those provisions." The letter goes on to suggest that the WCC defines two types of revisions, and that your proposal meets the criteria for the "second type of revision," which you term a "new permit revision."  

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is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of “revision,” but instead requires application for a “new permit.” It is our reading that a “new permit” is not a second type of revision,2 and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not “within the scope and intent of the original approval” as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

**Major Project Permit (MDP2011-00001)**

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1 e, f, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have **90 days** from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

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2 On June 23, 2011, Whatcom County consulted with the Washington State Attorney General’s Office, which confirmed this interpretation
days of the date of this letter with documentation as to why the additional time is necessary.

As you have been identified as the applicant’s agent all correspondence and inquiries will be directed to you. If you have any questions, please contact me at (360) 676-6907 ext. 50202 – or – Email: Tschroed@co.whatcom.wa.us.

Sincerely,

[Signature]

Tyler R. Schroeder
Whatcom County Planning Supervisor

Royce Buckingham
Whatcom County Prosecuting Attorney
Dear Marcella,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
- Threatened and endangered species and ESA Section 7 consultation including the most recent research related to pier construction and vessel movement impacts on marine species;
- Indian fishing and fishing treaty rights;
- Cultural resources and NHPA Section 106 consultation;
- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

- Impacts to aquatic habitat and species, including listed species under the Endangered Species Act
(ESA);
  · Impacts resulting from fill of wetlands and offsetting wetland mitigation;
  · Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham
    Waterfront Redevelopment, as well as Whatcom County;
  · Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
  · Fugitive dust impacts related to bulk materials handling and rail transportation;
  · Tribal fishing rights and impacts to fisheries;
  · Impacts to cultural resources;
  · Air Quality impacts, including Green House Gas Emissions; and
  · Other issues identified through the Scoping process and in response to all comments, including
    your's, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and
Whatcom County impacts must be included in this critical document. I will make sure to forward your
comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link:
http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on
an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
CountyExecutive

>>> Marcella Stanton <mail@change.org> 7/6/2011 9:02 AM >>>

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal
and bulk facility at Cherry Point does not include the impact of coal train transport through Washington
State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that
would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6
million tons per year of other commodities, for a total of 54 million tons per year of commodity handling
and exports - 7 times the size of the original permits.
§ Capacity export of coal will add 18 uncovered coal trains a day through Whatcom County alone, with
train lengths about 1.6 miles long (by contrast, today's trains are about 1 mile long).

Impacts of this unprecedented volume of train traffic, carrying uncovered coal may bear on:
§ Our state's economy (e.g. businesses, property values).
§ Our state's environment (e.g. air quality, noise, erosion).
§ Our state's livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes,
and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:
1. Offsite impacts – the impacts on Washington State of 48 million metric tons of uncovered coal trafficked annually through our communities -- be included in the scope of the Gateway Pacific Terminal EIS.

2. That mitigation and / or elimination strategies for each of the identified impacts be explored. It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that many communities within Washington will bear -- not just temporarily - but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

[Your name]

Marcella Stanton
Wilmington, DE

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Dear Krystle,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
- Threatened and endangered species and ESA Section 7 consultation including the most recent research related to pier construction and vessel movement impacts on marine species;
- Indian fishing and fishing treaty rights;
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- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

- Impacts to aquatic habitat and species, including listed species under the Endangered Species Act.
Impacts resulting from fill of wetlands and offsetting wetland mitigation;
- Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham Waterfront Redevelopment, as well as Whatcom County;
- Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
- Fugitive dust impacts related to bulk materials handling and rail transportation;
- Tribal fishing rights and impacts to fisheries;
- Impacts to cultural resources;
- Air Quality impacts, including Green House Gas Emissions; and
- Other issues identified through the Scoping process and in response to all comments, including your’s, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
CountyExecutive

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Washington State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6 million tons per year of other commodities, for a total of 54 million tons per year of commodity handling and exports - 7 times the size of the original permits.
§ Capacity export of coal will add 18 uncovered coal trains a day through Whatcom County alone, with train lengths about 1.6 miles long (by contrast, today's trains are about 1 mile long). Impacts of this unprecedented volume of train traffic, carrying uncovered coal may bear on:
§ Our state's economy (e.g. businesses, property values).
§ Our state's environment (e.g. air quality, noise, erosion).
§ Our state's livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes, and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:

1. Offsite impacts – the impacts on Washington State of 48 million metric tons of uncovered coal trafficked annually through our communities -- be included in the scope of the Gateway Pacific Terminal EIS.

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Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

[Your name]

Krystle Willet
Ottawa, IL

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Dear Andrew,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

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Tribal fishing rights and impacts to fisheries;
Impacts to cultural resources;
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Other issues identified through the Scoping process and in response to all comments, including your’s, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
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Greetings,

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Please consider the fact that:

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Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

Andrew Zvilna
Bellingham, WA

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Dear Aleasha,

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- Indian fishing and fishing treaty rights;
- Cultural resources and NHPA Section 106 consultation;
- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

...
Impacts to aquatic habitat and species, including listed species under the Endangered Species Act (ESA);

- Impacts resulting from fill of wetlands and offsetting wetland mitigation;
- Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham Waterfront Redevelopment, as well as Whatcom County;
- Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
- Fugitive dust impacts related to bulk materials handling and rail transportation;
- Tribal fishing rights and impacts to fisheries;
- Impacts to cultural resources;
- Air Quality impacts, including Green House Gas Emissions; and
- Other issues identified through the Scoping process and in response to all comments, including your’s, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
CountyExecutive

>>> Aleasha Casaretto <mail@change.org> 7/7/2011 3:48 AM >>>

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Washington State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6 million tons per year of other commodities, for a total of 54 million tons per year of commodity handling and exports - 7 times the size of the original permits.
§ Capacity export of coal will add 18 uncovered coal trains a day through Whatcom County alone, with train lengths about 1.6 miles long (by contrast, today’s trains are about 1 mile long).

Impacts of this unprecedented volume of train traffic, carrying uncovered coal may bear on:
§ Our state's economy (e.g. businesses, property values).
§ Our state's environment (e.g. air quality, noise, erosion).
§ Our state’s livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes, and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:

1. Offsite impacts – the impacts on Washington State of 48 million metric tons of uncovered coal trafficked annually through our communities -- be included in the scope of the Gateway Pacific Terminal EIS.

2. That mitigation and / or elimination strategies for each of the identified impacts be explored. It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that many communities within Washington will bear -- not just temporarily - but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,
[Your name]

Aleasha Casaretto
Colyeville, TX

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Dear Cassie,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
- Threatened and endangered species and ESA Section 7 consultation including the most recent research related to pier construction and vessel movement impacts on marine species;
- Indian fishing and fishing treaty rights;
- Cultural resources and NHPA Section 106 consultation;
- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

- Impacts to aquatic habitat and species, including listed species under the Endangered Species Act
Impacts resulting from fill of wetlands and offsetting wetland mitigation;
- Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham Waterfront Redevelopment, as well as Whatcom County;
- Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
- Fugitive dust impacts related to bulk materials handling and rail transportation;
- Tribal fishing rights and impacts to fisheries;
- Impacts to cultural resources;
- Air Quality impacts, including Green House Gas Emissions; and
- Other issues identified through the Scoping process and in response to all comments, including your's, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: [http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp](http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp). This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
County Executive

---

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Washington State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6 million tons per year of other commodities, for a total of 54 million tons per year of commodity handling and exports - 7 times the size of the original permits.
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Impacts of this unprecedented volume of train traffic, carrying uncovered coal may bear on:
§ Our state's economy (e.g. businesses, property values).
§ Our state's environment (e.g. air quality, noise, erosion).
§ Our state's livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes, and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:

1. Offsite impacts – the impacts on Washington State of 48 million metric tons of uncovered coal trafficked annually through our communities -- be included in the scope of the Gateway Pacific Terminal EIS.

2. That mitigation and / or elimination strategies for each of the identified impacts be explored. It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that many communities within Washington will bear -- not just temporarily – but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,
[Your name]

Cassie Calabrese
castle rock, WA

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Dear Theresa,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
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- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:

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Impacts resulting from fill of wetlands and offsetting wetland mitigation;
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- Impacts to cultural resources;
- Air Quality impacts, including Green House Gas Emissions; and
- Other issues identified through the Scoping process and in response to all comments, including your's, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
County Executive

>>> Theresa Bromm-Boesen <mail@change.org> 7/7/2011 6:25 AM >>>
Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Washington State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6 million tons per year of other commodities, for a total of 54 million tons per year of commodity handling and exports - 7 times the size of the original permits.
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§ Our state's livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes, and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:

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2. That mitigation and / or elimination strategies for each of the identified impacts be explored. It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that many communities within Washington will bear -- not just temporarily - but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

[Your name]

Theresa Bromm-Boesen
Vancouver, WA, WA

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Thanks Tyler. I did get the final ROE that we posted to the website, but appreciate the background information.

Thanks, Jane

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Wednesday, July 06, 2011 8:04 AM
To: Dewell, Jane (ORA)
Subject: RE: Fwd: sediment sampling Right of Entry

Jane,

Here is the correspondence I was referring to yesterday. Thanks for coordinated the meeting to discuss the Co-Lead status with DOE.

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> "CARTEN, TERRY (DNR)" <TERENCE.CARTEN@dnr.wa.gov> 6/30/2011 10:10
AM >>>
Thanks.

You'll see that I sent you an email with this request about the time you sent this off to me. Please disregard.

Appreciate the correspondence.

Terry

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Thursday, June 30, 2011 10:07 AM
To: Cliff Strong; Melinda.Gray@amec.com; Chad Yunge; CARTEN, TERRY (DNR)
Cc: Dewell, Jane (ORA)
Subject: Re: Fwd: sediment sampling Right of Entry

Terry,

In response to the request included in the email below, the sediment
sampling can occur under the existing Shoreline Substantial Development Permit issued in 1997 (SHS 92-0020).

Please let me know if you have any questions.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> "Strong, Cliff" <Cliff.Strong@amec.com> 6/29/2011 4:18 PM >>>
Here's the email from DNR.

Terry CARTEN is our contact.

Begin forwarded message:

From: "CARTEN, TERRY (DNR)"
<TERENCE.CARTEN@dnr.wa.gov<mailto:TERENCE.CARTEN@dnr.wa.gov>>
Date: June 28, 2011 9:27:02 AM PDT
To: Al Jeroue
<Al.Jeroue@SSAMarine.com<mailto:Al.Jeroue@SSAMarine.com>>
Cc: "Dunkin, Kristie  A"
<Kristie.Dunkin@amec.com<mailto:Kristie.Dunkin@amec.com>>, Ari Steinberg
<Ari.Steinberg@SSAMarine.com<mailto:Ari.Steinberg@SSAMarine.com>>, "Gray, Melinda" <Melinda.Gray@amec.com<mailto:Melinda.Gray@amec.com>>, "GUSTAFSON, JOANN (DNR)"
<JOANN.GUSTAFSON@dnr.wa.gov<mailto:JOANN.GUSTAFSON@dnr.wa.gov>>, "Clark, Dennis (DNR)"
<Dennis.Clark@dnr.wa.gov<mailto:Dennis.Clark@dnr.wa.gov>>
Subject: RE: sediment sampling Right of Entry

Hi Al,

The Right of Entry (ROE) for the sediment sampling has been overnight mailed this morning to Ari's attention. Please have the documents signed by Bob Watters ASAP and either overnighted or hand delivered to the person/address in Olympia provided in the transmittal letter that is accompanying the documents. The documents, signed by SSA, should be in to our office in Olympia no later than Thursday morning if the sediment
sampling is to begin on Friday. Until the ROE documents have been fully executed, SSA/AMEC does not have permission to conduct the sampling activities on state-owned aquatic lands. Once the documents have been signed by DNR and fully executed, I will contact Melinda Gray at AMEC and let her know that the sampling can begin.

The transmittal letter also outlines that DNR is still in need of a letter of permission or permit from the US Army Corps of Engineers, a letter or email, etc. from Whatcom County that they will allow the sediment sampling to occur under the existing Shoreline Substantial Development Permit issued in 1997 (SHS 92-0020) and a check for the ROE fee of $1,015.56. All of these items are necessary for DNR to execute the ROE. Melinda Gray is aware of the permitting needs and has assured me that they will be provided in a timely manner to complete this authorization process.

Please let me know if you have any questions or need additional information.

Thanks,
Terry

Terry Carten
Land Manager, San Juan/Whatcom County & Anacortes
DNR Aquatics Program
Orca-Straits District
360-854-2846

From: Al Jeroue [mailto:Al.Jeroue@SSAMarine.com]
Sent: Friday, June 17, 2011 3:34 PM
To: CARTEN, TERRY (DNR)
Cc: Dunkin, Kristie A; Ari Steinberg
Subject: RE: sediment sampling Right of Entry

Hi Terry,

Please send the ROE to the attention of Ari Steinberg/SSA at the Klickitat Way address. He will marshal it through SSA and get the signatures and the authorization back to you ASAP.

Thanks for all the help.

ASJ

From: CARTEN, TERRY (DNR) [mailto:TERENCE.CARTEN@dnr.wa.gov]
Sent: Friday, June 17, 2011 2:29 PM
To: Al Jeroue
Cc: Dunkin, Kristie A
Subject: sediment sampling Right of Entry

Hi Al,

I have been working on the Right of Entry for SSA/AMEC to conduct sediment sampling at the proposed PIT GPT site. I am hoping to have
this
go out to your organization for signature early next week.

Should I be addressing it to your attention? To the Klickitat Way address?

It is imperative that this authorization gets signed and returned to me ASAP if you wish to conduct the sampling during your limited July 1-15 timeframe. PIT will not be authorized to collect samples from state-owned aquatic lands until you have been informed that the authorization has been fully executed.

The permit or permit waiver document from the Army Corps of Engineers will also be required prior to execution of the authorization. Kristie Dunkin at AMEC is aware of this and has indicated that she will provide me with this documentation as soon as she receives it.

Let me know if you have any questions.

Thanks,

Terry
Team,

I saw two e-mails relative to input on the Sediment Implementation Plan (am attaching for reference), but did not see other written comments on the plan, that had been requested by July 5.

If there was other input, please forward to me. We should include this information in the 'Agency Memos and Comments' section of the GPT website.

Thanks, Jane

_____________________________________________
From: Dewell, Jane (ORA)
Sent: Thursday, June 30, 2011 9:37 AM
To: Dewell, Jane (ORA); Al Jeroue (al.jeroue@ssamarine.com); Ari Steinberg; Clark, Dennis (DNR); Cyrilla.Cook@dnr.wa.gov; Dan Mahar; Jeremy Freimund; Joel Moribe; John Robinson (john.robinson@cardno.com); Kelly, Alice (ECY); Krista Rave-Perkins (Rave-Perkins.Krista@epa.gov); 'kristie.dunkin@AMEC.com'; Randall, Loree’ (ECY);
Randel.J.Perry@nws02.usace.army.mil; Scott Boettcher (ScottB@sbgh-partners.com); Skip Kalb (skip.kalb@bnsf.com); Tyler Schroeder (tschroed@co.whatcom.wa.us); Wenger, Barry (ECY); Williams, Brian W (DFW)
Cc: 'Tiffany Quarles (tiffany.quarles@amec.com)'; 'Gray, Melinda'; 'steve.g.ellis@amec.com'; Dewell, Jane (ORA)
Subject: RE: GPT MAP Team - Review draft Sediment Implementation Plan

Team,

If you provide comments directly to the company or consultant on the sediment plan, please include me in the loop. Anything that I receive I will forward on as soon as possible to SSA's team.

I am out from 1 p.m. Friday, and won't have e-mail access again until early Tuesday. Enjoy the long weekend.

Thanks, Jane

_____________________________________________
From: Dewell, Jane (ORA)
Sent: Wednesday, June 22, 2011 11:06 AM
To: Al Jeroue (al.jeroue@ssamarine.com); Ari Steinberg; Clark, Dennis (DNR); Cyrilla.Cook@dnr.wa.gov; Dan Mahar; Dewell, Jane (ORA); Jeremy Freimund; Joel Moribe; John Robinson (john.robinson@cardno.com); Kelly, Alice (ECY); Krista Rave-Perkins (Rave-Perkins.Krista@epa.gov); 'kristie.dunkin@AMEC.com'; Randall, Loree’ (ECY);
Randel.J.Perry@nws02.usace.army.mil; Scott Boettcher (ScottB@sbgh-partners.com); Skip Kalb (skip.kalb@bnsf.com); Tyler Schroeder (tschroed@co.whatcom.wa.us); Wenger, Barry (ECY); Williams, Brian W (DFW)
Cc: 'Tiffany Quarles (tiffany.quarles@amec.com)'; 'Gray, Melinda'; 'steve.g.ellis@amec.com'; Dewell, Jane (ORA)
Subject: RE: GPT MAP Team - Review draft Sediment Implementation Plan
MAP Team:

We are forwarding the draft sediment plan for review. Please provide your comments by Tuesday, July 5.

Here is the link to download documents (since it's long it might break/wrap so if you have a problem accessing please check):

Thanks, Jane

************************************************

Jane Dewell, Regional Lead
Governor's Office of Regulatory Assistance
3190 160th Ave SE
Bellevue, WA 98008-5452
(425) 649-7124 or (425) 577-8445
Terry,

In response to the request included in the email below, the sediment sampling can occur under the existing Shoreline Substantial Development Permit issued in 1997 (SHS 92-0020).

Please let me know if you have any questions.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> "Strong, Cliff" <Cliff.Strong@amec.com> 6/29/2011 4:18 PM >>>
Here's the email from DNR.

Terry CARTEN is our contact.

Begin forwarded message:

From: "CARTEN, TERRY (DNR)"
<TERENCE.CARTEN@dnr.wa.gov>  
Date: June 28, 2011 9:27:02 AM PDT  
To: Al Jeroue 
Cc: "Dunkin, Kristie  A"  
<Kristie.Dunkin@amec.com>, Ari Steinberg  
<Ari.Steinberg@SSAMarine.com>, "Gray, Melinda"  
<Melinda.Gray@amec.com>, "GUSTAFSON, JOANN (DNR)"  
<JOANN.GUSTAFSON@dnr.wa.gov>, "Clark, Dennis (DNR)"

Hi Al,
The Right of Entry (ROE) for the sediment sampling has been overnight mailed this morning to Ari’s attention. Please have the documents signed by Bob Watters ASAP and either overnighted or hand delivered to the person/address in Olympia provided in the transmittal letter that is accompanying the documents. The documents, signed by SSA, should be in to our office in Olympia no later than Thursday morning if the sediment sampling is to begin on Friday. Until the ROE documents have been fully executed, SSA/AMEC does not have permission to conduct the sampling activities on state-owned aquatic lands. Once the documents have been signed by DNR and fully executed, I will contact Melinda Gray at AMEC and let her know that the sampling can begin.

The transmittal letter also outlines that DNR is still in need of a letter of permission or permit from the US Army Corps of Engineers, a letter or email, etc. from Whatcom County that they will allow the sediment sampling to occur under the existing Shoreline Substantial Development Permit issued in 1997 (SHS 92-0020) and a check for the ROE fee of $1,015.56. All of these items are necessary for DNR to execute the ROE. Melinda Gray is aware of the permitting needs and has assured me that they will be provided in a timely manner to complete this authorization process.

Please let me know if you have any questions or need additional information.

Thanks,
Terry

Terry Carten
Land Manager, San Juan/Whatcom County & Anacortes
DNR Aquatics Program
Orca-Straits District
360-854-2846
From: Al Jeroue [mailto:Al.Jeroue@SSAMarine.com]
Sent: Friday, June 17, 2011 3:34 PM
To: CARTEN, TERRY (DNR)
Cc: Dunkin, Kristie A; Ari Steinberg
Subject: RE: sediment sampling Right of Entry

Hi Terry,

Please send the ROE to the attention of Ari Steinberg/SSA at the Klickitat Way address. He will marshal it through SSA and get the signatures and the authorization back to you ASAP.

Thanks for all the help.

ASJ

From: CARTEN, TERRY (DNR) [mailto:TERENCE.CARTEN@dnr.wa.gov]
Sent: Friday, June 17, 2011 2:29 PM
To: Al Jeroue
Cc: Dunkin, Kristie A
Subject: sediment sampling Right of Entry
Hi Al,

I have been working on the Right of Entry for SSA/AMEC to conduct sediment sampling at the proposed PIT GPT site. I am hoping to have this go out to your organization for signature early next week.

Should I be addressing it to your attention? To the Klickitat Way address?

It is imperative that this authorization gets signed and returned to me ASAP if you wish to conduct the sampling during your limited July 1-15 timeframe. PIT will not be authorized to collect samples from state-owned aquatic lands until you have been informed that the authorization has been fully executed.

The permit or permit waiver document from the Army Corps of Engineers will also be required prior to execution of the authorization. Kristie Dunkin at AMEC is aware of this and has indicated that she will provide me with this documentation as soon as she receives it.

Let me know if you have any questions.

Thanks,

Terry
Hi Jane

Would it be possible to extend the deadline for comments until July 22?

Our Sediment Quality Specialist left DNR in April and our new one won't come on board until July 15. Barry Wenger of Ecology is also on vacation until after July 4, so Ecology may also benefit from an extension.

Cyrilla Cook, AICP
Policy Unit Supervisor
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
360-902-1080
cyrilla.cook@dnr.wa.gov
www.dnr.wa.gov

From: Dewell, Jane (ORA)
Sent: Wednesday, June 22, 2011 11:06 AM
To: Al Jeroue (al.jeroue@ssamarine.com); Ari Steinberg; Clark, Dennis (DNR); Cook, Cyrilla (DNR); Dan Mahar; Dewell, Jane (ORA); Jeremy Freimund; Joel Moribe; John Robinson (john.robinson@cardno.com); Kelly, Alice (ECY); Krista Rave-Perkins (Rave-Perkins.Krista@epa.gov); 'kristie.dunkin@AMEC.com'; Randall, Loree' (ECY); Randel.J.Perry@nws02.usace.army.mil; Boettcher, Scott; Skip Kalb (skip.kalb@bnsf.com); Tyler Schroeder (tschroed@co.whatcom.wa.us); Wenger, Barry (ECY); Williams, Brian W (DFW)
Cc: 'Tiffany Quarles (tiffany.quarles@amec.com)'; Gray, Melinda; steve.g.ellis@amec.com
Subject: GPT MAP Team - Review draft Sediment Implementation Plan

MAP Team:

We are forwarding the draft sediment plan for review. Please provide your comments by Tuesday, July 5.

Here is the link to download documents (since it's long it might break/wrap so if you have a problem accessing please check):

Thanks, Jane

****************************************
Jane Dewell, Regional Lead
Governor's Office of Regulatory Assistance
3190 160th Ave SE
Bellevue, WA 98008-5452
(425) 649-7124 or (425) 577-8445
Hi Tyler,
Just got back in town and reviewed the applicant's "reconsideration" request. Would like the opportunity to send you a short letter tomorrow morning with our thoughts on their approach, which we think goes far beyond "reconsideration". Hope that might still be timely before you respond. Thank you.

Tom Ehrlichman
Salish land policy solutions.
Sent via BlackBerry from T-Mobile
From: "Strong, Cliff" <Cliff.Strong@amec.com>
To: Tyler Schroeder <Tschroed@co.whatcom.wa.us>
Date: 7/8/2011 10:01 AM
Subject: Re: GPT - Timing on Response to Request for Reconsideration of the Notice of Complete Application

How about Tuesday at 2?

Tyler Schroeder <Tschroed@co.whatcom.wa.us> wrote:

Cliff,

I have prepared a response to the request for reconsideration. Our legal staff is out of the office for the week and I am waiting to discuss the final draft with them prior to sending out our response. I will have a response back to you by Monday.

Also, I would like to re-schedule our Monday meeting to Tuesday if you are open? Chad and I are open all day on Tuesday, let me know what time works for you.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> "Strong, Cliff" <Cliff.Strong@amec.com> 7/6/2011 10:30 AM >>>
Tyler, regarding your forthcoming response to our letter from Bill Lynn requesting a reconsideration of your Notice of Incomplete Application, we urge you to respond as quickly as possible, as the deadline for an appeal is next Wednesday (7/13/11), and Pacific International Terminals, Inc. will need to deliberate on its course of action, dependant on your response.

Thanks,

Cliff Strong
Senior Land Use/Environmental Planner
and Office Sustainability Coordinator
e-mail: cliff.strong@amec.com<mailto:cliff.strong@amec.com>

Direct: 425.368.0952
Cell: 360.631.7918
Office: 425.368.1000
Fax: 425.368.1001

AMEC Earth & Environmental, Inc.
11810 North Creek Parkway N
Bothell, WA 98011
Dear Danielle,

I appreciate you expressing your concerns with the proposed Gateway Pacific Terminal project at Cherry Point. My staff has been in on-going discussions with the applicant as well as local, state and federal agencies in regards to the proposal. Whatcom County PDS received an application for the Major Project Permit and Substantial Development Permit Revision for the Gateway Pacific Terminal project via mail on Thursday, June 9th. The application was accepted for review as of Friday, June 10th. Whatcom County has reviewed the application and made the determination that it is incomplete and that the company will need to file a completely new application. The letter of explanation (which I have attached) was sent to the company on June 24. Whatcom County will be issuing a Determination of Significance on the proposal and will require completion of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act (NEPA) and the State of Washington Environmental Policy Act (SEPA).

Additionally, Whatcom County staff has been discussing with the Washington State Department of Ecology their interest in agreeing to lead or co-lead status for the EIS. This is an important discussion to ensure adequate analysis for those elements of the environment that may have a statewide or regional impact. We are hoping the Department of Ecology will agree with Whatcom County to be lead or co-lead for the EIS soon, as Whatcom County would like to proceed with the Request for Proposals.

At this time, the U.S. Army Corps of Engineers and Whatcom County staff has been in preliminary review of the Request for Proposal (RFP). The purpose of the RFP is to compile a team of consultants, with the vast array of expertise that is required to prepare this complex of an EIS. This consultant team will help facilitate the EIS and will have to demonstrate expertise in each of the resource sectors typically reviewed in an EIS with special emphasis on, but not limited to:

- Wetlands fill and mitigation;
- Near-shore benthic biota including eel grass propagation and herring fisheries, hatcheries and migration;
- Threatened and endangered species and ESA Section 7 consultation including the most recent research related to pier construction and vessel movement impacts on marine species;
- Indian fishing and fishing treaty rights;
- Cultural resources and NHPA Section 106 consultation;
- Rail transportation of bulk commodities including all rail traffic impacts and fugitive dust emissions and mitigation;
- Vessel traffic analysis and oil spill fate and effects analysis as a result of collision;
- Experience with air quality modeling and mitigation relative to fugitive dust emissions from bulk terminal materials handling equipment; and

Also, it is important to separate the RFP process from the scoping process. An integral step of preparing an EIS is the scoping process, which determines the specific elements of the environment that will be studied for the project EIS. The scope of the EIS will be finalized upon completion of the Public and Agency Scoping Process. It is anticipated that the scope of the EIS will include the evaluation of the following issues:
Impacts to aquatic habitat and species, including listed species under the Endangered Species Act (ESA);
· Impacts resulting from fill of wetlands and offsetting wetland mitigation;
· Transportation impacts, especially all rail traffic in Bellingham, including the proposed Bellingham Waterfront Redevelopment, as well as Whatcom County;
· Vessel traffic and potential risk of accident and spill on routes to the marine terminal;
· Fugitive dust impacts related to bulk materials handling and rail transportation;
· Tribal fishing rights and impacts to fisheries;
· Impacts to cultural resources;
· Air Quality impacts, including Green House Gas Emissions; and
· Other issues identified through the Scoping process and in response to all comments, including your's, regarding the Draft EIS (DEIS).

Please be assured that Whatcom County is sensitive to and shares your concerns that Bellingham and Whatcom County impacts must be included in this critical document. I will make sure to forward your comments to our SEPA official to be included into the elements list for the EIS.

Much more information on the project can be found on Whatcom County website at this link: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp. This information will be updated on an ongoing basis.

Thank you for expressing your views regarding this critical and important topic for our community.

Sincerely,

Pete Kremen
County Executive

> Danielle Jake <mail@change.org> 7/7/2011 5:22 PM >>>

Greetings,

The current scope of the environmental impact study (EIS) of the proposed Gateway Pacific Terminal coal and bulk facility at Cherry Point does not include the impact of coal train transport through Washington State, either by way of the coastal route or alternate inland routes.

Please consider the fact that:

§ Original permits, issued by Whatcom County in 1997, were for a different terminal project; one that would handle 8 million tons a year of bulk goods, no coal.
§ The new project adds a facility to handle 48 million metric tons of coal per year, plus an additional 6 million tons per year of other commodities, for a total of 54 million tons per year of commodity handling and exports - 7 times the size of the original permits.
§ Capacity export of coal will add 18 uncovered coal trains a day through Whatcom County alone, with train lengths about 1.6 miles long (by contrast, today's trains are about 1 mile long).

Impacts of this unprecedented volume of train traffic, carrying uncovered coal may bear on:
§ Our state's economy (e.g. businesses, property values).
§ Our state's environment (e.g. air quality, noise, erosion).
§ Our state’s livability (e.g. quality-of-life measures; safety; health impacts of coal dust and diesel fumes, and vibration effects on adjacent properties).

It is imperative that we understand the impacts the Gateway Pacific Terminal will have on our lives and
on our children's lives. Therefore, we ask that:

1. Offsite impacts – the impacts on Washington State of 48 million metric tons of uncovered coal trafficked annually through our communities -- be included in the scope of the Gateway Pacific Terminal EIS.

2. That mitigation and / or elimination strategies for each of the identified impacts be explored. It is reasonable, responsible, and ethical to include off-site impacts of the Gateway Pacific Terminal project in the Environmental Impact Study, given the magnitude of the train traffic volume that many communities within Washington will bear -- not just temporarily – but for the rest of our lives.

Please ensure the Gateway Pacific Terminal EIS includes off-site impacts.

Sincerely,

[Your name]

Danielle Jake
Phoenix, AZ

Note: this email was sent as part of a petition started on Change.org, viewable at www.change.org/petitions/washington-round-the-clock-coal-train-traffic-still-livable. To respond, email responses@change.org and include a link to this petition.
Thank you Tyler. We will be sending you something by 1:30 today (Friday).

Tom

Tom Ehrlichman
Salish Law, PLLC
(425) 268-5553
909 Harris Ave., Suite 201(H)
Bellingham, WA 98225
www.salishlaw.com

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Thursday, July 07, 2011 4:33 PM
To: tom@salishlaw.com
Cc: Barbara@salishlpsolutions.com
Subject: Re: Gateway

Tom,

I will be responding to Mr. Lynn's letter by tomorrow or Monday at the latest. Please provide additional information sooner than later if you would like it to be reviewed prior to our letter.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> "Tom Ehrlichman" <tom@salishlaw.com> 7/7/2011 4:27 PM >>>
Hi Tyler,
Just got back in town and reviewed the applicant's "reconsideration" request. Would like the opportunity to send you a short letter tomorrow morning with our thoughts on their approach, which we think goes far beyond "reconsideration". Hope that might still be timely before you respond.
Thank you.
Tom Ehrlichman
Salish land policy solutions.
Sent via BlackBerry from T-Mobile
FIRST_NAME: Elizabeth

LAST_NAME: Volkart

ADDRESS: P.O. Box 30726
Bellingham, Wa 98228

EMAIL: lvolkart@earthlink.net

REQUEST: Please include me as a party of record for all notices in regards the Ostrom Mushroom in Everson.

Thank You

PAGE: http://www.communitywisebellingham.org/sepa-request/
FIRST_NAME: Elizabeth
LAST_NAME: Volkart
ADDRESS: P.O. box 30726
Bellingham, WA 98228
EMAIL: lvolkart@earthlink.net
REQUEST: Please include me as a party of record for all notices in regards the Gateway Pacific Terminal project. If you do not maintain a notice list by project please include me in the general list. I am interested in any new permit applications or revisions to any applications and in any SEPA notices.

Notice by email only is all I require.

Thank You

PAGE: http://www.communitywisebellingham.org/sepa-request/
REFERER: http://www.communitywisebellingham.org/sepa-request/
From: Randall Watts
To: Tyler Schroeder
Date: 7/8/2011 3:40 PM
Subject: Re: Fwd: Gateway Pacific Terminals - June 29 letter

Yes this is the email that I was mentioning on the phone.

>>> Tyler Schroeder 7/8/2011 2:55 PM >>>
FYI - Here is an email in regards to our response for reconsideration.

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address: Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> Jan Hasselman <jhasselman@earthjustice.org> 7/6/2011 1:31 PM >>>
Hello Tyler:

My clients and I received Bill Lynn's June 29 letter yesterday and are interested in submitting a response before the County makes a decision. Briefly, while Mr. Lynn's letter requests "reconsideration" of the Department's June 23 completeness decision, it actually is asking for the County to offer legal opinions on a variety of subjects that were not part of the County's completeness decision. In our view, it would not be appropriate for the County to offer such legal opinions on the company's rights and obligations as part of a "reconsideration" request and urge you to simply affirm your completeness decision without getting drawn into answering Mr. Lynn's specific legal questions, which will be resolved in due course if they have not already been resolved.

We hope to provide you with more detail tomorrow - will we have time before the County makes a decision?

Thank you for your consideration,

Jan Hasselman
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA  98104
Ph: 206-343-7340 x.1025
Fx: 206-343-1526
www.earthjustice.org
From: <Haven@cob.org>
To: <tschroed@co.whatcom.wa.us>
Date: 7/8/2011 4:02 PM
Subject: Letter from Steve Sundin
Attachments: T. Schroeder.pdf

Heather Aven, Planning Secretary
City of Bellingham
Planning and Community Development
Tel: (360) 778-8345
Fax: (360) 778-8302
July 6, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: PIT’s Request for Reconsideration of the County’s Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit for the Gateway Pacific Terminal (MDP2011-000001/SHR2011-000059)

Dear Mr. Schroeder:

The City is in receipt of a June 29, 2011 letter from William Lynn, attorney for Pacific International Terminals, Inc. (“PIT”). The letter is confusing as to its intent, as it states that it is a request for “reconsideration, or more accurately, clarification” of the County’s June 23, 2011 letter. However, Mr. Lynn’s letter cites WCC 23.60.150.H, “Appeal Procedures” rather than WCC 23.60.150.D, which specifies “reconsideration” procedures.

The City is also in receipt of a copy of an email exchange between the County and Mr. Lynn’s firm and a PIT consultant appearing to state that the reference to subsection H was inadvertent and that subsection D, the reconsideration provision, was the intended reference. If the County is considering the letter to be an appeal of its June 23, 2011 decision, the City asks to be immediately informed so it can determine its own course of action.

It is the City’s understanding that there is no code provision for “clarification” of the County’s determination regarding MDP2011-1 and SHR2011-9 issued on June 23, 2011. The request does not appear to be either an appeal, which should have been filed on appropriate forms and with a filing fee, nor a reconsideration, as it requests “confirmation” of four statements that were not part of the County’s June 23, 2011 determination. It appears to ask the County to give its legal opinion on four separate, but related, matters. If the County decides to respond to the reconsideration/clarification letter, please send a copy of that response to the City.

Sincerely,

[Signature]

Steven Sundin
Planning Department

cc: Amy Kraham, Assistant City Attorney
July 8, 2011

Mr. Tyler Schroeder  
Planning Supervisor  
Whatcom County Planning and Development Services  
5280 Northwest Drive  
Bellingham, WA 98226

Dear Tyler,

We just returned from out of town and reviewed the letter from counsel for Pacific International Terminals, dated June 29, 2011, requesting "reconsideration" of your letter dated June 23, 2011. In your letter, you determined that the applications for the Gateway Pacific Terminal, SHR2011-00009 and MDP2011-000001 were incomplete.

As you know, we are concerned about the process for review of the PIT applications and encourage a careful look at local and regional impacts on our businesses and property owners, based on best available science. We offer the following comments in response to PIT's letter, in the spirit of ensuring the most open and transparent process possible for public review. We understand the County is posting correspondence on the application on the Gateway website, and we have no objection to posting this email letter as well.

Perhaps we misread PIT's letter, but it appears the applicant continues to seek a more streamlined review of their industrial proposal, rather than a full review of the entire project, taking into account cumulative impacts. We urge Whatcom County to continue looking at the entire proposal as a unity, in order to avoid piecemeal review of impacts. Thank you for considering the following comments on the PIT letter requesting "reconsideration."
1. The PIT letter does not appear to cite to any procedure for reconsideration authorized by County code and thus it seems appropriate for staff to refrain from engaging in responses to the applicant's requests for "confirmation," which have the character of requests for legal opinions from staff. The reconsideration request apparently and mistakenly refers to a "reconsideration process under WCC 23.60.150.H." As we understand it, that section of the code only relates to appeals of decisions on substantial development permits, shoreline variance, or shoreline conditional use permit.

2. The issue of the applicant's "rights or obligations" under the shoreline permit, No. SHS 92-0020, or the correlative Settlement Agreement, referenced in numbered paragraphs 1, 2 and 3 of the PIT letter, is a matter that relates solely to those earlier documents, now over ten years old, not the new proposal. Staff correctly, in our view, stated in the June 23, 2011 letter that the new proposal must stand on its own, under new applications. Since those older documents and approvals are not a part of the new proposal reviewed by staff under your June 23, 2011 letter, it does not seem appropriate to include them as part of a request for reconsideration or in any staff response to the PIT letter.

3. Numbered Paragraph 3 in the PIT letter appears to attempt to reinfuse the shoreline permit process with the prior permit as one of its elements. This is contrary to the intent of your completeness letter and we urge you to ignore PIT's request for "confirmation" of its original, incorrect attempt. We believe your letter correctly concluded that the new proposal does not properly fall within the "scope and intent" of the original shoreline permit and we urge you to maintain the integrity of the public review process by standing by that earlier determination. The project is properly reviewed under today's standards, since it is a new proposal with substantially more intensive activity and impacts than the original shoreline permit described.

4. In the applicant's fourth numbered paragraph on Page 2, requesting confirmation that SEPA review will be made only through the referenced provisions, we would ask that staff either not offer a legal opinion, or include all relevant statutes, rules and code citations that bear on the scope of SEPA review. These would of course include more than just the cited Whatcom County Code, Ch. 16.08. For example, Whatcom County has other code provisions that govern environmental review, including its Shoreline Master Program, Shoreline Regulations, critical areas regulations, traffic regulations, and other requirements for development. Similarly, there are a number of state and federal policies and regulations concerning endangered species, public health and safety, and air quality to name a few, that are not cited by the PIT letter that will undoubtedly bear on environmental review for the project, under SEPA.

Thank you for considering these comments, as you weigh your response to the
PIT letter. We appreciate the County's efforts to conduct a comprehensive review of the Gateway project, beyond the more localized review the applicant seemed to favor at the outset. Please give us a call if you have any questions concerning this letter.

Very truly yours,

Tom Ehrlichman
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225

Barbara Dykes
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225
June 29, 2011

Tyler R. Schroeder  
Planning Supervisor  
Whatcom County Planning & Development  
5280 Northwest Drive  
Bellingham, WA 98226

RE: MDP2011-000001/SHR2001-00009 - Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit Request for Reconsideration - Gateway Pacific Terminal Major Project Permit Application

Dear Mr. Schroeder:

We are writing on behalf of Pacific International Terminals, Inc. to request reconsideration, or more accurately, clarification, of your letter dated June 23, 2011, a copy of which is attached. We were directed by the County Planning & Development Services staff to the reconsideration process under WCC 23.60.150.H, and have been advised there is neither a form nor a filing fee associated with this request. Even without that provision, an agency has the inherent authority to clarify its letters.

The matter before the County Planning & Development Services Department was simply a review of the above-referenced application by Pacific International Terminals, Inc. for completeness. We are prepared to address the comments in your letter and will get the necessary information to you shortly.

To clarify your letter, we request confirmation that:

1. Your letter did not diminish or affect any rights held by Pacific International Terminals in the current Shoreline Substantial Development Permit issued by the County under SHS 92-0020, and determined to remain in effect by the County administrative determination dated October 22, 2008.

William T. Lynn  
Direct: (253) 620-6416  
E-mail: B.Lynn@gth-law.com
2. Your letter did not diminish or affect Pacific International Terminals’ rights or obligations under the Settlement Agreement concerning SHS 92-0020 dated August 31, 1999, and executed by Pacific International Terminals, Inc., Whatcom County, and others;

3. The effect of the existing Substantial Development Permit issued under SHS 92-0020 and the August 31, 1999 Settlement Agreement on the current Shoreline permit application shall be determined through the County Shoreline permit process, including any appeals; and

4. Decisions as to the scope of environmental review under SEPA will be made through the processes found in WCC Ch. 16.08, RCW Ch. 43.21C and WAC Ch. 197-11.

Please let us know if anything further is necessary to perfect this request or to assist you in making the determination.

Very truly yours,

V

WTL:fto
Enclosure
cc: Royce Buckingham, Prosecuting Attorney
    Pacific International Terminals, Inc.
is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of "revision," but instead requires application for a "new permit." It is our reading that a "new permit" is not a second type of revision,2 and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not "within the scope and intent of the original approval" as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

**Major Project Permit (MDP2011-00001)**

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1 e, f, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have **90 days** from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

---

2 On June 23, 2011, Whatcom County consulted with the Washington State Attorney General’s Office, which confirmed this interpretation.
Jeffrey A. Hegedus, MS, RS
Environmental Health Supervisor
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98227-0935
(360) 676-6724 ext. 50895
jhegedus@co.whatcom.wa.us

Public Health- Always Working for a Safer and Healthier Washington
Be sustainable, please print only when necessary.
This week's weekly update is now posted at
<https://secureaccess.wa.gov/ofm/iprmt24/DesktopModules/Articles/ArticlesView.aspx?tabID=0&alias=1357&ItemID=83&mid=38796&wversion=Staging>  

Highlights include:

1. Comments requested on:
   b. DRAFT MAP Team Quarterly Report.
   c. DRAFT Reports, Reviewers, and Sub-committee Matrix.

2. New Regulatory Documents Posted for Team Information:
   a. WA Department of Ecology letter on status of 401 certification.
   b. Department of Natural Resources right of entry for sediment sampling.

Have a great rest of the week!

Jane and Scott
Go to Secure Access Washington (https://secureaccess.wa.gov) and log-in. If you have not already created an account then you will need to do so (follow the directions at Secure Access Washington).

After you sign-in to Secure Access Washington, enter iprmt24 in the server code field to request access to iPRMT and the GPT MAP Team Website.

After you have done this, we will be able to see you and will send you an email letting you know you can now access the GPT MAP Team Website.

Good luck! [Note: Once you have accessed the GPT MAP Team Website, future log-ins will be much simpler and more straightforward.]

_____________________________
Scott Boettcher
SBGH-Partners, LLC
219 - 20th Ave SE
Olympia, WA  98501-2924
360/480-6600
<mailto:scottb@sbgh-partners.com> scottb@sbgh-partners.com
Greetings and Introductions

We had about 55% of staff at the meeting this morning. Regina introduced our new staff: German Gonzalez and Wendy Hancock. Also present was an intern--Nancy Mungaro--who is helping in the WIC program this summer.

Remember to mark your calendar for Employee Recognition Day, July 28. Feel free to walk over to the library lawn for hot dogs, etc and bring your ID badge; it's your ticket to receive food. Regina recognized employees who have reached longevity benchmarks: Sylvia & Kelly (25 yrs); Jean, Connie, & Gail B (20 yrs); and Harriet, Kathy C., & Laurette (10 yrs).

Budget update

2011 budget is on track.

However, in 2012 we can expect about $1.3 M less revenue from state and federal sources. A little more than half of that money is pass through funds that we contract with Human Services providers. This will effect services for individuals. We are seeking additional grant funding, particularly for low income and homeless housing and veterans' services. Some of the programs that will be effected by the cuts are: HIV (50% less); all oral health funding; maternal child health; WA ST DOH money for WIC that we had budgeted for 2012; emergency response; and 5930 flexible funds by 50%. Revenue from fees for water and on-site sewage permits is down about $200,000.

We will be short about $500 K in operating revenue. Because we anticipated cuts for next year we have not filled several positions that are approved: 1 FTE in the business office; 1.5 FTE public health nurses; 1 FTE community health specialist; and 1 FTE epidemiologist.

The management team will be looking at mandated and critical services and will need to prioritize services we can provide with the reduced funding.

Community Transformation Grant

WA ST Department of Health (DOH) is applying for a Community Transformation Grant from the Centers for Disease Control (CDC). The focus of the grant funding is chronic disease prevention. DOH has invited us to take the lead in a regional hub group that will include Whatcom, Skagit, and Kitsap counties. If the state gets the grant the project will start before the end of the year. Nicole has been working with DOH on the application.

Move & relocation

Now that Disease Response & Control has moved to State Street, we are planning for the bigger, long-term move away from State Street. County administration wants to discontinue the lease when it expires in September 2013 because it is much more cost effective to use county space. Planning for the move needs to be done before the end of the year so there will be time for remodeling if necessary. Most staff offices will be at Girard; however not everyone will fit. Some staff may go to the Civic Center.

Before the end of the summer the Veterans Program will move from the Forest Street Annex to Girard.

Standards

The Standards consist of the long list of measures that public health agencies should follow. Now there is an opportunity to apply for national accreditation. This year for the state review we chose to attempt to
meet the national standards.

We met 91% of the measures, partially met 6%, and failed to demonstrate 3%. Last year we met 84% and had the highest score in the state. We met the standards 100% in the immunization and on-site sewage programs and met 90% of the measures in the communicable disease program. We are strong in our collaboration with community partners and need improvement in data collection/interpretation/use. Completing our community health assessment and improvement plan is a high priority.

We plan to apply for national accreditation as soon as these standards are available.

**Communication Preparedness Project**
Susan Sloan is working on a special project that addresses health disparities. She is developing a plan that will help us communicate with Hispanic and Slavonic communities. The H1N1 After Action Plan identified this an area for improvement. Her work on this project fits well with the Just Health Action work.

**Risk Communication Training - July 14th**
Everyone is encouraged to attend this training; it is required for the public health standards. Dr. Vince Covello is an expert in risk communication and an excellent trainer.

**Coal Train**
The Health Department will be on the team that will investigate the Gateway Pacific Terminal project proposal. Our role is to assure that health issues are identified and addressed before the permit is approved. The Health Department will not take a position until the findings are completed. Because this is an open public records issue the county is setting guidelines for county employees who are assigned to the project. Refer all calls or questions to Jeff Hegedus.

**Community Health Assessment (CHA)**
Several years ago the Health Board asked the Health Department to perform a community health assessment. Now, as part of national health care reform, non-profit hospitals are required to work with public health agencies to do a community health assessment and improvement plan. Thanks to a partnership with PeaceHealth and Western Washington University the report is nearly done. With the information from the CHA we can work with community partners to identify priorities and develop a Community Health Improvement Plan.

Regina gave the attached presentation. If you are interested in more information let me know, and I can send the presentation that we gave to the Health Board. It has even more detail. The final CHA report will be available to all staff as well as opportunities to be involved with the Community Improvement Plan.

Enjoy the rest of (hopefully) summer!

---

*Margarette Grant, Office Coordinator*
Whatcom County Health Department
Leading the community in promoting health and preventing disease.
Phone: 360 676-6724, ext #30687
magrant@whatcomcounty.us

PUBLIC HEALTH
Always Working for a Safer and
HEALTHIER WHATCOM COUNTY
Please consider our environment before printing this e-mail or attachments.
John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com
Visit us at www.bellinghamherald.com

-----Original Message-----
From: Stephanie Drake [mailto:SDrake@co.whatcom.wa.us]
Sent: Tuesday, July 05, 2011 12:38 PM
To: Stark, John; Tyler Schroeder
Subject: Fwd: GPT Clarification letter

John,
Tyler asked me to email this letter to you. It is also posted on our website:
http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp

Thank you,
Stephanie

Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201

--- Original Message ---
John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com
Visit us at www.bellinghamherald.com

--- Original Message ---
From: Stephanie Drake [mailto:SDrake@co.whatcom.wa.us]
Sent: Tuesday, July 05, 2011 12:38 PM
To: Stark, John; Tyler Schroeder
Subject: Fwd: GPT Clarification letter

John,
Tyler asked me to email this letter to you. It is also posted on our website:
http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp

Thank you,
Stephanie

Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201
Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services 5280 Northwest Dr.
Bellingham, WA 98225

>>> “Lynn, Bill” <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6416
F 253 620 6565
NOTICE: The information contained in this e-mail communication is
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privileges. If you are not the intended recipient or believe that you
have received this communication in error, please do not print, copy,
retransmit, disseminate, or otherwise use the information. Also, please
indicate to the sender that you have received this email in error and
delete the copy you received. Thank you.
Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201

>>> Stephanie Drake 7/5/2011 12:37 PM >>>
John,
Tyler asked me to email this letter to you. It is also posted on our website: http://www.whatcomcounty.us/pds/plan/current/gpt-ssa/index.jsp

Thank you,
Stephanie

Administrative Assistant
PDS - Whatcom County
SDrake@co.whatcom.wa.us
(360) 676-6907 Ext. 50201

>>> Tyler Schroeder 7/5/2011 11:11 AM >>>
Could you put this on the GPT website. It is from the applicant.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschoed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> “Lynn, Bill” <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
NOTICE: The information contained in this e-mail communication is confidential and may be protected by the attorney/client or work product privileges. If you are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this email in error and delete the copy you received. Thank you.
June 29, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: MDP2011-000001/SHR2001-00009 - Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit Request for Reconsideration - Gateway Pacific Terminal Major Project Permit Application

Dear Mr. Schroeder:

We are writing on behalf of Pacific International Terminals, Inc. to request reconsideration, or more accurately, clarification, of your letter dated June 23, 2011, a copy of which is attached. We were directed by the County Planning & Development Services staff to the reconsideration process under WCC 23.60.150.H, and have been advised there is neither a form nor a filing fee associated with this request. Even without that provision, an agency has the inherent authority to clarify its letters.

The matter before the County Planning & Development Services Department was simply a review of the above-referenced application by Pacific International Terminals, Inc. for completeness. We are prepared to address the comments in your letter and will get the necessary information to you shortly.

To clarify your letter, we request confirmation that:

1. Your letter did not diminish or affect any rights held by Pacific International Terminals in the current Shoreline Substantial Development Permit issued by the County under SHS 92-0020, and determined to remain in effect by the County administrative determination dated October 22, 2008;

Reply to:
Tacoma Office
1201 Pacific Ave., Suite 2100
Tacoma, WA 98402
(253) 620-8500
(253) 620-6665 (fax)

Seattle Office
600 University, Suite 2100
Seattle, WA 98101
(206) 676-7500
(206) 676-7575 (fax)

Law Offices | www.gth-law.com
2. Your letter did not diminish or affect Pacific International Terminals’ rights or obligations under the Settlement Agreement concerning SHS 92-0020 dated August 31, 1999, and executed by Pacific International Terminals, Inc., Whatcom County, and others;

3. The effect of the existing Substantial Development Permit issued under SHS 92-0020 and the August 31, 1999 Settlement Agreement on the current shoreline permit application shall be determined through the County shoreline permit process, including any appeals; and

4. Decisions as to the scope of environmental review under SEPA will be made through the processes found in WCC Ch. 16.08, RCW Ch. 43.21C and WAC Ch. 197-11.

Please let us know if anything further is necessary to perfect this request or to assist you in making the determination.

Very truly yours,

[Signature]

WTL:fto
Enclosure
cc: Royce Buckingham, Prosecuting Attorney
    Pacific International Terminals, Inc.
is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of "revision," but instead requires application for a "new permit." It is our reading that a "new permit" is not a second type of revision, and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not "within the scope and intent of the original approval" as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

**Major Project Permit (MDP2011-00001)**

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1 e, f, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have **90 days** from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

---

² On June 23, 2011, Whatcom County consulted with the Washington State Attorney General's Office, which confirmed this interpretation.
See attached correspondence dated 7/6/11 regarding Gateway project.
STEVE HOOD  
Attorney At Law, P.S.  
1313 E. Maple St., #201-453, Bellingham, WA 98225  
Telephone: (360) 392-3997, Fax: (360) 715-1666  
Email: sh@stevehoodattorney.com  

Wednesday, July 06, 2011  

County Executive Pete Kremen  
311 Grand Ave., Ste. 108  
Bellingham, WA 98225  

Dear Mr. Kremen:  

This letter is to persuade you to do everything you can to fight the building of the coal export terminal at Cherry Point.  

While it is true that the project would provide jobs in Whatcom County, those jobs would only be temporary- two to three years at the most. Furthermore, it would not provide all that many jobs. The benefit to the local economy provided by a coal export terminal would be minimal and short term.  

The severe detriment to the economy however would be permanent. Property values would drop, tourism would drop, and overall quality of life in Bellingham would drop. As a result, business would suffer.  

Meanwhile, our air and water would become very polluted, causing a substantial increase in asthma, cancer, and other ailments. Local farms and fisheries would also suffer.  

Large corporations do not care about local economies. They care only for their own profit. Regardless of your views about free market capitalism, surely you must understand that it is our duty to protect our own economic fortunes and quality of life.  

Please do everything you can to prevent the construction of the coal export terminal at Cherry Point. Thank you for your kind consideration.  

Sincerely,  

cc: Bellingham City Council Members, Whatcom County Council Members, Mayor of Bellingham, Senators Maria Cantwell and Patty Murray, Congressman Rick Larsen, and Governor Christine Gregoire.
July 8, 2011

Mr. Tyler Schroeder
Planning Supervisor
Whatcom County Planning and Development Services
5280 Northwest Drive
Bellingham, WA 98226

Dear Tyler,

We just returned from out of town and reviewed the letter from counsel for Pacific International Terminals, dated June 29, 2011, requesting “reconsideration” of your letter dated June 23, 2011. In your letter, you determined that the applications for the Gateway Pacific Terminal, SHR2011-00009 and MDP2011-000001 were incomplete.

As you know, we are concerned about the process for review of the PIT applications and encourage a careful look at local and regional impacts on our businesses and property owners, based on best available science. We offer the following comments in response to PIT’s letter, in the spirit of ensuring the most open and transparent process possible for public review. We understand the County is posting correspondence on the application on the Gateway website, and we have no objection to posting this email letter as well.

Perhaps we misread PIT’s letter, but it appears the applicant continues to seek a more streamlined review of their industrial proposal, rather than a full review of the entire project, taking into account cumulative impacts. We urge Whatcom County to continue looking at the entire proposal as a unity, in order to avoid piecemeal review of impacts. Thank you for considering the following comments on the PIT letter requesting “reconsideration.

1. The PIT Letter does not appear to cite to any procedure for reconsideration authorized by County code and thus it seems appropriate for staff to refrain from engaging in responses to the applicant’s requests for “confirmation,” which have the character of requests for legal opinions from staff. The reconsideration request apparently and mistakenly refers to a “reconsideration process under WCC 23.60.150.H.” As we understand it, that section of the code only relates to appeals of decisions on substantial development permits, shoreline variance, or shoreline conditional use permit.

2. The issue of the applicant’s “rights or obligations” under the shoreline permit, No. SHS 92-0020, or the correlative Settlement Agreement, referenced in numbered paragraphs 1, 2 and 3 of the PIT letter, is a matter that relates solely to those earlier documents, now over ten years old, not the new proposal. Staff correctly, in our view, stated in the June 23, 2011 letter that the new proposal must stand on its own, under new applications. Since those older documents and approvals are not a part of the new proposal reviewed by staff under your June 23, 2011 letter, it does not seem appropriate to include them.
as part of a request for reconsideration or in any staff response to the PIT letter.

3. Numbered Paragraph 3 in the PIT letter appears to attempt to reinfuse the shoreline permit process with the prior permit as one of its elements. This is contrary to the intent of your completeness letter and we urge you to ignore PIT’s request for “confirmation” of its original, incorrect attempt. We believe your letter correctly concluded that the new proposal does not properly fall within the “scope and intent” of the original shoreline permit and we urge you to maintain the integrity of the public review process by standing by that earlier determination. The project is properly reviewed under today’s standards, since it is a new proposal with substantially more intensive activity and impacts than the original shoreline permit described.

4. In the applicant’s fourth numbered paragraph on Page 2, requesting confirmation that SEPA review will be made only through the referenced provisions, we would ask that staff either not offer a legal opinion, or include all relevant statutes, rules and code citations that bear on the scope of SEPA review. These would of course include more than just the cited Whatcom County Code, Ch. 16.08. For example, Whatcom County has other code provisions that govern environmental review, including its Shoreline Master Program, Shoreline Regulations, critical areas regulations, traffic regulations, and other requirements for development. Similarly, there are a number of state and federal policies and regulations concerning endangered species, public health and safety, and air quality to name a few, that are not cited by the PIT letter that will undoubtedly bear on environmental review for the project, under SEPA.

Thank you for considering these comments, as you weigh your response to the PIT letter. We appreciate the County’s efforts to conduct a comprehensive review of the Gateway project, beyond the more localized review the applicant seemed to favor at the outset. Please give us a call if you have any questions concerning this letter.

Very truly yours,

Tom Ehrlichman
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225

Barbara Dykes
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225
Bill,

I have received your clarification letter this morning. We were out of the office for the 4 days for the Fourth and will respond as soon as we can.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360) 738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> "Lynn, Bill" <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6416
F 253 620 6565
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Could you put this on the GPT website. It is from the applicant.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> "Lynn, Bill" <BLynn@gth-law.com> 6/30/2011 4:49 PM >>>
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
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Hi John,

We received an email with the Request for Clarification letter from SSA's attorney on Thursday evening. I am having the letter posted on the County's GPT website page today. I will forward you the email with the letter shortly.

In the future if you are unable to track me down by phone please don't hesitate to send me an email. It is the best way to get in touch with me.

Thanks,

Tyler
Hello Tyler--
I have been told that SSA has sent a letter to the county requesting reconsideration/clarification of the ruling on the validity of their earlier permit and the completeness of their current application. If there is such a letter from SSA, can that letter be made available for public inspection? Thanks.

John Stark, Reporter
The Bellingham Herald and TheBellinghamHerald.com
1155 N. State St., Bellingham, WA 98225
Voice: (360) 715-2274
Fax: (360) 756-2826
E-mail: john.stark@bellinghamherald.com
Visit us at www.bellinghamherald.com
Thanks Brenden, I'll take a look.

Tyler R. Schroeder  
Current Planning Supervisor  
Phone: (360) 676-6907 ext. 50202  
Fax: (360)738-2525  
Email: Tschroed@co.whatcom.wa.us  
Address:  
Whatcom County Planning and Development Services  
5280 Northwest Dr.  
Bellingham, WA  98225

>>> "McFarland, Brenden (ECY)" <bmcf461@ECY.WA.GOV> 7/5/2011 5:11 PM >>>
Hi Tyler.  Here is the SEPA Handbook reference Laura mentioned on the
call. Nice to meet you via the phone.

Brenden McFarland | Environmental Review and Transportation Section  
Manager | Department of Ecology | 360 407 6976 | bmcf461@ecy.wa.gov

I forwarded this to Royce, but it looks like he's out of the office
until next Monday. Could one of you please send directly to Tyler since
he's the one who asked for it? Thanks!

From: Watson, Laura (ATG)  
Sent: Tuesday, July 05, 2011 5:06 PM  
To: Summerhays, Jeannie (ECY); Grout, Richard (ECY); Kelly, Alice (ECY);  
McFarland, Brenden (ECY)  
Subject: FW: SEPA handbook, reference for Tyler on co-lead

Hi Royce:

It was nice meeting you by telephone earlier today. I wanted to send
along the Ecology guidance reference that I mentioned regarding the role
of co-leads. I know that Tyler wanted to see it, plus feel free to pass
along to anyone else in the County that might be interested. BTW, the
reference is three paragraphs down, third sentence beginning with "All
agencies sharing lead agency status..."
Warm regards,
Laura

____________________________________
Laura J. Watson,
Attorney General's Office, Ecology Division
PO Box 40117
Olympia, WA 98502
(360) 586-4614
laura.watson@atg.wa.gov
Jane,

Here is the correspondence I was referring to yesterday. Thanks for coordinated the meeting to discuss the Co-Lead status with DOE.

Tyler

Tyler R. Schroeder  
Current Planning Supervisor  
Phone: (360) 676-6907 ext. 50202  
Fax: (360)738-2525  
Email: Tschroed@co.whatcom.wa.us  
Address:  
Whatcom County Planning and Development Services  
5280 Northwest Dr.  
Bellingham, WA  98225

>>> "CARTEN, TERRY (DNR)" <TERENCE.CARTEN@dnr.wa.gov> 6/30/2011 10:10 AM >>>

Thanks.

You'll see that I sent you an email with this request about the time you sent this off to me. Please disregard.

Appreciate the correspondence.

Terry

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]  
Sent: Thursday, June 30, 2011 10:07 AM  
To: Cliff Strong; Melinda.Gray@amec.com; Chad Yunge; CARTEN, TERRY (DNR)  
Cc: Dewell, Jane (ORA)  
Subject: Re: Fwd: sediment sampling Right of Entry

Terry,

In response to the request included in the email below, the sediment sampling can occur under the existing Shoreline Substantial Development Permit issued in 1997 (SHS 92-0020).

Please le me know if you have any questions.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor  
Phone: (360) 676-6907 ext. 50202  
Fax: (360) 738-2525  
Email: Tschroed@co.whatcom.wa.us  
Address:  
Whatcom County Planning and Development Services  
5280 Northwest Dr.  
Bellingham, WA 98225

>>> "Strong, Cliff"<Cliff.Strong@amec.com>6/29/20114:18PM>>>
Here's the email from DNR.

Terry CARTEN is our contact.

Begin forwarded message:

From: "CARTEN, TERRY (DNR)"
   <TERENCE.CARTEN@dnr.wa.gov><mailto:TERENCE.CARTEN@dnr.wa.gov>>
Date: June 28, 2011 9:27:02 AM PDT
To: Al Jeroue
   <Al.Jeroue@SSAMarine.com><mailto:Al.Jeroue@SSAMarine.com>>
Cc: "Dunkin, Kristie A"
   <Kristie.Dunkin@amec.com><mailto:Kristie.Dunkin@amec.com>>, Ari Steinberg
   <Ari.Steinberg@SSAMarine.com><mailto:Ari.Steinberg@SSAMarine.com>>, "Gray, Melinda"
   <Melinda.Gray@amec.com><mailto:Melinda.Gray@amec.com>>, "GUSTAFSON, JOANN (DNR)"
   <JOANN.GUSTAFSON@dnr.wa.gov><mailto:JOANN.GUSTAFSON@dnr.wa.gov>>, "Clark, Dennis (DNR)"
   <Dennis.Clark@dnr.wa.gov><mailto:Dennis.Clark@dnr.wa.gov>>
Subject: RE: sediment sampling Right of Entry

Hi Al,

The Right of Entry (ROE) for the sediment sampling has been overnight mailed this morning to Ari's attention. Please have the documents signed by Bob Watters ASAP and either overnighted or hand delivered to the person/address in Olympia provided in the transmittal letter that is accompanying the documents. The documents, signed by SSA, should be in to our office in Olympia no later than Thursday morning if the sediment sampling is to begin on Friday. Until the ROE documents have been fully executed, SSA/AMEC does not have permission to conduct the sampling activities on state-owned aquatic lands. Once the documents have been signed by DNR and fully executed, I will contact Melinda Gray at AMEC and let her know that the sampling can begin.

The transmittal letter also outlines that DNR is still in need of a letter of permission or permit from the US Army Corps of Engineers, a letter or email, etc. from Whatcom County that they will allow the sediment sampling to occur under the existing Shoreline Substantial
Development Permit issued in 1997 (SHS 92-0020) and a check for the ROE fee of $1,015.56. All of these items are necessary for DNR to execute the ROE. Melinda Gray is aware of the permitting needs and has assured me that they will be provided in a timely manner to complete this authorization process.

Please let me know if you have any questions or need additional information.

Thanks,
Terry

Terry Carten
Land Manager, San Juan/Whatcom County & Anacortes
DNR Aquatics Program
Orca-Straits District
360-854-2846

From: Al Jeroue [mailto:Al.Jeroue@SSAMarine.com]
Sent: Friday, June 17, 2011 3:34 PM
To: CARTEN, TERRY (DNR)
Cc: Dunkin, Kristie A; Ari Steinberg
Subject: RE: sediment sampling Right of Entry

Hi Terry,

Please send the ROE to the attention of Ari Steinberg/SSA at the Klickitat Way address. He will marshal it through SSA and get the signatures and the authorization back to you ASAP.

Thanks for all the help.

ASJ

From: CARTEN, TERRY (DNR) [mailto:TERENCE.CARTEN@dnr.wa.gov]
Sent: Friday, June 17, 2011 2:29 PM
To: Al Jeroue
Cc: Dunkin, Kristie A
Subject: sediment sampling Right of Entry

Hi Al,

I have been working on the Right of Entry for SSA/AMEC to conduct sediment sampling at the proposed PIT GPT site. I am hoping to have this go out to your organization for signature early next week.

Should I be addressing it to your attention? To the Klickitat Way address?

It is imperative that this authorization gets signed and returned to me ASAP if you wish to conduct the sampling during your limited July 1-15 timeframe. PIT will not be authorized to collect samples from state-owned aquatic lands until you have been informed that the
authorization has been fully executed.

The permit or permit waiver document from the Army Corps of Engineers will also be required prior to execution of the authorization. Kristie Dunkin at AMEC is aware of this and has indicated that she will provide me with this documentation as soon as she receives it.

Let me know if you have any questions.

Thanks,

Terry
As requested.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360) 738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>>
Thank you. By the way, my letter references WCC 23.60.150 H--while we discussed that section, the reconsideration discussion is in WCC 23.60.150 D.

William T. Lynn
Attorney at Law
T 253 620 6416
F 253 620 6565

-----Original Message-----
From: Tyler Schroeder [mailto:Tschroed@co.whatcom.wa.us]
Sent: Tuesday, July 05, 2011 9:32 AM
To: Lynn, Bill
Cc: Chad Yunge; Sam Ryan; Royce Buckingham; Randall Watts
Subject: Re: GPT Clarification letter

Bill,

I have received your clarification letter this morning. We were out of the office for the 4 days for the Fourth and will respond as soon as we can.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Please let us know if you require additional information.

William T. Lynn
Attorney at Law

1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6416
F 253 620 6565
http://www.gth-law.com

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Here is another follow up email that we spoke about this morning.

Thanks,

Tyler

Tyler R. Schroeder  
Current Planning Supervisor  
Phone: (360) 676-6907 ext. 50202  
Fax: (360)738-2525  
Email: Tschroed@co.whatcom.wa.us  
Address:  
Whatcom County Planning and Development Services  
5280 Northwest Dr.  
Bellingham, WA  98225

>> “Strong, Cliff” <Cliff.Strong@amec.com>  7/6/2011 10:30 AM >>
Tyler, regarding your forthcoming response to our letter from Bill Lynn requesting a reconsideration of your Notice of Incomplete Application, we urge you to respond as quickly as possible, as the deadline for an appeal is next Wednesday (7/13/11), and Pacific International Terminals, Inc. will need to deliberate on its course of action, dependant on your response.

Thanks,

Cliff Strong  
Senior Land Use/Environmental Planner  
and Office Sustainability Coordinator  
email: cliff.strong@amec.com<mailto:cliff.strong@amec.com>

Direct: 425.368.0952  
Cell: 360.631.7918  
Office: 425.368.1000  
Fax: 425.368.1001

AMEC Earth & Environmental, Inc.  
11810 North Creek Parkway N  
Bothell, WA 98011

Be more sustainable - think before you print.  
Business sustainability starts here... AMEC is committed to reducing its carbon footprint.  
Business sustainability starts here... AMEC is a signatory to the UN Global Compact.  
Business sustainability starts here... AMEC supports SOS Children<http://www.soschildrensvillages.org.uk>
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FYI -
Hello Tyler:

My clients and I received Bill Lynn's June 29 letter yesterday and are interested in submitting a response before the County makes a decision. Briefly, while Mr. Lynn's letter requests "reconsideration" of the Department's June 23 completeness decision, it actually is asking for the County to offer legal opinions on a variety of subjects that were not part of the County's completeness decision. In our view, it would not be appropriate for the County to offer such legal opinions on the company's rights and obligations as part of a "reconsideration" request and urge you to simply affirm your completeness decision without getting drawn into answering Mr. Lynn's specific legal questions, which will be resolved in due course if they have not already been resolved.

We hope to provide you with more detail tomorrow - will we have time before the County makes a decision?

Thank you for your consideration,

Jan Hasselman
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA  98104
Ph: 206-343-7340 x.1025
Fx: 206-343-1526
www.earthjustice.org
I am available.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> Dana Brown-Davis 7/7/2011 10:14 AM >>>
Hello, Tyler:

Karen Frakes will be attending a special council COTW next Tuesday, immediately following our Natural Resources Committee meeting, to give the council a "general" update on what's happening with the SSA project now that a permit has been filed. Would you be available to attend, also, to answer any questions councilmembers may have for you?

Please advise.

Thank you.

Dana

Dana Brown-Davis, CMC
Clerk of the Council
Whatcom County
311 Grand Avenue, Suite 105
Bellingham, WA  98225
dbrown@co.whatcom.wa.us

Please note:  Emails are public records subject to public disclosure upon request
Jan,

I will be responding to Mr. Lynn's letter by tomorrow or Monday at the latest. Please provide additional information sooner than later if you would like it to be reviewed prior to our letter.

Thanks,

Tyler

Tyler R. Schroeder  
Current Planning Supervisor  
Phone: (360) 676-6907 ext. 50202  
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Address:  
Whatcom County Planning and Development Services  
5280 Northwest Dr.  
Bellingham, WA  98225

>>> Jan Hasselman <jhasselman@earthjustice.org> 7/6/2011 1:31 PM >>>
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705 Second Avenue, Suite 203  
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Ph: 206-343-7340 x.1025  
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Tom,

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Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
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Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225

>>> “Tom Ehrlichman” <tom@salishlaw.com> 7/7/2011 4:27 PM >>>
Hi Tyler,
Just got back in town and reviewed the applicant's "reconsideration" request. Would like the opportunity to send you a short letter tomorrow morning with our thoughts on their approach, which we think goes far beyond "reconsideration". Hope that might still be timely before you respond. Thank you.

Tom Ehrlichman
Salish land policy solutions.
Sent via BlackBerry from T-Mobile
From: Tyler Schroeder  
To: Cliff Strong  
CC: Ari Steinberg; Bill Lynn  
Date: 7/8/2011 8:47 AM  
Subject: Re: GPT - Timing on Response to Request for Reconsideration of the Notice of Complete Application  

Cliff,

I have prepared a response to the request for reconsideration. Our legal staff is out of the office for the week and I am waiting to discuss the final draft with them prior to sending out our response. I will have a response back to you by Monday.

Also, I would like to re-schedule our Monday meeting to Tuesday if you are open? Chad and I are open all day on Tuesday, let me know what time works for you.

Thanks,

Tyler

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Thanks,

Cliff Strong  
Senior Land Use/Environmental Planner  
and Office Sustainability Coordinator  
email: cliff.strong@amec.com

Direct: 425.368.0952  
Cell: 360.631.7918  
Office: 425.368.1000  
Fax: 425.368.1001

AMEC Earth & Environmental, Inc.  
11810 North Creek Parkway N  
Bothell, WA 98011
From: Tyler Schroeder
To: Cliff Strong
Date: 7/8/2011 10:41 AM
Subject: Re: GPT - Timing on Response to Request for Reconsideration of the Notice of Complete Application

Sounds Good.

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

>>> "Strong, Cliff" <Cliff.Strong@amec.com> 7/8/2011 10:00 AM >>>
How about Tuesday at 2?

Tyler Schroeder <Tschroed@co.whatcom.wa.us> wrote:

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website: www.amec.com/earthandenvironmental
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Business sustainability starts here... AMEC is a signatory to the UN Global Compact.
Business sustainability starts here... AMEC supports SOS Children

The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. Its contents (including any attachments) may contain confidential and/or privileged information. If you are not an intended recipient you must not use, disclose, disseminate, copy or print its contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message.
From: Tyler Schroeder
to: Randall Watts; Royce Buckingham
date: 7/8/2011 2:55 PM
subject: Fwd: Gateway Pacific Terminals - June 29 letter

FYI - Here is an email in regards to our response for reconsideration.

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
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Jan Hasselman
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Seattle, WA  98104
Ph: 206-343-7340 x.1025
Fx: 206-343-1526
www.earthjustice.org
Fyi-
From: <Haven@cob.org>
To: <tschroed@co.whatcom.wa.us>
Date: 7/8/2011 4:02 PM
Subject: Letter from Steve Sundin
Attachments: T. Schroeder.pdf

Heather Aven, Planning Secretary
City of Bellingham
Planning and Community Development
Tel: (360) 778-8345
Fax: (360)778-8302
July 6, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: PIT’s Request for Reconsideration of the County’s Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit for the Gateway Pacific Terminal (MDP2011-000001/SHR2011-00009)

Dear Mr. Schroeder:

The City is in receipt of a June 29, 2011 letter from William Lynn, attorney for Pacific International Terminals, Inc. ("PIT"). The letter is confusing as to its intent, as it states that it is a request for "reconsideration, or more accurately, clarification" of the County’s June 23, 2011 letter. However, Mr. Lynn’s letter cites WCC 23.60.150.H, “Appeal Procedures” rather than WCC 23.60.150.D, which specifies “reconsideration” procedures.

The City is also in receipt of a copy of an email exchange between the County and Mr. Lynn’s firm and a PIT consultant appearing to state that the reference to subsection H was inadvertent and that subsection D, the reconsideration provision, was the intended reference. If the County is considering the letter to be an appeal of its June 23, 2011 decision, the City asks to be immediately informed so it can determine its own course of action.

It is the City’s understanding that there is no code provision for “clarification” of the County’s determination regarding MDP2011-1 and SHR2011-9 issued on June 23, 2011. The request does not appear to be either an appeal, which should have been filed on appropriate forms and with a filing fee, nor a reconsideration, as it requests “confirmation” of four statements that were not part of the County’s June 23, 2011 determination. It appears to ask the County to give its legal opinion on four separate, but related, matters. If the County decides to respond to the reconsideration/clarification letter, please send a copy of that response to the City.

Sincerely,

Steven Sundin
Planning Department

cc: Amy Kraham, Assistant City Attorney
Fyi-
July 8, 2011

Mr. Tyler Schroeder
Planning Supervisor

Whatcom County Planning and Development Services
5280 Northwest Drive

Bellingham, WA  98226

Dear Tyler,

We just returned from out of town and reviewed the letter from counsel for Pacific International Terminals, dated June 29, 2011, requesting "reconsideration" of your letter dated June 23, 2011. In your letter, you determined that the applications for the Gateway Pacific Terminal, SHR2011-00009 and MDP2011-000001 were incomplete.

As you know, we are concerned about the process for review of the PIT applications and encourage a careful look at local and regional impacts on our businesses and property owners, based on best available science. We offer the following comments in response to PIT's letter, in the spirit of ensuring the most open and transparent process possible for public review. We understand the County is posting correspondence on the application on the Gateway website, and we have no objection to posting this email letter as well.

Perhaps we misread PIT's letter, but it appears the applicant continues to seek a more streamlined review of their industrial proposal, rather than a full review of the entire project, taking into account cumulative impacts. We urge Whatcom County to continue looking at the entire proposal as a unity, in order to avoid piecemeal review of impacts. Thank you for considering the following comments on the PIT letter requesting "reconsideration."
1. The PIT letter does not appear to cite to any procedure for reconsideration authorized by County code and thus it seems appropriate for staff to refrain from engaging in responses to the applicant's requests for "confirmation," which have the character of requests for legal opinions from staff. The reconsideration request apparently and mistakenly refers to a "reconsideration process under WCC 23.60.150.H." As we understand it, that section of the code only relates to appeals of decisions on substantial development permits, shoreline variance, or shoreline conditional use permit.

2. The issue of the applicant's "rights or obligations" under the shoreline permit, No. SHS 92-0020, or the correlative Settlement Agreement, referenced in numbered paragraphs 1, 2 and 3 of the PIT letter, is a matter that relates solely to those earlier documents, now over ten years old, not the new proposal. Staff correctly, in our view, stated in the June 23, 2011 letter that the new proposal must stand on its own, under new applications. Since those older documents and approvals are not a part of the new proposal reviewed by staff under your June 23, 2011 letter, it does not seem appropriate to include them as part of a request for reconsideration or in any staff response to the PIT letter.

3. Numbered Paragraph 3 in the PIT letter appears to attempt to reinfuse the shoreline permit process with the prior permit as one of its elements. This is contrary to the intent of your completeness letter and we urge you to ignore PIT's request for "confirmation" of its original, incorrect attempt. We believe your letter correctly concluded that the new proposal does not properly fall within the "scope and intent" of the original shoreline permit and we urge you to maintain the integrity of the public review process by standing by that earlier determination. The project is properly reviewed under today's standards, since it is a new proposal with substantially more intensive activity and impacts than the original shoreline permit described.

4. In the applicant's fourth numbered paragraph on Page 2, requesting confirmation that SEPA review will be made only through the referenced provisions, we would ask that staff either not offer a legal opinion, or include all relevant statutes, rules and code citations that bear on the scope of SEPA review. These would of course include more than just the cited Whatcom County Code, Ch. 16.08. For example, Whatcom County has other code provisions that govern environmental review, including its Shoreline Master Program, Shoreline Regulations, critical areas regulations, traffic regulations, and other requirements for development. Similarly, there are a number of state and federal policies and regulations concerning endangered species, public health and safety, and air quality to name a few, that are not cited by the PIT letter that will undoubtedly bear on environmental review for the project, under SEPA.

Thank you for considering these comments, as you weigh your response to the
PIT letter. We appreciate the County's efforts to conduct a comprehensive review of the Gateway project, beyond the more localized review the applicant seemed to favor at the outset. Please give us a call if you have any questions concerning this letter.

Very truly yours,

Tom Ehrlichman
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225

Barbara Dykes
Salish Land Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225
June 29, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: MDP2011-000001/SHR2001-00009 - Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit Request for Reconsideration - Gateway Pacific Terminal Major Project Permit Application

Dear Mr. Schroeder:

We are writing on behalf of Pacific International Terminals, Inc. to request reconsideration, or more accurately, clarification, of your letter dated June 23, 2011, a copy of which is attached. We were directed by the County Planning & Development Services staff to the reconsideration process under WCC 23.60.150.H, and have been advised there is neither a form nor a filing fee associated with this request. Even without that provision, an agency has the inherent authority to clarify its letters.

The matter before the County Planning & Development Services Department was simply a review of the above-referenced application by Pacific International Terminals, Inc. for completeness. We are prepared to address the comments in your letter and will get the necessary information to you shortly.

To clarify your letter, we request confirmation that:

1. Your letter did not diminish or affect any rights held by Pacific International Terminals in the current Shoreline Substantial Development Permit issued by the County under SHS 92-0020, and determined to remain in effect by the County administrative determination dated October 22, 2008;

Reply to:
Tacoma Office
1201 Pacific Ave, Suite 2100
Tacoma, WA 98402
(253) 620-6600
(253) 620-6665 (fax)

Seattle Office
600 University, Suite 2100
Seattle, WA 98101
(206) 676-7500
(206) 676-7575 (fax)

Law Offices | www.gth-law.com
2. Your letter did not diminish or affect Pacific International Terminals' rights or obligations under the Settlement Agreement concerning SHS 92-0020 dated August 31, 1999, and executed by Pacific International Terminals, Inc., Whatcom County, and others;

3. The effect of the existing Substantial Development Permit issued under SHS 92-0020 and the August 31, 1999 Settlement Agreement on the current shoreline permit application shall be determined through the County shoreline permit process, including any appeals; and

4. Decisions as to the scope of environmental review under SEPA will be made through the processes found in WCC Ch. 16.08, RCW Ch. 43.21C and WAC Ch. 197-11.

Please let us know if anything further is necessary to perfect this request or to assist you in making the determination.

Very truly yours,

V

WTL:fto
Enclosure

cc: Royce Buckingham, Prosecuting Attorney
    Pacific International Terminals, Inc.
is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of "revision," but instead requires application for a "new permit." It is our reading that a "new permit" is not a second type of revision, and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not "within the scope and intent of the original approval" as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

Major Project Permit (MDP2011-00001)

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1 e, f, g, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have 90 days from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

---

1 On June 23, 2011, Whatcom County consulted with the Washington State Attorney General's Office, which confirmed this interpretation.
From: Tyler Schroeder
To: SDrake@co.whatcom.wa.us
Date: 7/8/2011 6:37 PM
Subject: Fwd: Response to Gateway Reconsideration
Attachments: Response to Gateway Reconsideration

Could you post this on the letter section of the GPT site.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225
July 8, 2011

Mr. Tyler Schroeder  
Planning Supervisor  
Whatcom County Planning and Development Services  
5280 Northwest Drive  
Bellingham, WA  98226  

Dear Tyler,

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Tom Ehrlichman
Salish Land Policy Solutions
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Bellingham, WA 98225

Barbara Dykes
Salish Land
Policy Solutions
909 Harris Avenue, Suite 202c
Bellingham, WA 98225
June 29, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: MDP2011-000001/SHR2001-00009 - Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit Request for Reconsideration - Gateway Pacific Terminal Major Project Permit Application

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The matter before the County Planning & Development Services Department was simply a review of the above-referenced application by Pacific International Terminals, Inc. for completeness. We are prepared to address the comments in your letter and will get the necessary information to you shortly.

To clarify your letter, we request confirmation that:

1. Your letter did not diminish or affect any rights held by Pacific International Terminals in the current Shoreline Substantial Development Permit issued by the County under SHS 92-0020, and determined to remain in effect by the County administrative determination dated October 22, 2008;
2. Your letter did not diminish or affect Pacific International Terminals’ rights or obligations under the Settlement Agreement concerning SHS 92-0020 dated August 31, 1999, and executed by Pacific International Terminals, Inc., Whatcom County, and others;

3. The effect of the existing Substantial Development Permit issued under SHS 92-0020 and the August 31, 1999 Settlement Agreement on the current shoreline permit application shall be determined through the County shoreline permit process, including any appeals; and

4. Decisions as to the scope of environmental review under SEPA will be made through the processes found in WCC Ch. 16.08, RCW Ch. 43.21C and WAC Ch. 197-11.

Please let us know if anything further is necessary to perfect this request or to assist you in making the determination.

Very truly yours,

[Signature]

WTL:fto
Enclosure

cc: Royce Buckingham, Prosecuting Attorney
    Pacific International Terminals, Inc.
is novel and does not appear in our code. The code does not define two types of revisions, rather WCC 23.60.170 lists criteria for only one revision process.

Whatcom County Code 23.60.170.E does not create a second type of "revision," but instead requires application for a "new permit." It is our reading that a "new permit" is not a second type of revision, and WCPDS requires a new permit in order to review the entire development within SMA jurisdiction.

The requested revision to your existing Shoreline Substantial Development Permit (SHS1992-00020) does not qualify as a revision under WCC section 23.60.170, as the proposed changes are not "within the scope and intent of the original approval" as required by WCC 23.60.170 and WAC 173-27-100.

Note that any administrative permit decision, or determination by WCPDS based on a provision of WCC Title 23, may be the subject of an appeal to the office of the Hearing Examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of SMP 23.60.150.H and shall be an open record hearing before the Hearing Examiner. Such appeals shall be filed on forms provided by WCPDS within twenty (20) calendar days of any action of WCPDS being appealed.

**Major Project Permit (MDP2011-00001)**

In accordance with WCC 2.33, the application of MDP2011-00001 shall remain incomplete until the following information is received by Whatcom County Planning and Development Services (WCPDS):

- Provide direct references to where the Project Information Document (PID) includes the information required in WCC 20.88.205;
- Demonstrate how the proposed MDP complies with the criteria outlined in WCC 20.88.130 and the application forms provided by WCPDS;
- Include the required information on the MDP Intake Checklist (pages 6-9 of application, specifically #1, e, f, I, m);
- Approximate the anticipated fill and grade amounts as required on the Land Disturbance Permit (LDP) application;
- Provide a check or cash payment in the amount of $100.00 per the Whatcom County Unified Fee Schedule (UFS) #9025 – Legal Notice;
- Submit a title report;
- Provide five (5) hard copies of the MDP application and associated documents, including but not limited to the PID.

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from the date of this letter, along with a completed form from this office, a base fee of $750.00 (an additional $100 per hour will be charged after 8.0 hours) and a statement including tangible evidence substantiating the appeal.

You have **90 days** from the issuance of this letter to submit the required items listed above or your application will expire, pursuant to WCC 2.33.050(E)(2)(4) & (f). If additional time is needed a time extension can be granted in 90-day increments. The applicant shall submit a written request to the County prior to 90

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2 On June 23, 2011, Whatcom County consulted with the Washington State Attorney General's Office, which confirmed this interpretation
From: Tyler Schroeder
To: SDrake@co.whatcom.wa.us
Date: 7/8/2011 6:38 PM
Subject: Fwd: Letter from Steve Sundin
Attachments: Letter from Steve Sundin

This as well....

They are both from separate agencies and should be in the correspondence section.

Thanks,

Tyler

Tyler R. Schroeder
Current Planning Supervisor
Phone: (360) 676-6907 ext. 50202
Fax: (360)738-2525
Email: Tschroed@co.whatcom.wa.us
Address:
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA  98225
July 6, 2011

Tyler R. Schroeder
Planning Supervisor
Whatcom County Planning & Development
5280 Northwest Drive
Bellingham, WA 98226

RE: PIT’s Request for Reconsideration of the County’s Determination of Incompleteness and Requirement to Obtain a New Shoreline Substantial Development Permit for the Gateway Pacific Terminal (MDP2011-000001/SHR2011-00009)

Dear Mr. Schroeder:

The City is in receipt of a June 29, 2011 letter from William Lynn, attorney for Pacific International Terminals, Inc. ("PIT"). The letter is confusing as to its intent, as it states that it is a request for "reconsideration, or more accurately, clarification" of the County’s June 23, 2011 letter. However, Mr. Lynn’s letter cites WCC 23.60.150.H, “Appeal Procedures” rather than WCC 23.60.150.D, which specifies "reconsideration" procedures.

The City is also in receipt of a copy of an email exchange between the County and Mr. Lynn’s firm and a PIT consultant appearing to state that the reference to subsection H was inadvertent and that subsection D, the reconsideration provision, was the intended reference. If the County is considering the letter to be an appeal of its June 23, 2011 decision, the City asks to be immediately informed so it can determine its own course of action.

It is the City’s understanding that there is no code provision for “clarification” of the County’s determination regarding MDP2011-1 and SHR2011-9 issued on June 23, 2011. The request does not appear to be either an appeal, which should have been filed on appropriate forms and with a filing fee, nor a reconsideration, as it requests “confirmation” of four statements that were not part of the County’s June 23, 2011 determination. It appears to ask the County to give its legal opinion on four separate, but related, matters. If the County decides to respond to the reconsideration/clarification letter, please send a copy of that response to the City.

Sincerely,

Steven Sundin
Planning Department

cc: Amy Kraham, Assistant City Attorney