



Kelli Linville, Mayor
City of Bellingham
210 Lottie Street
Bellingham, WA 98225
Telephone (360) 778-8100
Fax (360) 778-8101

Cathy Lehman, Council President
Bellingham City Council
210 Lottie Street
Bellingham, WA 98225
Telephone (360) 778-8200
Fax (360) 778-8101

July 21, 2014

Sam Ryan, Director
Whatcom County PDS
311 Grand Avenue
Bellingham, WA 98225

Re: Major Project Permit Application and Project Information Document for Gateway Pacific Terminal (GPT), permit #s MDP2011-00001 / SHR2011-00009 / VAR2011-00002

Dear Ms. Ryan,

This letter is a continuation of the City of Bellingham's previously expressed concerns about the proper and timely administration of critical aspects of the permits for the Gateway Pacific Terminal (GPT) project located in rural Whatcom County. We write again to ask the applicant to address the off-site improvements necessary for their project as proposed.

To be specific, as outlined in the City's letter of May 15, 2012, to Whatcom County's SEPA official, there are reasons to believe that significant off-site improvements in rail lines through the City of Bellingham are necessary in order for the GPT rail-to-marine shipping terminal to function as portrayed in the application materials. We believe any necessary off-site improvements, such as the location of a new or longer rail siding in Bellingham, must be included in the revised Project Information Document (PID) in the same manner as the off-site Custer Spur Rail has been included. Failure to include Bellingham mainline rail improvements within the revised PID compromises the permit itself and improperly limits the scope of the review and approval process in a way that may violate Whatcom County Code, impair due process, and harm the public interest.

The original PID from SSA Marine contained assurances that the "rail system has adequate capacity" to serve GPT, but the applicant removed these assurances from the revised PID. In their place, the revised PID makes reference to State Department of Transportation reports. These reports point to a need, if rail traffic increases significantly in the future, for a Bellingham siding in order to alleviate the most serious rail capacity bottleneck on the main line north of Everett. Specifically, the revised PID states that "the State Transportation Plan identifies shortages of rail capacity..." More recently, the updated Washington State Rail Plan identified the same Bellingham siding as the way to provide an increase in rail capacity if rail traffic increases, but concluded that it would not be required under normal growth modeling (without GPT) through 2035.

The number of trains required for GPT to operate at the proposed level and cargo volume points to the conclusion that these off-site improvements within Bellingham are necessary. In the two years since the City first raised this concern, no evidence has been presented to the contrary. In fact, third-party investigations have verified existing capacity constraints, and further indicate that typical travel times for freight trains along the Bellingham segment may be longer, and the capacity constraints more severe, than previously supposed. Recent increases in oil unit-train traffic have further reduced the available mainline capacity.



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According to the revised PID, the Custer improvements are intended to “avoid blockage of at-grade public crossings or blocking of the BNSF Railway’s main lines.” The revised PID must include Bellingham rail improvements for the same reason, unless the applicant can show convincing evidence that the proposed level of rail traffic (18 unit trains per day) will be accommodated without any capacity improvements within Bellingham. The Custer Spur Rail improvements are project-driven, and the evidence indicates that a rail siding within Bellingham will also be project-driven.

Potential or likely impacts on at-grade public crossings are relevant and significant because WCC 20.88.130 for Major Project Permits requires the applicant to show that the project “will be provided with essential utilities, facilities and services necessary to its operation, such as roads...” and that the development “will not impose uncompensated requirements for public expenditures for additional utilities, facilities and services.” Necessary off-site rail improvements are not a matter of EIS scope: they are a matter of the project description, upon which the EIS scope depends. For a rail-to-marine shipping facility, these essential facilities must include adequate rail service. In order for the County to apply its Code, the applicant must indicate any necessary off-site rail facilities and their impacts on public at-grade crossings. This is necessary in order to prevent uncompensated public expenditures, as required under County Code. For additional arguments on this matter, please refer to the letter dated October 22, 2012, to the EIS co-lead agencies for the GPT project from Philip Buri, with which the City of Bellingham had previously concurred.

We appreciate and fully support Whatcom County’s desire for fair, impartial, and orderly processing and review of GPT’s permit applications. The County must act in a timely fashion in order for the applicant to comply and the process to be followed. The County can issue a “request for additional information,” as authorized under WCC 2.33.050.D.3, to determine how the GPT project will be served with sufficient rail capacity to operate as intended.

The EIS scoping process is complete and the EIS is now underway. If the PID for the project is inadequate or incomplete, the EIS process itself will be compromised. It will be difficult if not impossible to expand the EIS scope if these issues regarding the revised PID and permit are not dealt with in a timely fashion.

Our concern is that the EIS is proceeding without informed evaluation of rail capacity improvements within Bellingham. Impacts on at-grade crossings, traffic, noise, air quality, emergency response times, local property values and land development potential, delays in other modes of passenger and freight travel, and the loss of access to public parks and the Waterfront District may not be properly evaluated. There are eleven at-grade street crossings within Bellingham, including pedestrian crossings. A single at-grade street crossing accesses the most-frequently visited park in Bellingham, Boulevard Park. We also note that a new Bellingham siding will involve a substantial amount of train engine idling and diesel emissions, and this will have adverse impacts as well. To be clear: these adverse impacts cannot be addressed by the EIS unless the project itself, including necessary off-site rail improvements, is accurately described. It is critical that Whatcom County and the applicant address these issues now, before the draft EIS is completed.



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As stated in our letter of May 15, 2012, if the Bellingham rail siding or equivalent capacity improvements are required for operation of GPT, then consideration of them should not be deferred, nor should they be treated as mitigation for the proposal's impacts. Rather, project-driven rail capacity improvements are necessary and integral parts of the GPT project itself. All project components, including off-site elements, create impacts that need to be evaluated, avoided, reduced, and mitigated, if possible. The rail capacity improvements themselves should be evaluated for adverse impacts, environmental impact study, and for required mitigations.

The City of Bellingham is especially interested in future redevelopment of the Waterfront District, which has just undergone master planning with initial investments being made. As you know, the BNSF mainline runs right through the Waterfront and affects all access points between the Waterfront District and other parts of the City. In particular, we believe it is vital to evaluate project-driven mainline improvements within our Waterfront District and City Center. Any further delay in evaluation of these rail capacity and infrastructure issues will only serve to introduce uncertainty and may jeopardize plans and investment, both public and private, for the Waterfront redevelopment.

In closing, the City of Bellingham requests the courtesy of being provided with copies of the applicant's written replies, supplementary materials, and any findings and reports by consultants retained by SSA Marine or Whatcom County to evaluate rail impacts that may fall within the City of Bellingham.

We thank you for your attention to this matter and look forward to your reply.

Sincerely,

Cathy Lehman, President
Bellingham City Council

Kelli Linville, Mayor
City of Bellingham

CC: Jack Louws, Whatcom County Executive
Tyler Schroeder, Whatcom County
Randall Perry, U.S. Army Corps of Engineers
Alice Kelly, Northwest Regional Office, Washington Dept. of Ecology
Suzan DelBene, U.S. House of Representatives
Rick Larsen, U.S. House of Representatives
Maria Cantwell, U.S. Senate
Patty Murray, U.S. Senate