



Georgia-Pacific West, Inc.  
300 W. Laurel Street  
Bellingham, WA 98225

May 18, 2004

Dear Commissioner Smith:

I am writing on behalf of Georgia Pacific West, Inc. (GP) to request you defer to a future meeting consideration of Port of Bellingham (Port) Resolution No. 1194 relating to condemnation of The Georgia Pacific Aerated Stabilization Basin (ASB) and certain adjacent upland property. There are compelling public policy, fiscal, and legal reasons why the Commission should defer its consideration of this Resolution.

As you know, the Port and GP are currently negotiating a sale of certain GP properties on Bellingham Bay to the Port. These negotiations concern complex matters and the parties are making progress. Correspondence with the Port Executive Director in the last week reaffirmed our intent to move forward under the general framework presented in our mutual discussions. GP real estate staff are scheduled to meet again with Port staff next week to discuss these matters. Initiating a condemnation action at this time will be counter-productive and cannot be viewed by GP or any reasonable prospective seller as an act consistent with good faith negotiations. In addition, experience tells us that most lawsuits lead to polarization of positions rather than collective problem solving.

As you know, the ASB and certain adjacent uplands are a vital part of the operation of GP's Tissue Mill and the Puget Sound Energy Cogeneration Plant as it is the required method of wastewater treatment under NPDES permit WA000901-1. Your proposed action of taking this land, neglects this ongoing and vital use that supports 300 jobs on Bellingham's waterfront. The Port's marina plans have assumed that these uses will be terminated in the next few years to meet marina demand, yet neither GP nor Puget Sound Energy have indicated a desire or timeframe to shutdown these businesses. The "certain adjacent uplands" presumably is GP's Tissue Warehouse, which is currently a vital part of GP's Tissue business. It is not clear from the Port's Marina Study whether these existing uses, consistent with current city zoning, will be allowed to operate indefinitely, or will be forced to shutdown when marina demand dictates.

As you are also aware, the clean up of Bellingham Bay and the planning for additional phases of clean up of the Bay have been under way for several years. The use of the ASB as part of that important effort has been a centerpiece of current planning and has been based upon a broad consensus and collaboration of stakeholders including federal, state, local and Tribal entities, and GP. The declared intent of the Port to condemn the ASB for a marina is a troubling development because it is occurring without a consultation process of this dramatically different alternative that includes all of these

necessary stakeholders. The Port is proposing to take action today without considering the public policy objectives, long-term visions, and technical input of the stakeholders, their constituents and the public at large. We believe that if the Port were to consult with these stakeholders, it would likely find compelling reasons against using the ASB for a marina instead of as part of the currently contemplated Whatcom Waterway clean up plan that allows for creation of a wide array of future redevelopment opportunities and more intensive public use. Many stakeholders would likely tell the Port that a marina serves relatively few people and generates relatively little revenue compared with alternative public and private uses to which this property can be put after it has been filled. The Commission should understand that completing the current plan for the ASB not only cleans up the Whatcom Waterway but also creates usable property that meets all State and Federal guidelines that allow for unrestricted land uses based on health and safety standards. The public rhetoric being used by the Port about the Washington Department of Ecology's (Ecology) current "preferred remedial alternative" to use the ASB as part of the Whatcom Waterway solution is not true to the collaborative nature of the Bellingham Pilot Project and mis-characterizes for the public the substantial opportunity that this alternative presents. Thus, the abrupt action the Port proposes to take today is a serious public policy mistake.

The Port's action may have significant, negative fiscal consequences as well. The alternative to filling and capping the ASB is to truck and dispose of dredged material off site. The impacts of hauling 20,000 (or more) truck loads of soil or sediments from the site through Bellingham are substantial and have not yet passed through public scrutiny in the cleanup planning process. The cost of this alternative is many times more than the cost of filling and capping the ASB. That additional cost, in the tens of millions of dollars, will be reflected in any calculation of the fair market value of the ASB. In addition, the separate and substantial costs of converting the ASB to a marina use rather than filling and capping it have not yet been fully examined, though a major component of that analysis is provided in the Supplemental Whatcom Waterway Site Remedial Investigation and Feasibility Study being completed by Ecology in the next month. For a number of different reasons, the consequences of taking the ASB for purposes of building a marina could constitute an extraordinarily expensive decision for the Port. It is hard to believe that the taxpayers would support such a potentially huge expenditure of money for a use that serves so few people, after giving other alternatives such little consideration.

Finally, we also believe that the Port's proposal to move ahead is a legal mistake. Taking the proposed action after less than a week of public notice without consulting the stakeholders or evaluating alternatives to and consequences of condemnation for a marina use is not only bad public policy it may very well be viewed by the courts as arbitrary and capricious. If the Port forges ahead today without considering at all the complex consequences of proceeding with a marina use of the ASB, the court considering the Port's condemnation petition will likely reject the Port's request for a finding of public use and necessity.

Therefore, because of the public policy, legal and financial consequences we urge the Port to reconsider its plan to adopt Resolution 1194 that would begin the condemnation process without full consideration.

Sincerely,



Glenn Taylor  
Vice President and General Manager

Cc: John W. Hempelmann, Cairncross & Hempelmann, P.S.  
Stephen P. VanDerhoef, Cairncross & Hempelmann, P.S.  
Carol Stephens, Georgia-Pacific Corporation  
Steve Thiele, State of Washington, Assistant Attorney General  
Lucille McInerney, Washington Department of Ecology