

W. Schroeder

Wed. June 20 '12

Peter Goldmark
Commissioner of Public Lands
P.O. Box 47000
1111 Washington St. SE
Olympia WA 98505

RECEIVED
JUN 21 2012
Whatcom County P&DS

Re: Proposed Gateway Pacific Coal Export Terminal
at Cherry Point, Whatcom County

Dear Commissioner Goldmark,

On the understanding that you're open to public comment on the "Coal Trains" debate of the proposed gateway Pacific Terminal, my comment follows.

Any and all contracts signed by a WA state, county and city entity needs to stipulate that all liability be assumed by the private companies (USA + Canadian) looking at increased business + profits from this daunting project.

That includes the contract for the E.I.S. being done by CH2M Hill, just in case its reassurances, facts + prognosis on the environmental impact of the additional coal trains don't pan out as stated.

If damages or injuries take place, for heaven's sake don't leave taxpayer county + city's self-insurance to handle insurance claims that you must know will come in - will cascade in, lots of them. Don't leave govt. agencies to fight in court or make settlements to resolve, when legal actions for injuries or damages are filed. Don't leave taxpayers fighting each other when unforeseen or undisclosed impact occurs.

Have you driven on Chuckanut Drive? Let's say the extra coal trains to + from Cherry Point double the vibration when they grind by on the tracks that parallel Chuckanut. That extra vibration can't help but further loosen the

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The bluffs over Chuckanut and lead to more landslides and rockslides coming down over the 24/7 parade of Chuckanut drive vehicles and their drivers and passengers underneath.

It's laudatory that SSA Marine will pay all "direct" costs of building their lucrative terminal and maybe, just maybe, up to 5% of traffic costs. But as you must know, the big money is defending and settling liability claims. Leaving that out of any contracts would be a betrayal of Washington's taxpayers and potential victims, and of our fragile, lush coastal environment that you and local govt agencies are there to protect.

If BNSF, CH2M Hill, SSA Marine, The USA and Canadian energy companies, and any others involved in this, want sign a contract making them liable and responsible for their actions, you'll know you've saved us from another of those Key Stone Pipeline deals where private Canadian + U.S. companies make the money, people in Asia enjoy the energy from our natural resources, and we're stuck with the damages, cleanup and heartbreak of what's been done to us, to our wildlife, and our land.

Sincerely,

Diane Broughton



Diane Broughton
PO Box 6124
Bellingham WA 98227-6124

Enclosure: My liability piece
in P. I.

cc: Lots

How cities deal with liability

By Diane Broughton

There's a war going on in our society. When it comes to liability, consumers, patients and city residents are now seen as the enemy, and the other side has been quietly arming itself and disarming us.

Ten years ago, homeowners in a city such as Edmonds could expect reimbursement of repairs if a city crew caused damage. As Edmonds Administrative Services director Art Housler said, "If you remember the laws, even though the city was not completely at fault but might be 10 percent at fault, the city had to pick it up . . . State law requires that all claims for damages against the city" be handled as insurance claims, and "in 1985, private insurance companies wanted over \$300,000 in premiums for Edmonds."

That was the year Edmonds left the insurance industry and began to play the game of the hit-and-run '80s — liability avoidance.

It starts with a paranoia that sketches residents as suburban Fagins ready to pick the pockets of the city. Louis Leigh, who has handled Edmonds' liability since 1985, said, "City crews go out and work on lines and then every plumbing deficiency shows up just because their logo on the truck shows up and they get blamed."

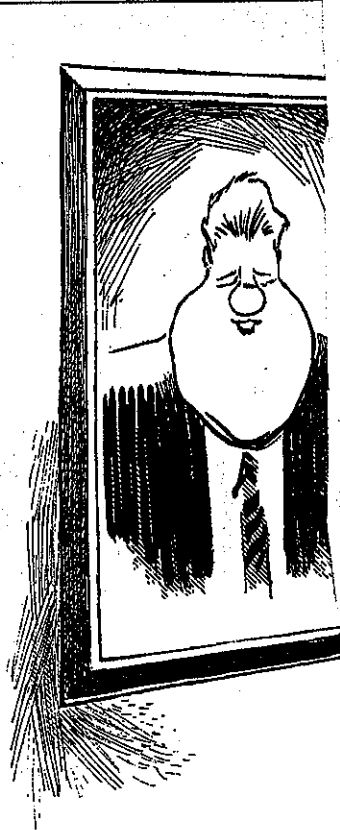
Housler attributed claims to the "deep-pockets theory."

Edmonds Councilman Jeff Palmer said, "A ton of frivolous claims come through . . . every day of the week for ridiculous things. People believe the city is responsible for everything that happens in its boundaries."

Edmonds Water Department head Ron Holland, said, "We have claims every day for everything . . ."

The statistics don't support their alarm. In the first 10 months of 1992, only 22 claims were filed against the city of Edmonds. One was a \$123 plumbing bill for a pipe ripped open when a city crew turned the water main on with a wallop.

Washington Cities Insurance Authority (WCIA) sent a letter refusing payment: "The fact that the city was working on the line was incidental to your loss . . . It is a maintenance issue rather than negligence on the part of the city." There was no claim number. Neither the claimant



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It's a good thing they invented the telephone. Otherwise some members of Congress might have to figure out how to work the touch-tone buttons on their consciences.

The outbreak of phonathon democracy in our nation's capital is a sorry exhibition of government in action; 200 to 1. The calls opposing the military were reported a



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WCIA's executive director, Louis Leigh, admitted, "The commissioner said no to regulating us and decided to have nothing to do with self-insurance groups like ours."

AT LEAST 270 CITIES in Washington state are in insurance pools for their liability coverage. The city of Seattle and The Boeing Co. each have their own pools.

WCIA handles the liability coverage for 74 cities in Puget Sound out of a suite in a modest office building in Tukwila with three people — a receptionist, a claims supervisor and Leigh. "We don't spend money administratively," said Leigh. The total staff is 10 people. Six of them are "training in the field," teaching city employees how to avoid claims. "We can't afford to have losses," Leigh said.

Leigh worked at Safeco before taking his current job nine years ago. He said he acquired his staff from the "bloodletting" going on in the commercial insurance companies.

WCIA gets 1,400 claims a year from cities, Leigh estimated. He described their investigation technique: "We ask the city to provide the basic information. They can be our eyes and ears. Claims are adjusted as economically as possible, and one of the easiest things is to go to the employees who had responsibility for the function that may or may not have caused the loss and ask him, 'Do you think what you did caused the loss?' and to rely on the honesty of the employee."

Asked if he didn't think they should at least give the claimant a call and a chance to weigh in on the decision, Leigh said that's something they might think about in the future, but the way they do it now is working well.

Cities turned to this system because, Leigh said, "They didn't like the heavy-handedness of the insurance companies who denied claims because of their own profits. We deny claims because we're handling public funds."

Edmonds paid \$195,000 in premiums to the pool for 1992, and City Administrator Housler confirmed that very little of that has gone out in claims. "But it builds a reserve because someday we might have that big one, you know," he said.

Leigh would provide no statistics, but Housler said, "A lot of people put in claims, but very few are paid." Councilman Palmer cautioned that the statistics wouldn't show a true picture because of all those frivolous claims coming in every day of the week. "It will look as if the paid ones are a small number," he said.

Holland had the bottom line about damaged pipes: "It can't be our fault . . . We have no liability. We can't protect everybody out there." He was right. According to a recent city ordinance: "The city may shut off water from the main at any time for the purpose of making repairs without giving advance notice to the property owners. The city shall not be responsible for any damage proximately caused by said shut off . . ."

The best course for homeowners when city crews arrive is to get out in the street to micromanage the crew while they're close enough to destroy, knowing that any damage will be paid by