

**PORT OF TACOMA – SSA PACIFIC – MARINE VIEW VENTURES
S.E. BLAIR TERMINAL DEVELOPMENT**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "MOU") is made as of January 8, 2013, by and between SSA Pacific, Inc. ("SSA"), the Port of Tacoma (the "Port"), and Marine View Ventures ("MVV") (each a "party" and collectively the "Parties").

BACKGROUND AND PURPOSE

This MOU concerns property adjacent to the southeast portions of the Blair Waterway that is owned or controlled by the Parties. Properties referred to in this MOU include SSA, Tribal- and Port-owned properties bounded by Lincoln Avenue, Bonneville Power Administration ("BPA") properties, Taylor Way, and the Blair Waterway. This includes the Puyallup Tribal Terminal ("PTT") footprint, the Port's Kaiser property, vacated Alexander Avenue and Alexander Avenue subject of a pending Tribe-Port vacation petition, and EB1 through EB4 berths, as generally shown and described in Exhibit A attached hereto (the "Subject Properties").

In April, 2008, the Parties entered into an overall Cooperation Agreement, as well as agreements for land transfer, Alexander Street Vacation, waterway cutbacks associated with MVV and SSA development of PTT.¹ Three of the four agreements are still in effect.

¹ The Agreements are:

1. A Purchase and Sale Agreement with the Port and Puyallup Tribe of Indians, by which the Port and Tribe agree to a series land sales to improve the overall layout of the current footprint of future Tribe/SSA terminal and future Port terminal developments.

2. Agreement Regarding Widening of the Blair Waterway (Blair Cutback Agreement): All parties agree to cooperate in the cutback of the Blair Waterway along 3,300 feet (1,006 meters) of Tribal land to a minimum of 850 feet (259 meters) fender-to-fender between terminals. Channel depth will be maintained at -51 feet (-15.5 meters) MLLW (mean lower low water). SSA Containers will undertake and manage the project, and the Port will reimburse a portion of the dredge and disposal cost.

3. Lease Agreement between the Port and SSA Containers Inc.: SSA will lease from the Port 1,200-feet (366 meters) of berth plus backup area, totaling approximately 23 acres (9.3 hectares) currently under construction on the east side of the Blair Waterway. (*Agreement subsequently terminated*).

4. Cooperation Agreement between the Port, Tribe, Marine View Ventures and SSA Containers Inc.: The Port and SSA Containers will cooperate on the following:

- *Terminal Developments*: Mutual support for the other parties' individual developments;
- *Intermodal Rail Cooperation*: SSA Containers and the Port agree to cooperate on maximizing the efficiency of the intermodal rail system in Tacoma and to increase overall capacity;
- *Road Infrastructure Cooperation*: All parties agree to cooperate to leverage public/private funding for road infrastructure and to negotiate in good faith to reach agreement on individual contributions to road infrastructure improvements; and
- *Future Cooperation*: The parties agree to explore as necessary additional opportunities for cooperation. For example, maximizing mutual berth development opportunities, if desired, or future lease and/or land value exchanges as appropriate.

In 2011-12, the Port and MVV discussed use of tribal land to facilitate development of expanded rail infrastructure including an Arrival and Departure (A&D) track complex to support overall railroad service on the tideflats.

In Summer 2012, representatives of the Parties worked together as a coordinated team to jointly evaluate development of terminal and rail infrastructure adjacent to the southeast portion of the Blair Waterway.

The purpose of this MOU is to memorialize the conclusions of the joint evaluation conducted during the summer of 2012, and the intentions of the Parties to continue to work cooperatively to develop future agreements that fulfill the understandings as described herein.

The future agreements and specific actions described in this memorandum remain subject to the normal procedural reviews of the Parties, including where appropriate the review and any required approvals of the Port Commission and/or Puyallup Tribal Council.

UNDERSTANDINGS

1. Commitment of Principals to Continue Working Together

Mark Knudsen, SSA Pacific; John Wolfe, Port of Tacoma; and Chad Wright, Marine View Ventures commit to work in close coordination to pursue appropriate implementation of the rail, roadway and other infrastructure elements described below to support terminal development on the SE Blair Peninsula and sustain effective service delivery throughout the tideflats.

2. Proposed Plan – Independent and Adjacent Terminals

a. **Intent:** The Parties intend to separately develop independent and adjacent terminals on their own properties. The Parties intend that the terminals will be served by rail infrastructure and roadway access that is designed cooperatively to meet the interests of all parties and their constituents/customers consistent with understandings described herein. Proposed terminals, rail infrastructure and roadway access are described below and generally illustrated on Figure 1.

b. **Puyallup Tribal Terminal:** SSA and MVV intend to develop a marine terminal on the PTT properties owned by SSA and the Puyallup Tribe, including berths EB2 through EB4. Waterway cutbacks, land transfer at EB2 and the Wypenn property, and Alexander Avenue street vacation are necessary components of terminal development. Prior agreements between the Port and the Puyallup Tribe govern waterway-cutback, land transfer and Tribe/Port pursuit of a joint street vacation petition.

c. **Kaiser/EB1 Terminal:** The Port intends to develop an independent terminal on the Port's Kaiser property, utilizing the EB1 wharf.

d. **Rail Access:** The Port intends to provide rail access and rail infrastructure to serve Kaiser/EB1 Terminal and the PTT. The Parties intend to prepare and enter into a Rail Service Agreement, as described in Section 3 below; that will

address infrastructure investment responsibilities, service requirements, and fees for service.

e. Roadway Access: Using PTT Terminal lands, SSA and MVV will provide limited and controlled vehicle, truck, and emergency vehicle access to serve the BPA and Tacoma Public Utility ("TPU") facilities, and to provide controlled secondary access to the Port's Kaiser/EB1 terminal for Port and tenant employee access. Roadway access for cargo to both any existing and new terminals will be addressed within the Rail Service Agreement.

3. Rail Access and Rail Service Agreement

The Port owns the majority of rail within the Tacoma Tideflats. The Port plans to continue to invest in its rail infrastructure as new terminals are developed and/or modified and cargo volumes increase port-wide. These investments will be planned to ensure the rail system operates in the most efficient manner. Specific investment decisions will be made in close coordination and input from the Class 1 railroads (BNSF and UPRR) and Tacoma Rail, as these railroads provide the service to all the customers within the Tacoma Tideflats. The Port has established a tariff rail rate to account for investments in its rail system. The specific rail infrastructure investment responsibilities, service requirements, and fees for service and agreement on Tariff Rates that apply for the PTT will be addressed within a Rail Service Agreement between SSA, MVV, and the Port. Depending on specific issues to be addressed, the railroad companies may also need to be a part of this Rail Service Agreement. The Rail Service Agreement will be negotiated, approved and effective prior to the Port's obligation to provide rail infrastructure in and out of the PTT. Parties intend that the Rail Service Agreement effective date shall be sufficiently prior to the need for service to allow a reasonable timeline for Port infrastructure rail design, permitting and construction.

The intent of the Rail Service Agreement is that the Port would provide Tideflat rail infrastructure with capacity as follows: for up to four unit trains per day in and out of the PTT (eight unit train moves) at 8,500 feet per train, with the anticipated phased development as PTT listed below, consistent with the July 2012 forecast as included in the Port model, and as needed to meet Port and Port tenant needs.

- Q1 2015 – one unit train in & out (two train moves) per day
- Q2 2016 – two unit trains in & out (four train moves) per day
- Q2 2018 – four unit trains in & out (eight train moves) per day

The intent is that rail access to PTT would be provided on Port-owned tracks, through right of way agreements, or through other means of right of way access to be negotiated by the Port that would provide a direct dedicated route for full unit trains (up to 150 cars), from the Union Pacific ("UP") and BNSF Railway Company ("BNSF") mainlines to PTT. Rail access to PTT may require use of Tacoma Rail infrastructure, in which a Use Agreement would be required between SSA and Tacoma Rail. Furthermore, the Class 1 Railroads may be required to invest in additional rail infrastructure to meet the rail requirements of the PTT and other terminal needs within the tideflats.

4. Cooperation for Rail Easements on Tribal Land

In the context of this overall MOU, MVV intends to work diligently with the Puyallup Tribal Council to streamline provision of the required easements and approvals on any tribal land and land owned and or controlled by Bureau of Indian Affairs ("BIA") which is necessary to construct the rail infrastructure as shown on Figure 1 in the East Blair Area, and as necessary for overall rail infrastructure improvements and connections from tideflats to mainline rail. Parties intend that the Rail Service Agreement, as described in Section 3 above, would be negotiated concurrent with negotiations for tribal access approvals.

5. Other Easements and Property Acquisition Required for Rail Improvements

The Port intends to work diligently, with the active participation and support of MVV and SSA, as requested, to acquire easements and property agreements with BPA and other landowners as necessary to allow timely construction of the Port rail infrastructure as described above in Section 3.

6. Alexander Avenue Street Vacation

The Port and the Puyallup Tribe have entered into previous agreements requiring Alexander Avenue street vacation. This MOU does not alter those agreements. Satisfactory conclusion of the street vacation process will be a priority project for both the Port and MVV/Puyallup Tribe. The parties recognize that utility easements and agreement on how those easements are continued and/or relocated are extremely important to both parties and will be affected by the design and timing of the respective parties developments. As such, the parties agree to close coordination and cooperation in developing a unified approach to resolve all utility easements and relocation issues in a manner that represents both parties' interests of reducing costs and site impacts of the utility easements needed as part of the street vacation process.

7. Permitting Coordination and Support

The Parties intend to cooperate on the multiple permitting efforts required for rail infrastructure, Kaiser/EB1 development, and PTT development.


The Port will be responsible for permitting of its Tideflats rail infrastructure, and Kaiser/EB1 terminal operation and development (including cargo vehicle access). MVV and SSA intend to cooperate with and support and facilitate these efforts, including providing support of Wapato Creek crossing improvements, other natural resource impacts associated with off-site rail infrastructure, and tribal and BIA property coordination.

MVV and SSA will be responsible for all permitting necessary for construction and operation of the PTT facility. The Port intends to cooperate with and support those efforts, based on acknowledgment that the proposed PTT terminal is consistent with both overall industrial development within the tideflats and the intention and spirit of the Puyallup Land Claims Agreement.

SB Blair Terminal Development

Memorandum of Understanding 1/8/13

The Port, SAA, and MVV intend to work closely together to develop expectations and a schedule for permitting responsibilities and cooperation.



Mark Knudsen, SSA Pacific

January 8, 2013

Date



Chad Wright, Marine View Ventures

January 8, 2013

Date

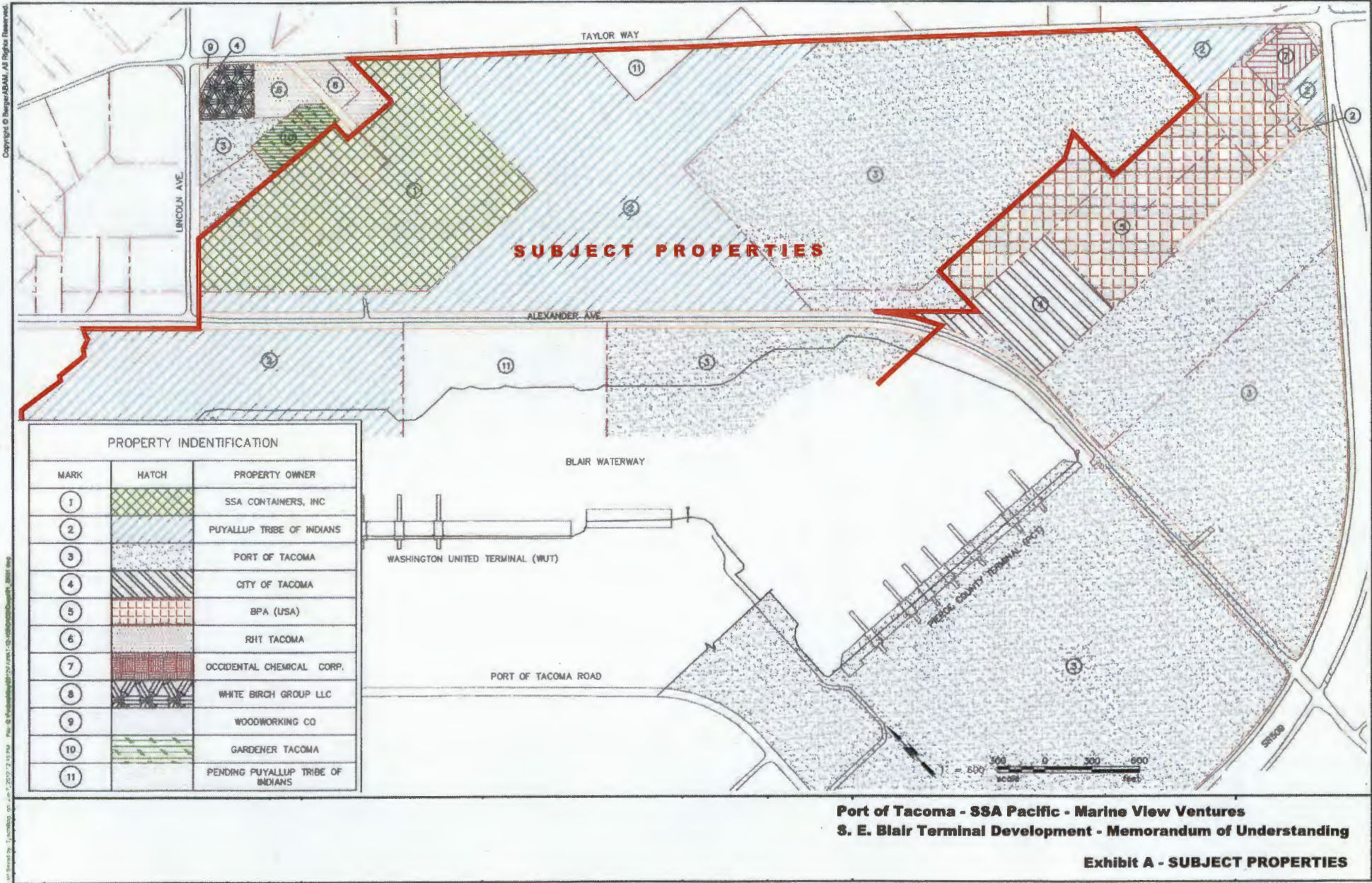


John Wolfe, Port of Tacoma

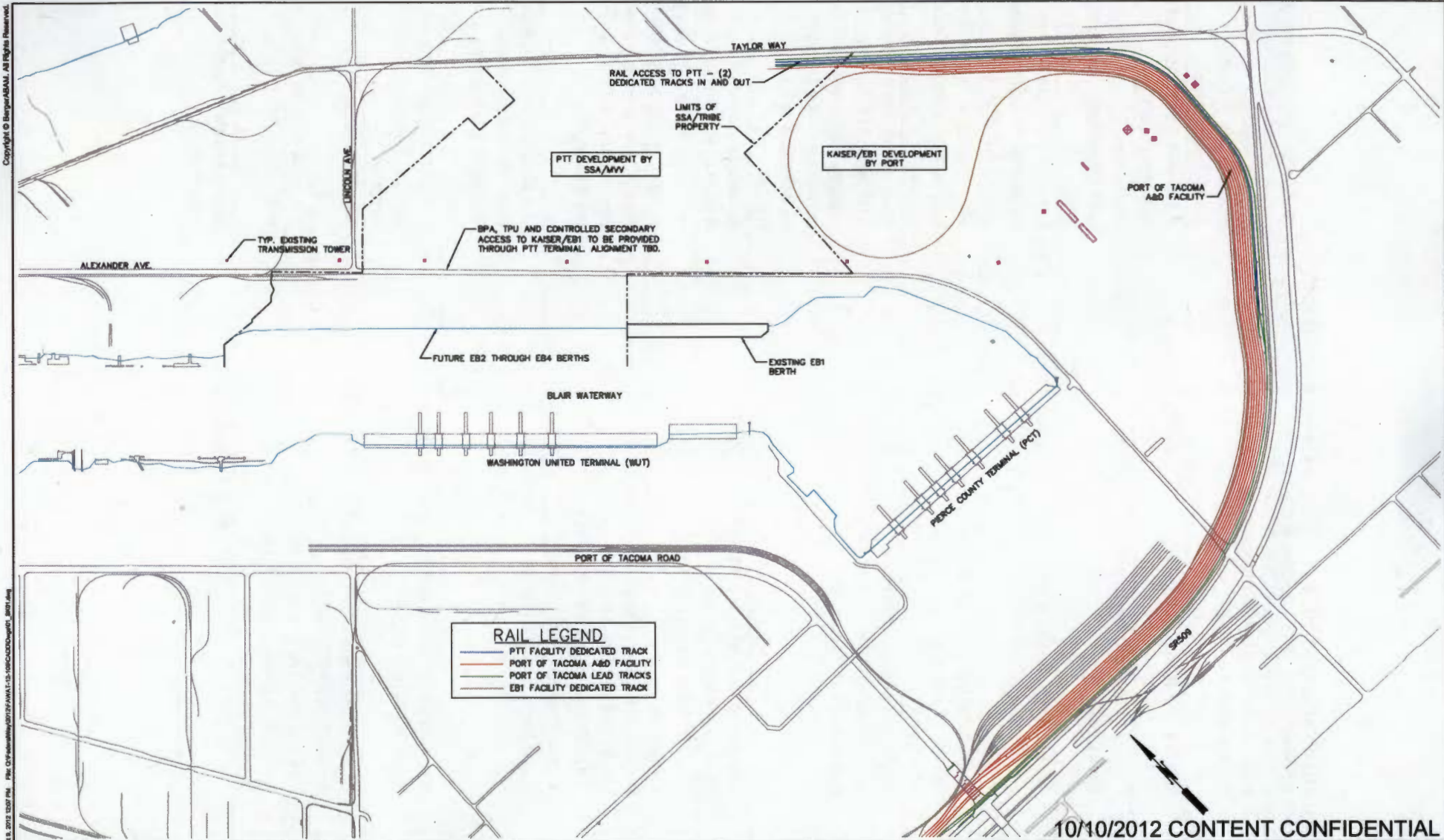
January 11, 2013

Date

Attach: Exhibit A - Subject Properties
Figure 1 - Proposed Plan
Rail System Requirements to Satisfy Future Demand



**Port of Tacoma - SSA Pacific - Marine View Ventures
 S. E. Blair Terminal Development - Memorandum of Understanding
 Exhibit A - SUBJECT PROPERTIES**



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10/10/2012 CONTENT CONFIDENTIAL

MARK	REVISION DESCRIPTION	BY	APP.	DATE

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DRAWN BY JTW
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 PROJ MGR WJA

**SSA-MVV-PORT OF TACOMA
 SE BLAIR TERMINAL DEVELOPMENT**
 PROPOSED PLAN

DRAWING NO. SK-1
 PROJECT NO. FAWAT-12-106
 DATE: 10/10/12
 SHEET NO. 1 OF 1

FIGURE 1

Rail System Requirements to Satisfy Future Demand

Year	System Need	Estimated Cost	Comment
2012	Begin full Arrival/Departure track design and permitting	\$4.95M	Assume shoreline permit (24-months) plus 8 months design/coordination
2012	Finalize BPA access easements	\$500k	Assumes a quit claim deed or perpetual easement
2012	Finalize Puyallup Tribe access easements	tbd	Allows for A/D track alignment over Tribal lands (adjacent to BPA)
2013	Adopt transportation plan	\$200k	Supports permitting, inter-jurisdictional coordination and grant funding process
2013	Begin design/permitting for new Puyallup River crossing (trestle and North Wye)	\$6M	BNSF project with coordination by Puyallup Tribe and City of Tacoma
2014	Begin construction of leads & Arrival/Departure track program (minimum 3 of 7 required)	\$17.15M	Recommend implementing first 3 (at 10,000 LF minimum) to support bulk operations. Cost determined on a prorate construction share (3 of 7 tracks)
2014	Develop agreements/process for Class 1 scheduled service	\$500k	Anticipating congestion at mainline connection in 2018
2015	Puyallup River Bridge (Eells Street) completed	n/a	Allows for North Wye and new bridge crossing construction
2015	Finalize switching provider operating agreement(s)/Class 1 interchange over BFJ (recommend limiting to 1 interchange per day maximum)	n/a	Potential to remove 4-5 daily train moves by direct serving the A/D tracks
2015-2016	3 bulk leads available for use	n/a	Use 10,000-foot A/D tracks, allowing for operational 'fouling' while indexing the trains
2016	Begin mainline "scheduled service through BFJ" operations	\$150k	Slot plan arrangement; on-demand switching ABSOLUTELY required
2016	Begin construction of remaining 4 Arrival/Departure tracks	\$22.85M	Total A/D tracks at 7
2018	All 7 leads and A/D tracks available	n/a	Full build-out complete
2018	North Wye connection and river crossing available	n/a	Full build-out complete
		TOTAL \$96,300,000	Tideflats-only infrastructure investments

Projects/Initiatives that increase System Performance

- Arrival/Departure tracks (up to 7, minimum 8,000 LF)
- Scheduled mainline service to/from Tideflats (rail slot plan administered to pro forma)
- BNSF North Wye mainline connection (allows direct north departure/south arrival)
- UPRR Mosier track improvements
- BNSF West Vancouver connection enhancements
- 65 Acre Maytown option area (TMBL/BNSF/UPRR surge area, block swap, staging)
- Directional running and coproduction (UPRR/BNSF)
- Limit or remove interchange between Switching Provider and Class 1 (Class 1 direct to A/D or ramp)
- Purchase non-water dependant rail volume generators within the Tideflats. Relocate off-Tideflats (other side of river, to the south, if possible)