

TESTIMONY OF PACIFIC NORTHWEST INTERNATIONAL TRADE ASSOCIATION BEFORE THE PORTLAND PLANNING AND SUSTAINABILITY COMMISSION REGARDING

PEMBINA PERMIT REQUEST FOR A ZONING CODE AMENDMENT AND A PROPOSED CARBON MITIGATION FEE AMENDMENT

THANK YOU FOR THE OPPORTUNITY TO PROVIDE THE COMMISSION THE VIEWS OF PACIFIC NORTHWEST INTERNATIONAL TRADE ASSOCIATION (PNITA) IN SUPPORT OF THE PENDING ZONING CODE AMENDMENT AND AGAINST ANY AMENDMENT CONTAINING A CARBON MITIGATION FEE. PNITA IS OUR REGION'S LEADING ADVOCATE FOR INCREASED INTERNATIONAL TRADE FOR GOODS PRODUCED IN OREGON AND SOUTHWEST WASHINGTON, AND FOR PROJECTS WHICH WILL PROVIDE EFFICIENT EXPORT AND IMPORT FACILITIES FOR CARGO PASSING THROUGH OREGON AS BOTH EXPORTS AND IMPORTS. WE OFFICIALLY ARE A PROGRAM OF THE PORTLAND BUSINESS ALLIANCE. EXCEPT FOR PNITA'S EXECUTIVE DIRECTOR, DOUG BADGER, WE ARE AN ALL-VOLUNTEER GROUP. I AM WALT EVANS, AND I CHAIR PNITA'S TRADE POLICY COMMITTEE. I AM A LAWYER WITH SCHWABE WILLIAMSON & WYATT.

WE WELCOME THE OPPORTUNITY TO OFFER OUR SUPPORT FOR THIS PROJECT, WHICH WILL PROVIDE AN EXPORT TRANSFER FACILITY FOR PEMBINA TO EXPORT PROPANE—PRIMARY TO ASIA FROM WHAT WE KNOW. THIS PROJECT FITS THE PARTICULARS OF PROJECTS SEEKING TO LOCATE IN INDUSTRIAL AREAS ALONG THE COLUMBIA RIVER, AND WHICH WILL CREATE SOME WELCOME FAMILY-WAGE JOBS, BOTH DURING CONSTRUCTION AND IN OPERATION OF THE FACILITY. THE LEVEL OF INTEREST AND SCRUTINY DURING WHICH PEMBINA OFFICIALS AND OTHERS HAVE EXPLAINED SAFETY PROCEDURES HAVE CONVEYED THEIR PAST LEVEL OF SAFETY AT OTHER SUCH PROJECTS, AND THE SPECIAL COMMITMENT TO MAKE SURE THAT THEIR PROJECT MEETS ALL REQUIRED SAFETY STANDARDS.

AS A GENERAL RULE, PNITA DOES NOT SUPPORT PRODUCT-SPECIFIC CRITERIA FOR NEW PROJECTS SEEKING TO LOCATE HERE. WE WELCOME NATIONAL STANDARDS FOR SUCH PROJECTS, SO THAT A REGION, OR STATE, DOES NOT DISADVANTAGE ITS COMPANIES, OR ITS COMMUNITIES FROM EXPANDING ITS ECONOMIC BASE AND HELPING RETAIN ITS YOUNG PEOPLE AFTER GRADUATING FROM SCHOOL.

I OPENED THIS STATEMENT NOTING THAT PNITA ALSO OPPOSES ANY CARBON MITIGATION FEE THAT THE COMMISSION MIGHT CONSIDER ADOPTING AS AN AMENDMENT. NORMALLY, I AVOID ADDRESSING COMMENTS TO HYPOTHETICAL LANGUAGE OR VAGUE IDEAS THAT I HAVE

NOT BEEN OFFERED IN SOME DETAIL, AND I OFFER THESE COMMENTS WITH THAT CAVEAT. PERSONALLY, I AM A VETERAN OF AN EFFORT NEARLY 30 YEARS AGO TO IMPOSE A FEE ON EXPORTS--IN THAT CASE TO HELP PAY FOR DREDGING IN DEEP-DRAFT PORTS. IN THE RUN-UP TO THE HISTORIC WATER RESOURCES DEVELOPMENT ACT OF 1986, A FEE TO HELP PAY FOR HARBOR DREDGING WAS IMPOSED ON IMPORTS AND EXPORTS. I HAVE REPRESENTED PORTS AND TOWING COMPANIES FOR MUCH OF MY CAREER AS A LAWYER, AND I WAS ACTIVE IN SHAPING THE LANGUAGE OF THAT FEE--OR TAX.

WE TRIED CALLING THIS WRDA TAX A FEE, AND WE ARGUED THAT IT WAS A REASONABLE STEP TO FUND HARBOR DREDGING, YET THE US SUPREME COURT RULED, UNANIMOUSLY, AGAINST THE HARBOR MAINTENANCE FEE, OR TAX, AS APPLIED TO EXPORTS. THAT DECISION--US VS US SHOE CORP. (1998) -- WAS PUBLISHED WITHIN A MONTH AFTER THE CASE WAS ARGUED--A STARTLINGLY QUICK DECISION. CANDIDLY, THE COURT SMACKED DOWN THE TAX, OR FEE, ON EXPORTS. ALTHOUGH I HAVE NOT READ ANY SPECIFIC LANGUAGE THAT MIGHT BE OFFERED TO IMPOSE A CARBON FEE, OR TAX, ON THIS PROPOSED PROPANE PROJECT, I URGE THE COMMISSION NOT TO TRY TO THREAD THIS NEEDLE. THE CITY OF PORTLAND SHOULD NOT INVITE SUCH A DIRECT POKE BY THE SUPREME COURT. THE US CONSTITUTION PROHIBITS ANY TAXES ON EXPORTS, AND I URGE THE COMMISSION TO CONSIDER THIS EXPERIENCE OF TRYING TO TAX EXPORTS, AND TO REJECT ANY TAX OR FEE ON PROPANE EXPORTS FROM THE PEMBINA PROJECT.

LASTLY, I HOPE THE CITY AND ITS OFFICIALS CONSIDER THE IMAGE OF THE CITY GREETING A PROSPECTIVE INVESTOR IN A LARGE PROSPECT WITH ITS BUREAUCRATS LOOKING FOR VARIOUS WAYS TO TAX THAT PROJECT BECAUSE OF THE SPECIFIC EXPORT PRODUCT PLANNED FROM THE PROJECT. EXPORTS ARE CRITICAL TO OUR REGION'S ECONOMY. JOBS TIED TO EXPORTS PAY MORE THAN JOBS WITHOUT SUCH A LINK. PORTLAND AND OREGON ALREADY ARE MORE TRADE-DEPENDENT THAN MOST OTHER STATES. IN THIS COMPETITIVE ECONOMIC ENVIRONMENT, WE SHOULD AVOID LOOKING FOR WAYS TO STYMIE REASONABLE ECONOMIC DEVELOPMENT PROJECTS PLANNED FOR SUCH AREAS AS TERMINAL SIX, A FULLY DEVELOPED INDUSTRIAL AREA WITH EXISTING INFRASTRUCTURE.

IN CLOSING, PNITA URGES THE COMMISSION TO APPROVE THE PEMBINA PROJECT, AND TO REFRAIN FROM TRYING TO TAX THE EXPORT OF THE PEMBINA PRODUCTS. I OFFER A PERSONAL REMINDER THAT, IF IT WALKS AND TALKS LIKE A DUCK, IT PROBABLY IS A DUCK, AND THAT THE CONSTITUTION PROHIBITS TAXES ON US EXPORTS.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON THIS MATTER.