

April 10, 2018

**To: Washington State Department of Ecology (“DOE”)
% Bellingham Office
Brian Sato, Site Manager, Georgia-Pacific West Site**

**From:
(in alphabetical order)**

**Bellingham Bay Marine Sanctuary & Coastal Trail
Citizens of Bellingham & Whatcom County
Douglas Tolchin
Friends of Whatcom County
Salish Sea Defense Council
Salish Sea Foundation
Salish Sea Land Trust
Salish Sea Marine Sanctuary & Coastal Trail
Salish Sea Whale Sanctuary**

**RE: Comments & Questions regarding
Georgia-Pacific West, Chlor-Alkali Area RI/FS et Al.**

Keystone Premise

High levels of mercury contamination throughout much of the subject Chlor-Alkali Area are the result of knowing, intentional and illegal dumping of chlorinate mercury compounds (i.e. the notorious “Chem-Fix Project”) by Georgia-Pacific Corporation, relative to which DOE subsequently, knowingly, intentionally and illegally authorized Georgia-Pacific to flimsily cap such in place and leave it there leaching into Bellingham Bay for the last several decades. FYI, we and others possess documents on both GP and DOE letterhead which confess and confirm the foregoing in writing.

Any scenario which sanctions anything other than full removal and lawful disposal of the subject illegal and intentional dumping of mercury (along with all relevant and reasonable Natural Resource Damage Assessment and Restitution) is certainly immoral, illegal and unjust, and may well be criminal.

Comment #1) After 17 years of unwarranted delay and obfuscation by Georgia-Pacific Corporation in tandem with local and state agencies (most of whom have major financial conflicts of interest all over the place), the time has come for all soils and other substances materially contaminated by Georgia-Pacific’s multiple decades of illegal dumping of mercury in, on, under and surrounding the subject site to be thoroughly and lawfully removed, transported and disposed of in accordance with all applicable local, city, state, federal and tribal authorities.

In other words, a bona fide “clean-up,” not just another “cover-up” aka “capping job.”

Note: “surrounding the subject site,” referenced above, includes all adjacent lands surrounding the subject “Chlor-Alkali Area” within 20-feet above sea level, and all submerged aquatic lands throughout Bellingham Bay (especially in the vicinity of Whatcom Waterway, the Log Pond, the secondary treatment lagoon perimeter and NPDES-related outfall) as well as all uplands and waterways throughout Bellingham & Whatcom County which have been contaminated by Georgia-Pacific’s several decades of truly massive and unlawful dumping (on-site & off-site) of elemental mercury and chlorinated mercury compounds to our community’s Land, Air & Water.

Comment #2) Until such time as #1 above has been completed, there must be no further development or occupancy of buildings in or around the subject Chlor-Alkali Area and so-called GP Site as such will inevitably drive up the costs, logistical difficulties, human health detriments and human health risks associated with appropriate amounts and types of full removal and disposal of mercury-contaminated soils and sediments throughout and around the Chlor-Alkali Area (re: both upland and submerged aquatic lands specifically contaminated by leachate from the “Chem-Fix Project,” and from GP-related unlawfull mercury emissions and dumping, in general).

Comment #3) Washington State Department of Ecology and The Port of Bellingham must publicly disclose in writing any and all financial conflicts of interest, potential financial conflicts of interest, and all appearances of financial conflicts of interest which they have (or may have) relative to financial liabilities and expenses (past, present and possible futures) associated with the subject Chlor-Alkali Area.

Ditto re: civil and criminal conflicts of interest, potential civil and criminal conflicts of interest and appearances of civil and criminal conflicts of interest.

Comment #4) Washington State Department of Ecology and The Port of Bellingham must immediatley recuse themselves as lead agencies regarding the subject Georgia-Pacific Chlor-Alkali Area RI/FS, and remand resolution of this matter to such competent authorities that do not possess such conflicts of interest, potential conflicts of interest or appearances of conflicts of interest.

Comment #5) The subject RI/FS and “preferred alternative” does not reasonably integrate best available science or the precautionary principle (both of which should and must be employed in tandem) regarding anticipated levels of sea level rise, site susceptibility to liquefaction in the event of earthquake, tsunami, severe windstorm events, so-called supertides, sea level rise and other such predictable adverse factors. According to one of the presenters at the related public hearing a few weeks ago at DOE Bellingham, the Chlor-Alkali Area proposed for “capping” by DOE and The Port of Bellingham is only about 4 to 6-feet above normal high-tide level. With anticipated sea level rise far in excess of that amount, and/or supertides, windstorms, tsunamis, or

even just one sizable earthquake, this whole Chlor-Alkali area is likely to end up dissolving and dispersing underwater in Bellingham Bay within decades, if not years.

Comment #6) A Natural Resources Damage Assessment and Restitution Process has never been initiated by Washington State DOE or The Port of Bellingham (which is highly illustrative of their very real financial and other conflicts of interest relative to the subject site). Such Natural Resources Damage Assessment and Restitution Process must commence to a timely conclusion as soon as possible.

QUESTION #1: Why did the Chlor-Alkali Mercury Facility “Cleanup” at Onondaga Lake cost the better part of \$500 million, and is done, while DOE and The Port of Bellingham are advocating less than 5% of that amount to cover-up (aka capping-job) rather than ‘clean-up’ Georgia-Pacific’s mercury-laden Chlor-Alkali Area (which, not incidentally, is far too narrowly defined)?

Onondaga Lake cleanup, decades in the making, will be done this month
http://www.syracuse.com/news/index.ssf/2017/11/onondaga_lake_cleanup_decades_in_the_making_will_end_this_fall.html

The company finished dredging 2.2 million cubic yards of lake bottom in 2014, and [capping 475 acres](#) of the bottom last year. The final phase, restoring 90 acres of wetlands and adding underwater rock structures for fish habitat, is slated to be done this month.

The cleanup terms [were outlined](#) in a 2006 federal court order; the lawsuit had been filed in 1989 Department of Environmental Conservation. The 2006 record of decision estimated the cost of cleanup at \$451 million.

QUESTION #2: Why has neither DOE nor The Port of Bellingham publicly announced or pursued a Natural Resource Damage Assessment Claim against Georgia-Pacific relative to mercury contamination of Bellingham Bay relative to leachate and other emissions from the subject Chlor-Alkali Area throughout the past several decades?

Recent local example of NRDA re: Pulp Mill in Everett WA (not even a Chlor-Alkali Mercury Facility):

[Thursday, February 8, 2018](#)

Everett area could get nearly \$4 million for habitat restoration

<http://ecologywa.blogspot.com/2018/02/everett-area-could-get-nearly-4-million.html>

On the other end of the spectrum (with many in between)...

Under the Consent Decree BP will pay a Clean Water Act civil penalty of \$5.5 billion (plus interest), \$8.1 billion in natural resource damages (this includes \$1 billion BP already committed to pay for early restoration), up to an additional \$700 million (some of which is in the form of accrued interest) for adaptive management or to address

injuries to natural resources that are presently unknown but may come to light in the future, and \$600 million for other claims, including claims under the False Claims Act, royalties, and reimbursement of natural resource damage assessment costs and other expenses due to this incident. This settlement includes both the largest civil penalty ever paid by any defendant under any environmental statute, and the largest recovery of damages for injuries to natural resources.

<https://www.justice.gov/enrd/deepwater-horizon>