

# THE MANIFEST

## PORTS CREATE OVER 70,000 DIRECT JOBS STATEWIDE

A just-completed study commissioned by the WPPA shows 71,000 jobs are directly created by Washington's port districts. The study also shows that these jobs pay good wages: they average \$76,200 in compensation including benefits. This includes an average salary of \$59,600 in salary. In addition to these impressive numbers, an additional 104,000 jobs are indirectly created or induced by port districts.

The study examines the economic impact of port districts statewide in some depth, breaking job categories into those created by industrial and commercial lands, commercial aviation and airports, maritime businesses, tourism facilities and seaport terminals.

Slightly over half of the total number of direct jobs are created in the industrial and commercial lands

category. Almost twenty-five percent of the jobs are created by commercial aviation and airports.

"This study gives us a really valuable message about how many jobs we create statewide for our citizens" said WPPA President Karen Moore of the Port of Ephrata. "We need to thank our Economic Development

Committee for bringing this idea forward". That WPPA committee is chaired by Jim Rothlin of the Port of Bremerton. Brent Grening of the Port of Ridgefield played a leadership role in proposing this idea, and WPPA was aided by a

steering committee representing the Ports of Ridgefield, Port Angeles, Ephrata, Olympia, Seattle, Sunnyside and Grays Harbor.

A copy of the report is posted on the WPPA website, and is also available by contacting our office.

**Ports directly create 71,000 Jobs Statewide**

## KNOWING THE WATERS

By Frank Chmelik of Chmelik Sitkin & Davis P.S. - WPPA Counsel



No *Manifest* was published at the end of December, but we are back now following up on the November 2016 column where leasing was the topic. Here are a few more thoughts on leases.

**Lease Term and Renewals.** Recall that port districts are allowed to lease non-airport property for fifty years with options for extensions up to thirty additional years. The important point here is the law allows an initial term up to fifty years and then thirty years of renewal options (see, RCW 53.08.080). So, if the initial terms is five

*Continued on next page*

## PORT SPOTLIGHT

### PORT OF PASCO RE-BUILDS AIRPORT TERMINAL

The Port of Pasco has just cut the ribbon on a major upgrade of the Tri-Cities Airport. The terminal is doubling in size; and the nearly \$42 million upgrade is the biggest project in the history of the port.

"This will be an exciting day for the region," said Port of Pasco Commission President Ron Reimann. "The airport is an important entryway into our community and will provide a great first impression to visitors. The expansion of the airport is also a vital economic driver for the Tri-Cities, making room for new flights to new destinations and opening up new markets for our businesses."



In addition to doubling the terminal space, the project is increasing the number of gates and substantially improving the meal and other customer support services for the flying public. There will be expanded baggage claim, car rental and ticketing areas, as well as large glass viewing areas. Improved TSA screening areas will also speed security lines.

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## KNOWING THE WATERS

Continued from page 1

years the total lease term including renewals cannot exceed thirty-five years (the original 5 years + 30 years of renewals). At an airport this term is shortened to seventy-five years with requirements for periodic rent readjustments (see RCW 14.08.120).

**Notification of Intent to Renew.** In Washington, the general rule for lease renewals is that "a notice of election to renew a lease conformable to an option therein contained must be definite, unequivocal, unqualified and given strictly in accordance with the terms of the lease." In 1979 the Washington Court of Appeals created an "equitable grace period" which allowed the tenant to give late but binding notice of intent to renew a lease. The application of an equitable grace period is used to relieve the tenant under special circumstances from the harshness of strict legal rules and avoid what would otherwise be an unjust forfeiture. As late as 2011 the courts applied this principle where (i) the failure to give notice was "inadvertent," (ii) where the tenant had made substantial permanent improvements which indicated a

clear intent to renew, (iii) where the landlord had not changed its position because of lack of notice, (iv) where there was a long term lease and (v) where the delay in giving notice was not too long especially if notice was received before the end of the lease term. For ports I would add a likely sixth factor – where the landlord is a port or other government because the courts will generally hold governments to a higher standard. The best practice is make sure you and the tenant track the notice to renew provisions because merely remaining silent may not be enough.

**SEPA and Leasing Decisions.** In the September 2016 column I talked about *Columbia Riverkeeper, et al. v. Port of Vancouver, et al.* This case involves the common practice for ports to enter into leases with tenants that condition use of the leasehold on obtaining all necessary permits. Typically, SEPA review is then deferred to the jurisdiction (usually the City or County) that will grant the building, shoreline and/or critical areas permits. The thought has been that a lease is a necessary first step for any tenant to then invest the money necessary to develop the detailed plans necessary for review.

Moreover, there can be no change in the use of the property until the SEPA review has been completed and the necessary permits issued. The decision by the Supreme Court is pending and expected in 2017. But these are interesting times. On January 23rd the Court of Appeals held, in *City of Mukilteo, et al. v. Snohomish County, et al.*, that Snohomish County was not required to conduct a SEPA review before it provided an option with a lease attached to a developer that wanted to develop a commercial airline terminal at Payne Field. The Court of Appeals reasoned that the option was just that and not a lease, that the option provided no present right to use the property and that the right to ultimately enter into the lease was contingent on compliance with SEPA. Watch for this case to be appealed to the Supreme Court and watch for the *Riverkeeper v. Port of Vancouver* decision.

As always, please contact your port counsel with any legal questions regarding this topic. **And, if you have a particular topic for a *Knowing the Waters* please email me at [fchmelik@chmelik.com](mailto:fchmelik@chmelik.com).**

## UPCOMING EVENTS

### Port Day

Tuesday, January 31, 2017  
Capitol Campus, Olympia

### Spring Meeting

May 17-19, 2017  
Suncadia Resort, Cle Elum

## PORT SPOTLIGHT

Continued from page 1

The facility is designed to serve the need of the Tri-Cities for the next twenty years, and incorporates local art and themes into the overall design. The airport has a rich history, beginning as the Pasco Naval Air Station in the 1940's. The Port took over control of the airport from the City of Pasco in 1963, and the previous terminal dated back to 1966.

It is now the 4th busiest civilian airport in the state, and has been growing rapidly with 374,000 enplanements in 2016. It is currently served by four airlines, with service to nine cities in the western and central United States.

## EMPLOYMENT OPPORTUNITIES

### Senior Accountant

Port of Seattle

### Contract Administrator - Construction

Port of Seattle

### Deputy Director of Airports

Tri-Cities Airport - A Port of Pasco Facility

### Marine Terminals Business Development Manager

Port of Bellingham

### Communications and Marketing Coordinator

Port of Port Townsend

### Director of Operations

Port of Newport, Oregon

### Marina Office Assistant

Port of Bremerton

### Director, Engineering

Port of Tacoma

### Senior Real Estate Manager

Port of Tacoma

### Assistant Director, Facilities

Port of Tacoma

If you would like information on any of these positions, visit [www.washingtonports.org/employmentopportunities/](http://www.washingtonports.org/employmentopportunities/)