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January 22, 2016

State of Washington
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, WA 98504

RE: Comments on Tesoro Savage Vancouver Energy Project DEIS

INTRODUCTION

The Counsel for the Environment (CFE), by appointment of the Attorney General of the State of Washington, appreciates this opportunity to comment on the Tesoro Savage Vancouver Energy Project (Tesoro-Savage) Draft Environmental Impact Statement (DEIS). The CFE has an independent, statutorily created role to represent the public's broad interest in protecting the quality of the environment. *See* RCW 80.50.080.

The CFE would like to highlight in particular two significant deficiencies in the DEIS: (1) a flawed statistical analysis of train-derailment risk, and (2) insufficient analysis of the effort and investment required to bring first responders along the crude-oil-train route contemplated by the Tesoro-Savage project to a proper state of preparedness.

The siting of energy facilities in Washington State must ensure that the operation of such facilities "will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life." RCW 80.50.010. The CFE submits the following comments to the DEIS with the goal that the Final Environmental Impact Statement will provide the most detailed information possible to the Energy Facility Site Evaluation Council (EFSEC) and Governor Inslee to make a properly informed decision that protects the public's broad interest in preserving environmental quality.

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Public concern thus far has primarily focused on the impacts of the transportation of the large volumes of crude oil through the State of Washington via rail, the storage of large volumes of crude oil at a port on the bank of the Columbia River, and the subsequent transportation of large volumes of crude oil on the Columbia River. Given the public's interest in these specific issues, the CFE's comments focus on particular deficiencies in the DEIS that require additional or more detailed information to adequately inform the public, EFSEC, and the Governor of the risks associated with the identified issues.

While the CFE's specific comments on these issues are presented below, such comments are not intended to, and do not, express approval of the adequacy of the DEIS in any areas not specifically addressed in this letter. The CFE takes no position regarding the merits of the project at this time and reserves the right to address any and all environmental issues in the course of the adjudication.

COMMENTS

The CFE offers comments to the following sections of the DEIS:

CHAPTER 4: CRUDE OIL SAFETY CONSIDERATIONS, POTENTIAL RELEASE SCENARIOS, AND IMPACT ANALYSIS

4.4 LIKELIHOOD OF INCIDENTS RESULTING IN A CRUDE OIL SPILL AND RANGE OF POTENTIAL SPILL VOLUMES

4.4.2 Rail Transportation

The transportation risk assessment set forth in the DEIS underestimates and underreports the risk of a crude oil bearing train derailling along the route to or from the Vancouver facility. The DEIS does not provide any statistical analysis focused primarily on the derailment and spill risk of **crude oil trains** as opposed to those not carrying this product. Thus, the DEIS does not provide sufficient recognition in the risk calculation of the potential differences between these trains and those carrying less volatile material. Given the potential for major impacts to the environment and the public should a crude oil bearing train derail and spill,

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CFE recommends that EFSEC revisit the rail transportation risk assessment to provide a more detailed analysis addressing the risks specific to crude oil bearing trains utilizing rail in Washington State. Such an analysis will allow EFSEC and the Governor to more accurately evaluate the spill/fire/explosion risks associated with crude oil bearing train derailments connected to this project.

The DEIS asserts that the data involved with crude oil shipped by rail may not include enough statistical information about oil train accidents to perform an adequate statistical analysis. Relying on a statistical analysis that includes nationwide statistics of trains carrying cargo that does not include crude oil, as the DEIS does, may grossly underestimate the risk of accident and subsequent spill related to trains hauling crude oil in Washington State. This deficiency is further heightened due to the DEIS' recognition that the actual performance of new or retrofitted DOT 117 tank cars and their ability to resist breaching or failure during derailments is uncertain. ES at p. 20. CFE recommends that the EIS include more detailed information regarding the potential differences between trains carrying crude oil and other trains in the risk analysis, including but not limited to, train length and weight and how those potential differences may affect the risk analysis specific to the transportation of crude oil utilizing rail in Washington State. Further, CFE recommends additional study on the cumulative impacts of increased oil by rail traffic on the rails throughout Washington State given that broken rails are a significant cause of derailment.

4.6 RESPONDING TO AN OIL SPILL, FIRE, OR EXPLOSION

4.6.4.3 Fire Department/Medical Facility Response Preparedness

The DEIS is deficient in regard to first responder readiness. This section of the DEIS relies on the results of a survey conducted by the Washington State Military Department's Emergency Management Division sent to 236 fire departments and fire districts statewide. Only 14% of the fire departments and fire protection districts who received the survey responded. In addition, EFSEC surveyed 34 fire departments and fire protections along the rail route. Only 12 responded. The low response rates of the two surveys alone makes this portion of the DEIS inadequate.

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Moreover, the Washington Military Department survey found that “even the most metropolitan, best equipped departments consider themselves ill prepared” for a crude-by-rail incident. DEIS at p.4-46. Only one of the 12 responding fire agencies to EFSEC’s survey reported that its firefighters are trained and equipped to respond to a crude-by-rail incident. DEIS at p.4-47.

The DEIS also relies on self-reported information from the Vancouver Fire Department, in which they identified the need for additional training, equipment and planning. ES at p. 15. Adequate ability to respond to an emergency associated with the project, including spills and resultant fires, is critical to addressing risks to the environment and the public. CFE recommends that the EIS include independent verification of first responder status and not rely solely on survey responses.

Further, the DEIS does not address with enough specificity what training and equipment is necessary for first responders throughout Washington to adequately respond to an oil spill or fire as a result of train or vessel accidents. The CFE recommends that the EIS explain in greater detail the public resources that will be necessary to prevent, respond to, and clean up an oil spill, fire, and/or explosion that may occur related to the proposed facility. The DEIS sets forth some of the additional staffing and equipment needs identified by the responding entities. Table 4-11, p. 4-49. It does not, however, quantify the costs to those, or other, state and local governments associated with the staffing, training, and equipment necessary to assure appropriate first responders are able to protect the public and the environment. While the DEIS requires the Applicant to coordinate with potentially affected first responder agencies and contribute support to them, it does not provide sufficiently detailed information to properly assess the current status of first responder readiness or what resources are required to reach the necessary level of readiness. This missing information is critical to properly assessing the public costs associated with the project.

Lastly, the DEIS requires the Applicant to conduct a study to “identify an appropriate level of financial responsibility for the potential costs for response and cleanup of oil spills, natural resource damages, and costs to state and affected counties and cities for their response actions to reduce the risks and impacts from

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an oil spill.” ES at p.17. The DEIS requires that the study be conducted prior to commencing operations. ES at p.17. While the risk of a crude oil spill, fire, and/or explosion cannot be totally eliminated, such events pose substantial potential harm to the public and/or the environment. Accordingly, the timeframe for a study on financial responsibility should not wait until just prior to commencing operations, but rather should occur prior to any recommendation by EFSEC to the Governor.

CONCLUSION

The public has a strong interest in protecting the quality of the environment. The State Environmental Policy Act review is critical to providing the public, EFSEC, and the Governor the information necessary to fully assess the project’s environment impacts as required by state law. In addition to the comments submitted above, EFSEC should address the environmental impacts raised by other commenters, including the public, in the Final Environmental Impact Statement.

Thank you for your consideration. Please feel free to contact me if you have any questions or need clarification regarding my comments.



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