

**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of:
Application No. 2013-01

TESORO SAVAGE, LLC

VANCOUVER ENERGY DISTRIBUTION
TERMINAL

CASE NO. 15-001

ORDER SUMMARIZING
HEARING PROCEDURES

On March 11, 2016, the parties took part in a conference with the undersigned Administrative Law Judge (ALJ) to discuss hearing procedures. Prior to the conference, the parties met and achieved agreement on some of their procedural requests, but not all. The Council is able to accommodate the parties' wishes as to many procedural arrangements, but not all. The parties' procedural requests are summarized and resolved below. The parties are advised that the ALJ retains sole authority to modify adjudication procedures at any time in the course of the proceedings should it become necessary to ensure efficiency and due process.

Hearing Time: At the request of the ALJ, the parties conferred following the March 11, 2016 conference about a proposed time division for their presentation of evidence. On March 17, 2016, the Intervenor parties filed a Notice of Intervenors' Position on Allocation of Adjudication Time. On March 18, 2016, Tesoro-Savage (proponent) filed a Response to Intervenors' Position on Allocation of Time concurring with the Intervenors time-division proposal. The parties have agreed that the Counsel for the Environment should have one day of hearing time, and that the remaining 18 days of hearing time should be equally divided between the proponent and opponent parties.

Subject to any necessary revision by the Council or the ALJ during the hearing, the proponents Tesoro-Savage and the Port of Vancouver are allocated a total of **nine** days of hearing time. Together, the opponent intervening parties shall have a total of **nine** days of hearing time. Counsel for the Environment shall have **one** day of hearing time.

In order to assist the parties to best-utilize their hearing time and maintain hearing efficiency, the ALJ will be available at 8:30 am each day of the hearing to address matters not requiring the presence of the Council as and if needed by the parties. Attendance is not mandatory.

One additional day is added to the overall hearing time. On **July 29, 2016**, the parties will have the opportunity to present closing arguments from **9:00 am to 12:00 pm on July 29, 2016**. Following closing arguments, in accordance with RCW 80.50.090(3), the public will be entitled to be heard in support of or in opposition to the application for certification in the afternoon of **July 29, 2016, from 1:00 pm to 5:00 pm**.

Witnesses: Prior to witness cross-examination, an opportunity will be provided to the parties for objections to the pre-filed direct testimony. If any objections require lengthy argument, the parties should file motions in limine. If any such objections are granted, the affected testimony will be redacted and stricken from the record.

Time for cross-examination, rebuttal testimony, and argument will be allocated to the witness' sponsoring party's time. Members of the Council and the ALJ will be free to ask questions of witnesses as they deem necessary, and that time will also be allocated to the witness' sponsoring party.

The parties are free to present their witnesses out of order and present their cases in the order they deem necessary, subject to order of the ALJ in the course of the hearing as required for efficiency. The parties shall inform the ALJ about the order of their witnesses at least the day before they are called so that Council members can review associated exhibits and any pre-filed testimony.

The parties shall notify EFSEC staff no later than **June 13, 2016** of any special accommodation necessary for any hearing participant.

Witness' pre-filed testimony must be under oath. At the hearing, witnesses will be sworn in by the ALJ prior to their testimony. Unless otherwise ordered in the course of the hearing by the ALJ, all cross-examination must be in person, or in person via video transmission, as prior-approved by the ALJ.

As provided in a prior order, evidentiary stipulations between the parties are encouraged.

Exhibits: The parties should consult previous orders about the number and form of exhibit copies required. The numbering protocol and a prescribed index form will be provided by **May 17, 2016**.

Briefs: Pre-hearing briefs are encouraged. Post-hearing briefs will not be permitted. At their option, parties may file hearing briefs prior to the closing of the record, which will occur after the parties complete their closing arguments.

Organizational Matters: The adjudication hearing will follow a traditional trial format. The proponents Tesoro-Savage and the Port of Vancouver shall present their case-in-chief first, followed by the case-in-chief of the opponents and the Counsel for the Environment, in whatever order they chose.

The parties need not present evidence in a strict issue-by-issue format. The parties should plan to present their evidence in the order most logical and applicable to this application for site certification. Flexibility will be given to accommodate witness availability issues. However, given the breadth of issues presented, for purposes of clarity and understanding and to the extent possible, general subject areas should be addressed at specified times in accordance with the hearing schedule guidelines of WAC 463-30-300. This is not a limitation on the

parties' adjudication issues. The order of evidence will be announced by the ALJ as the hearing proceeds so that the public may follow along with the proceedings.

Following any necessary organizational conference, each day of hearing will commence at 9:00 am with the full Council and conclude at 5:00 pm, excluding approximately one hour for lunch, minus any time with the ALJ during the lunch hour necessary for matters to be resolved outside the presence of the Council.

Private court reporters may be allowed, depending on the number and availability of space and access to electricity. Any party wishing to use its own court reporter shall inform EFSEC staff in advance of the hearing, and shall attend the open facility on Friday June 24, 2016 (see below) to determine the feasibility of accommodating additional court reporters.

Hearing sessions from **Monday, June 27, 2016 through Thursday, June 30, 2016** and from **Monday July 25, 2016 through Friday, July 29, 2016** will be held in Vancouver at the following location:

Clark College Conference Center
18700 SE Mill Plain Blvd.
Vancouver WA 98683

Pamela R. McDonald
Conference Center Program Coordinator
360-992-2723

On **Friday, June 24, 2016, from 1:00 to 4:00 pm**, the parties are welcome, but not required, to come to the Vancouver hearing facility to bring equipment and become familiar with the physical layout and electronic capabilities of the hearing facility.

The location for the Olympia-based hearings will be provided to the parties by letter as soon as it is finalized.

Notice to Parties: Unless modified, this prehearing order shall control all further proceedings in this matter. In accordance with WAC 463-30-270(3), any objections to this order must be filed with EFSEC and served on all other parties within ten days after the date of mailing of this order.

DATED and effective at Olympia, Washington this 31st day of March, 2016.

STATE OF WASHINGTON ENERGY SITE EVALUATION COUNCIL

_____/s/_____
Cassandra Noble
Administrative Law Judge

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Tesoro Savage, LLC
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