

**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 DENYING MOTIONS  
CONCERNING FACILITIES AND  
SCHEDULE

1           On June 3, 2016, Tesoro Savage LLC (Tesoro-Savage) filed Applicant and Port of  
2 Vancouver USA’s Joint Motion Concerning Facilities and Schedule. On June 3, 2016,  
3 Columbia Riverkeeper, *et al.* filed Columbia Riverkeeper *et al.* Motion Concerning Facilities  
4 and Schedule, and the City of Vancouver filed City of Vancouver’s Response to Motion  
5 Concerning Facilities and Schedule.

6           Among other requests, the moving parties ask the Administrative Law Judge (ALJ) to  
7 issue an order that:

- 8                   1. Assures Wi-Fi connection capacity during the adjudication;
- 9                   2. Requires the hearing facilities to provide caucus room space;
- 10                  3. Requires the hearing facilities to provide computer connectivity that will  
11 allow an alternate means of showing video or projection of exhibits;
- 12                  4. Assures cell phone connectivity in the hearing and caucus rooms;
- 13                  5. Requires the hearing facilities to provide tables and a minimum of 20  
14 dedicated electrical outlets for the exclusive use of Tesoro-Savage and the  
15 Port and 7 more for Columbia Riverkeeper, *et al.* and Columbia Waterfront;
- 16                  6. Requires the facilities to provide tables of a certain size; and
- 17                  7. Requires the hearing facilities to provide early access to the hearing rooms.

18           The ALJ’s powers do not extend to jurisdiction over cell phone companies, Clark College  
19 or the Red Lion Hotel. These are appropriately matters for the parties to resolve by directly  
20 contacting the various entities. EFSEC staff can provide contact information as needed, and  
21 help parties in their preparations for the upcoming adjudication hearing, but cannot do the  
22 parties’ jobs for them.

23           Pre-Hearing Conference Request

24           Without following the established procedure for scheduling pre-hearing conferences, the  
25 moving parties have determined that a conference will take place with the ALJ on June 24,  
26 2016, a date when the ALJ is not available. The stated purpose of the requested conference is  
27 “facilitation of pre-hearing matters.” The parties have already been informed that they are

1 welcome to come to the Vancouver facility on Friday, June 24, 2016, to set up and become  
2 familiar with the available equipment and layout. EFSEC and facility staff will be present on  
3 that day to assist the parties, but the parties are encouraged to contact the facilities ahead of  
4 time to ask specific facility capability questions. A formal pre-hearing conference is not  
5 necessary for these purposes on June 24, 2016.

6 As previously ordered, the adjudication hearing commences on the record the morning of  
7 Monday June 27, 2016 at 9:00 a.m., and Tesoro-Savage has asked that testimony “begin in  
8 earnest” at that time. To that end, the record will be opened at **8:00 a.m. on June 27, 2016** to  
9 admit agreed exhibits and bring up any other pre-hearing matters can be addressed prior to  
10 testimony. **At that time, the parties should be prepared to put their arguments on the**  
11 **record concerning any testimony or exhibits that the ALJ has excluded.**

### 12 Site Visit

13 The City of Vancouver has asked that a site visit be planned for the Council that does not  
14 include the attorneys, presumably out of concern that the attorneys will be presenting some  
15 argument or communication during the visit. However, any such communication would not be  
16 on the record, and will not be allowed.

17 The Council appreciates the cooperation that Port staff has already afforded EFSEC staff  
18 in arranging the details of the site visit. These arrangements are already ongoing and will  
19 continue. Tesoro-Savage and the Port present a suggested agenda and viewing points for the  
20 Council. However, the Council will exercise its authority to view whatever it deems necessary  
21 in the course of the site visit, and allowing for any logistical constraints that may exist at the  
22 Port. As the parties have already been informed, their attorneys will be allowed to view the  
23 same things the Council views, but substantive communications will not take place. An order  
24 dictating the conditions of the Council’s site visit is unnecessary.

### 25 Public Adjudication Comment Procedures

26 As previously communicated to the parties, the adjudication-related public comment  
27 period will be the afternoon of Friday, July 29, 2016, after the adjudication record has been  
28 closed, except for the post-hearing briefing. At this time, it is not possible to determine the  
29 rules of participation for the public comment because it is unknown how many participants  
30 there will be. All comments will be restricted to the evidence that has been admitted in the  
31 adjudication. The Council will not accept written comments.

### 32 Exhibits

33 The Pre-Hearing Order Establishing Procedures and Setting Deadlines for Submittals  
34 issued on May 5, 2015 details the procedures for exhibits. It states as follows: “Proposed  
35 exhibits shall be submitted in the same way as other documents.”

36 On the first day of the hearing, all admitted exhibits will be posted in their electronic  
37 form to the Council and ALJ so that they will be available during testimony. As exhibits are

1 referenced in the hearing, EFSEC staff will project them onto a screen visible to all  
2 participants.

3 Appropriate Roles

4 Many of the requests in these motions relate to matters that are properly the role of the  
5 litigants themselves. But because the parties seem to be having difficulties, EFSEC staff  
6 member, Joan Aitken, 360-664-1920 has been assigned to be the primary staff person  
7 available to the parties to answer procedure questions and requests that are within EFSEC's  
8 purview to fill. Ms. Aitken cannot undertake functions that are the parties' responsibility.

9 **ORDER**

10 Tesoro-Savage and the Port's Joint Motion Concerning Facilities and Schedule, The City  
11 of Vancouver's Motion Concerning Facilities and Schedule, and Columbia Riverkeeper, *et al.*  
12 Response/Joinder in Motion Concerning Facilities and Schedule are **DENIED**.

DATED and effective at Olympia, Washington this 9th day of June, 2016.

STATE OF WASHINGTON ENERGY SITE EVALUATION COUNCIL

\_\_\_\_\_/s/\_\_\_\_\_  
Cassandra Noble  
Administrative Law Judge