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

7 In the Matter of:
8 Application No. 2013-01

CASE NO. 15-001

9 TESORO SAVAGE, LLC
10 VANCOUVER ENERGY DISTRIBUTION
11 TERMINAL

**CLARK COUNTY'S
PREHEARING BRIEF**

12 **I. INTRODUCTON**

13 Tesoro-Savage has proposed to construct and operate a rail-to-marine oil terminal on Port
14 of Vancouver property that is immediately adjacent to and surrounding the Clark County Jail
15 Work Center (JWC), a 200-bed jail facility that also supports critical operations of Clark
16 County's main jail.¹ As currently designed, and without additional mitigation measures, the
17 proposed oil terminal presents an unacceptable level of risk to the safety and health of inmates
18 and employees of the JWC. As set forth in testimony offered by Clark County (summarized
19 below), the proposed oil terminal infrastructure surrounding the JWC property presents an
20 unacceptable level of risk for fire and/or explosion that could threaten the occupants of the JWC.
21 These unacceptable fire and explosion risks arise primarily from the close proximity of 24"-30"
22 crude oil piping on the northern and eastern boundaries of the JWC property. The risks

23 ¹ For purposes of this adjudication, Clark County's issues pertaining to the proposed oil terminal are limited to its likely impact upon the JWC and emergency response in the event of an oil terminal related emergency. Clark County does not take a position with respect to any other issues raised by other parties to the adjudication.

1 presented by this oil terminal infrastructure will be further heightened by the Port of Vancouver's
2 planned construction of an electrical substation immediately adjacent to and between the JWC
3 and the proposed crude oil piping. Moreover, in the event of an oil terminal related emergency
4 that threatens the JWC, there are insufficient emergency response resources to ensure the safety
5 of occupants of the JWC and/or facilitate a safe evacuation in a way that protects the inmates and
6 employees of the JWC and maintains public safety.

7 Clark County believes that *complete* mitigation of these significant risks is possible
8 through the Tesoro-Savage funded relocation of the JWC to a location that is not surrounded by a
9 crude oil terminal. Alternative *lesser* mitigation measures, such as relocating certain
10 infrastructure and providing substantial emergency response and evacuation resources, could
11 reduce, but not eliminate the threats that the oil terminal poses to the JWC population.

12 Ultimately, as currently designed and without mitigation, the facility presents serious threats to
13 the safety of those incarcerated and working at the JWC and is, therefore, not in the public's
14 interest. Clark County urges EFSEC to heavily weigh these risks throughout these proceedings
15 as it considers whether the proposed oil terminal is in the public's interest.

16 II. RELEVANT LEGAL AUTHORITY

17 Pursuant to RCW 80.50.010, EFSEC was established to "balance the increasing demands
18 for energy facility location and operation in conjunction with the broad interests of the public."
19 In furtherance of this charge, EFSEC has endeavored to evaluate specific energy projects while:
20 (1) balancing anticipated risks; (2) determining whether the project will provide energy at a
21 reasonable cost; and (3) determining whether the project is in the public interest of the State of
22 Washington and local communities. EFSEC is ultimately responsible for making a
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1 recommendation to the Governor regarding the permitting of the project after conducting a
2 thorough review that includes an assessment of “local governmental or community interests
3 affected by the construction or operation of the energy facility.” WAC 463-64-020. This
4 required assessment of “local governmental or community interests” necessarily includes, but is
5 not limited to, the balancing of all manner of risks to public health and safety, the sufficiency of
6 emergency response resources, and the impact that a project-related emergency would have upon
7 the community. Additionally, EFSEC must balance the totality of these risks and downstream
8 costs to the community against the need for the proposed project in the State of Washington.
9 WAC 463-14-020(3). This balancing must consider whether there is a need for additional energy
10 and whether a proposed project will even deliver energy to the State of Washington. Finally, EFSEC
11 must consider whether the project is in the public interest by considering and weighing all relevant
12 information submitted to determine whether factors such as public safety/health and essential public
13 services will be enhanced or compromised by the proposed project.

14 III. EVIDENCE TO BE PRESENTED BY CLARK COUNTY

15 A. **The proposed oil terminal presents unreasonable risks to inmates and employees of 16 the Clark County Jail Work Center (JWC).**

17 1. Pre-Filed Written Testimony of Dr. Eric Peterson:

18 Clark County has submitted the pre-filed written testimony of Dr. Eric Peterson, PhD (a
19 chemical engineer), which discusses and quantifies the unreasonable risks that the unmitigated
20 construction and operation of the proposed oil terminal pose to the inmate and employee
21 population of the JWC. Clark County has also submitted Dr. Peterson’s report as an exhibit to
22 these proceedings (Ex. 2001-000000-CLA). Dr. Peterson’s testimony and report document the
23 results of a comprehensive hazard screening and quantitative risk assessment that he performed

1 to determine potential oil terminal related threats to the JWC and its population. Through this
2 analysis, Dr. Peterson determined that 24-30" crude oil piping along the northern and eastern
3 boundaries of the JWC property, along with the planned construction of an adjacent electrical
4 substation, posed the greatest potential hazard to the JWC inmates and employees. In particular,
5 Dr. Peterson determined that this crude oil piping exposes the JWC population to the threat of jet
6 fires, which can occur whenever crude oil piping ruptures or otherwise loses containment and
7 encounters an ignition source. Following this hazard screening, Dr. Peterson performed a
8 Quantitative Risk Assessment (QRA) modeling analysis to more precisely characterize the threat
9 posed to the JWC population by the crude oil piping on the boundaries of the JWC property.

10 Dr. Peterson has testified that when evaluating off-site risks to facilities, such as the
11 JWC, a risk level of one in a million ($1 \times 10^{-6}/\text{yr.}$) is generally considered "broadly acceptable"
12 within the petro-chemical industry and, in his view, represents the appropriate minimum
13 threshold for co-locating an oil terminal and a 200-bed residential jail facility. Dr. Peterson has
14 further testified that greater levels of risk in excess of one in one hundred thousand ($1 \times 10^{-5}/\text{yr.}$)
15 or one in ten thousand ($1 \times 10^{-4}/\text{yr.}$) represent notably higher and generally unacceptable levels of
16 risk that are incompatible with a residential jail facility.

17 The results of Dr. Peterson's QRA modeling, which are detailed in his testimony, show
18 that the proposed oil terminal presented risks to the JWC population between 1 in 42,553 and 1
19 in 61,728, depending upon whether people are inside or outside during an emergency involving
20 the oil piping surrounding the JWC facility. These risk levels fall far above the "broadly
21 acceptable" 1 in a million standard that is appropriate for the co-location of oil terminal
22 infrastructure and a residential facility such as the JWC. Dr. Peterson has testified that this
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1 already unacceptable level of risk to the JWC population increases by 50% when the Port of
2 Vancouver's plan to build an electrical substation adjacent to the crude oil piping and JWC
3 property is factored into the analysis.² Specifically, Dr. Peterson concluded that the Port of
4 Vancouver's proposed electrical substation increased risk to the JWC population to between 1 in
5 27,473 and 1 in 40,816, again depending upon whether people are inside or outside during an
6 emergency.

7 Ultimately, based upon his modeling and analysis, Dr. Peterson concludes that, as currently
8 designed, the proposed oil terminal facility presents an unacceptable level of risk to the JWC
9 population that should be mitigated through specific and significant design changes or,
10 alternatively, relocation of the JWC to another suitable location that is not adjacent to the
11 proposed oil terminal and electrical substation.

12 **B. There are insufficient emergency response resources to protect the inmates and**
13 **employees at the JWC in the event of an oil terminal emergency.**

14 1. Pre-Filed Written Testimony of Richard Bishop:

15 Clark County's Chief Corrections Deputy, Richard Bishop, has provided pre-filed written
16 testimony addressing the critical role that the JWC serves in the community and discussing the
17 insufficiency of emergency response and evacuation resources to address an emergency at the
18 facility. Mr. Bishop has over 32 years of experience in corrections and public safety and
19 routinely testifies as an expert witness regarding jail operations and requirements.

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23 ² The Port of Vancouver has initiated condemnation proceedings to acquire land in the north east corner of the JWC property to build an electrical substation immediately adjacent to the proposed 24"-30" crude oil piping. (See Ex. 2002-000000-CLA, Port of Vancouver's *Petition for Condemnation*.)

1 In this case, Mr. Bishop has testified that the JWC facility has 200 inmate beds and 57
2 employees working during a 24-hour period at full operation. Additionally, the JWC serves an
3 essential role in supporting the operations of the main Clark County Jail, by providing all food
4 and laundry service to over 700 inmates located in that nearby facility. Finally, the JWC also
5 serves as a backup facility to the main jail, should that facility become uninhabitable for
6 whatever reason.

7 Mr. Bishop has testified that the JWC is not presently equipped to respond to an oil
8 terminal related emergency that would require immediate evacuation. In particular, Mr. Bishop
9 has testified that there is not a sufficient emergency or fire response capability at the JWC and
10 that the known evacuation routes from the JWC are unreliable because of their close proximity to
11 oil terminal infrastructure, which could be compromised during an emergency. Furthermore, Mr.
12 Bishop testified that an emergency evacuation of the JWC could put both inmates (many of
13 whom have special needs) and the public at risk.

14 Ultimately, Mr. Bishop believes that the proposed oil terminal presents very serious
15 emergency response challenges for the JWC that, to the extent possible, must be mitigated.
16 Based upon his experience administering jail facilities, Mr. Bishop does not believe that the
17 proposed terminal and the JWC are compatible adjacent uses. He states that Tesoro-Savage
18 funded relocation of the JWC is the only mitigation measure that would eliminate the threat
19 posed to inmates and employees of this facility. Short of relocating the facility, alternative
20 Tesoro-Savage funded mitigations should include dedicated JWC fire suppression equipment and
21 training, dedicated evacuation vehicles, and construction of an unimpeded evacuation route for
22 the JWC.

1 2. Pre-Filed Written Testimony of Scott Johnson:

2 Clark Regional Emergency Services Agency (CRESA) Emergency Manager, Scott
3 Johnson, has offered testimony on behalf of Clark County and The City of Vancouver addressing
4 the community's emergency response and evacuation capability as it pertains to the proposed oil
5 terminal.

6 With respect to the JWC, Mr. Johnson has testified that an emergency requiring the
7 evacuation of the JWC facility would be challenging due to the limited evacuation routes from
8 the facility and the bottleneck that is likely to occur as emergency responders and evacuees
9 attempt to use the same two lane fly-over road (which crosses over crude oil piping and train
10 tracks). Additionally, Mr. Johnson has testified that the JWC inmate population represents a
11 special needs community because they have specific court-ordered sheltering needs, security
12 requirements, and integrated food service and hygiene services that must be provided by local
13 government. Providing evacuation resources and an alternate secured shelter to this special needs
14 community would be especially challenging in the event of an oil terminal related emergency
15 that impacts the JWC.

16 **C. There will not be sufficient available Clark County law enforcement personnel to**
17 **adequately provide for public safety and /or mutual aid to surrounding jurisdictions**
during an oil terminal emergency impacting the JWC.

18 1. Pre-Filed Written Testimony of Clark County Sheriff Chuck Atkins:

19 Clark County Sheriff Chuck Atkins has offered testimony on behalf of Clark County
20 addressing his concerns regarding the proposed oil terminal and it's co-location with the JWC.
21 In particular, Sheriff Atkins testified that, for the reasons expressed by Dr. Peterson and Mr.
22 Bishop, he is very concerned that an oil terminal related fire or explosion could threaten the JWC
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1 population and/or necessitate the evacuation of the facility. In addition to these concerns, Sheriff
2 Atkins has testified that he is concerned about the serious secondary impact that an oil terminal
3 related emergency would have on the Clark County Sheriff's Office's (CCSO) ability to provide
4 essential law enforcement and emergency response services and/or mutual aid to other
5 jurisdictions. According to Sheriff Atkins, an oil terminal related emergency that necessitates
6 the evacuation of the JWC would require virtually every on-duty CCSO law enforcement deputy
7 to assist in the evacuation and rehousing of inmates at an alternate secure location. This
8 necessary diversion of CCSO resources would seriously strain its ability to respond to other
9 emergency calls in the community and could jeopardize public safety.

10 IV. CONCLUSION

11 The evidence to be presented by Clark County will show that the proposed oil terminal
12 presents serious, quantifiable, and unacceptable risks to the health and safety of the JWC
13 population. Clark County urges EFSEC to heavily weigh these risks as it prepares a
14 recommendation regarding whether this project should be permitted and, if so, what Tesoro-
15 Savage funded mitigation measures should be imposed to protect the JWC population.

16 DATED this 20th day of June, 2016, in Vancouver, Washington.

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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. I hereby certify that on this 10th day of June, 2016, I served the foregoing document, *Clark County's Prehearing Brief*, via email, on the parties listed below:

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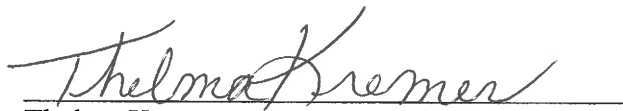
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9 I declare under penalty of perjury under the laws of the State of Washington that the
foregoing is true and correct.

10 DATED this 20th day of June, 2016, in Vancouver, Washington.

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12 
13 Thelma Kremer
Clark County Prosecutor's Office