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 **CITY OF SPOKANE'S HEARING BRIEF**

The City of Spokane submits this hearing brief for the adjudicatory hearing before the State of Washington Energy Facility Site Evaluation Council (EFSEC) in regard to the Application for Site Certification of Tesoro Savage, LLC. The application is for the construction and operation of the Vancouver Energy Distribution Terminal Facility (proposed Facility or proposed Project) in the Port of Vancouver, in Vancouver, Washington.

I. INTRODUCTION

The City of Spokane sits in a unique and precarious position in that the City is located between the most likely sources of crude oil for the proposed Facility produced in North Dakota, Montana and the provinces of Alberta and Saskatchewan, Canada and the oil train destination in the Port of Vancouver. While the City is not the location

of the oil source or the intermediate destination, it is located along the oil train rail transportation line operated by the Burlington Northern Southern Pacific (BNSF) railroad. The increase in oil train rail traffic through the City of Spokane creates the potential of harm to the City's public health, safety and welfare through potential impacts to the City's emergency management and fire protection response capabilities, the City's drinking water and storm water systems, the Spokane River, Latah Creek, the Spokane Valley-Rathdrum Prairie Aquifer and to the City's urban core. Adequate steps need to be taken through the EFSEC Site Certification Agreement to assure these issues are addressed in a manner that minimizes the potential harm to the City from an oil train derailment resulting in an explosion and/or an oil leak into the Spokane River, Latah Creek or the Spokane Valley-Rathdrum Prairie Aquifer.

Tesoro has applied for a Site Certification Agreement with EFSEC to construct and operate a new crude oil terminal capable of receiving 360,000 barrels of crude oil per day by train. Bakken crude oil would be delivered to the proposed facility by railroad within unit trains composed of up to 120 sole-purpose crude oil tank cars. The proposed project could potentially generate four unit trains of oil per day with an additional four empty trains returning back through Spokane. Existing railroad tracks belonging to BNSF railroad would be used to transport the crude oil from its source. The railroad lines run though the City of Spokane at its eastern edge, through the heart of the urban core of the City and exiting at its western edge along the Latah Creek.

II. EFSEC JURISDICTION

EFSEC is to review and make a recommendation regarding the selection and utilization of sites for energy facilities. The Washington State Legislature recognized the selection of sites will have a significant impact upon the welfare of the population. The Legislature further stated it is the policy of the State of Washington to recognize the pressing need for increased energy facilities and to ensure through available and reasonable methods that the location and 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. A project must be able to demonstrate that it will have in place "operational safeguards" which are "technically sufficient" to "assure Washington state citizens" that the Proposal is consistent with their welfare and that their protection and safety is assured. RCW 80.50.010 (1). The proposed project will impact not just the Port of Vancouver, but the City of Vancouver, Clark County, the Columbia River Gorge and the City of Spokane as oil for the proposed Project is transported across the state.

III. IMPACTS ON THE CITY OF SPOKANE

The BNSF rail line to be used for the transport of crude oil runs through the entire length of the City, including through the heart of its urban core. Ex 0171-000001-TSS. The route of the rail line will bring a potential of four 120 unit oil trains per day within close proximity of downtown Spokane, a municipal airport, the Spokane Intermodal bus and train station, a water wellhead, the Spokane Fire Training Center, two fire stations, the Fire Training Center, the Spokane River, Latah Creek, several

higher education facilities, and a local high school. Ex 2505-000001-SPO.

The transportation of High Hazard Flammable Trains (HHFT) through Spokane is not new. However, construction and operation of the proposed Facility will increase the risk of derailment in Spokane, imposing a higher demand upon the City's emergency response capabilities and leave gaps in the City's emergency preparedness due to higher traffic density. The proposed Project and the resulting oil train traffic will have the following impact on the City of Spokane.

1. Emergency Response Capabilities.

As noted in the pre-filed written expert testimony of Michael Hildebrand, crude oil transported in HHFTs using the current DOT-111 or CPC 1232 tank cars can cause large, complex and lengthy response scenarios that will generate numerous response issues beyond those normally seen by most local-level response agencies. In addition to the hazardous materials issues associated with the response problem, there will be a number of other secondary response issues that will require attention by the City's emergency response agencies. These will include evacuation, foam and water supply logistics, situational awareness, information management, public affairs, and infrastructure restoration. Managing an HHFT derailment and fire in an urban environment would require an Incident Management Team working in a Unified Command; *e.g.*, National Incident Management System Type-III Team. (See Page 5 of Hildebrand Testimony)

Confronted with an HHFT derailment with a fire, the City of Spokane's Fire Department will be faced with a full scale response utilizing all emergency response agencies. Suppression will require large quantities of foam concentrate, which presents most fire departments with significant challenges. Most fire departments do

not have foam concentrate stockpiles that can be rapidly deployed in time to change the outcome of the timeline of a HHFT fire. (See Pages 5 & 6 of Hildebrand Testimony)

The City of Spokane Fire Department and the Greater Spokane Department of Emergency Management have taken significant steps in improving their emergency preparedness and response capabilities to deal with an HHFT derailment. The two agencies have made their best efforts to utilize regional resources to prepare for an HHFT derailment scenario including obtaining advanced training on HHFT trains at national level schools, conducting training exercises, improving plans, strengthening mutual aid agreements among public agencies and preparing detailed transportation mapping that identifies elevation and drainage to support spill control decision making. (See Page 9 of Hildebrand Testimony) However, there are several deficiencies facing the City's emergency response agencies that the higher HHFT train density will create. The location of a derailment and the number of cars involved will present significant challenges.

The BNSF rail lines through the City are mostly on elevated platforms. There are several areas within the City center where a derailment involving a fire would be extremely challenging for the City's Fire Department including the locations at the overpasses between Cedar and Adams Street, the elevated overpass between Lincoln Street and Post Street and the elevated rail bridge on Sprague Street across from Division Street. 2505-000001-SPO. A derailment in these areas could potentially place rail cars on top of building and expose drainage flows to structures downhill from the derailment. (See Page 9 of Hildebrand Testimony).

2. <u>Firefighting and Hazardous Material Team Capabilities Emergency Notification, Evacuation and Sheltering</u>.

The transportation of crude oil by rail through the City of Spokane will have related impacts on the City's fire and emergency response capabilities, particularly in the areas of firefighting capabilities and hazardous material capabilities and emergency notification, evacuation, sheltering. The mere presence of oil train transport requires emergency preparedness.

3. Firefighting and Hazardous Material Team Capabilities.

The pre-filed written testimony of Assistant Fire Chief Brian Schaeffer provides in part that because of the size and complexity of an oil crude rail tank car related fire incident, the existing capability of the Spokane community will likely be inadequate and ineffective. Tactical issues such as a lack of AFFF Foam, access to and availability of large hose streams and firefighter staffing all contribute to the increasing risk to the Spokane community.

The Spokane Fire Department staffs a Type II Hazardous Materials Response Team with a daily roster of 13 personnel every 24 hours. The team is the only municipal hazardous materials team in the Spokane Region and is often forced to rely on off-duty personnel to fulfill staffing requirements. There are no municipal hazardous materials teams available to the City of Spokane through contract or mutual aid in Washington State. If a derailment were to occur, the crisis would immediately overwhelm the existing team and put responder and citizen lives in danger. (See Page 3 of Schaeffer Testimony)

4. Notification, Evacuation and Sheltering.

Assistant Fire Chief Schaeffer's testimony further provides that the City's emergency notification system lacks a comprehensive alert and warning system.

Specifically, the City's existing system cannot notify key facilities (schools, hospitals, assisted living facilities, etc.) of an oil train derailment utilize message sharing and layering, develop plume modeling, or the ability to utilize multiple platforms (e.g. phone, text, internet) for messaging. (See Page 2 of Schaeffer Testimony)

Under the City's current Evacuation Plan, the City of Spokane Police Department would be responsible to provide for the coordinated evacuation of the population from a hazard area, and coordinate their safe return when the threat has passed. The plan addresses evacuation emergency activities for the authorization, direction, routing and relocating of individuals from their homes, schools, and places of business on a very limited basis. This plan was developed to address small-scale incidents; primarily wild fires encroachment on the urbanized of the City. Nothing in this plan addresses an evaluation of the magnitude necessary to protect those in harm's way within an urbanized city center such as the City of Spokane. (See Page 2 of Schaeffer Testimony)

Once the public is notified to evacuate to an assembly area, they must be provided shelter. The City of Spokane and the greater region lack sufficient sheltering capability for an evacuation resulting from a train derailment and subsequent fire within an urbanized center. (See Page 3 of Schaeffer Testimony)

5. Water and Wastewater Systems.

The City of Spokane operates the largest water distribution system in the Spokane region and is the third largest water purveyor in the State of Washington. The City sits above the Spokane Valley-Rathdrum Prairie Aquifer ("Aquifer"), one of

the largest sole source aquifers in the country. The BNSF rail lines proposed to be used to transfer oil to the proposed Project cross directly over the aquifer as well as pass over the City's wellhead capture zone areas of two of the City's largest producing wells. (See Pages 2-3 of Kegley Testimony) and Ex 2503-000001-SPO. A derailment or spill in these areas would have the following impacts on the City's water and wastewater systems.

6. Wellhead Protection Zone.

The path of the BNSF rail line transporting oil trains to the proposed Project crosses a number of wellhead protection zones and travels within close proximity of the City's two largest producing wells for public drinking water. These two wells produce more than half of the City's annual public water supply. These wells are also within the gaining reaches of the Aquifer. The City's remaining wells could not compensate for the loss of these two wells. (See Page 3 of Kegley's Testimony)

7. Spokane River Impacts.

The BNSF rail lines transporting oil trains cross over and travel along the Spokane River for considerable distances. The Spokane River has a close connectivity to the Aquifer and flows directly into the Columbia River. A spill into the Spokane River would have a direct impact on the Aquifer through the losing reaches and conversely, spills away from the River can have a direct impact to the river through the gaining reaches of the Aquifer. (See Page 3-4 of Kegley Testimony)

8. Spokane Valley-Rathdrum Prairie Aquifer Impacts.

The City's Water and Hydroelectric Department operates and pumps the water for public water supply from the Aquifer. The Aquifer is intimately linked to the Spokane River, which flows into the Columbia River. In the event of an accident or spillage of crude oil during the transportation through the Spokane area, over the

Aquifer or along the Spokane River, such spillage could be crippling to the public's sole source of drinking water. (See Page 4 of Kegley Testimony)

IV. Department of Ecology Oil Spill Contingency Plan – Railroads

The Department of Ecology has proposed to adopt Chapter 173-186 WAC, entitled "Oil Spill Contingency Plan – Railroad," as published April 20, 2016 in the Washington State Register. WSR 16-08-117 (http://app.leg.wa.gov/documents/laws/wsr/2016/08/16-08-117.htm). The proposed regulations establish an oil spill contingency plan, drill and equipment verification requirements, and provisions for inspections of records for owners and operators of railroad facilities that are required to submit oil spill contingency plans under Chapter 90.56 RCW, and for the response contractors that are listed in the railroad plans.

Under proposed WAC 173-186-220 (3), each contingency plan shall state the size of the worst case spill. Under proposed WAC 173-186-310, the equipment necessary to address the worst case spill volume is to be brought to an incident over a period of time. All rail plan holders shall demonstrate access to the equipment. However, it is uncertain as to whether the equipment or funding to obtain the equipment will even be available or whether the impacted communities will be able to afford the equipment.

The City recognizes that the Department of Ecology has yet to adopt final regulations set forth under the Oil Spill Contingency Plan – Railroad proposal. However, the proposed rules demonstrate Ecology's recognition of the need for an oil spill contingency plan that prepares for the worst case scenario, including the

requirement for the necessary equipment. A site certification agreement for the proposed Project should adequately address the same concerns so as to not place the burden upon the local communities that will be impacted by and responsible for the emergency response to an oil train derailment, fire and/or spill.

V. CONCLUSION

While the City's emergency management response agencies have trained for a HHFT derailment and the Fire Department has specific emergency response capabilities, a large scale fire from an oil train derailment in the urban center would be beyond the Fire Department's capabilities. However,the City has to anticipate and prepare for such a scenario.

The EFSEC site evaluation process requires that the proposed Project demonstrate that it will have in place operational safeguards which are technically sufficient to assure Washington citizens that the Proposal is consistent with their welfare and that their protection and safety is assured. RCW 80.50.010 (1). A site certification agreement must also include conditions to protect state or local government or community interests affected by the construction or operation of the proposed Facility. WAC 463-64-020. The Spokane City Council recently expressed the same concern regarding safeguarding communities from the threat of oil train derailments. Ex 2504-000002-SPO. Such conditions, at a minimum, must provide for appropriate emergency response capabilities to address a worst case scenario and to close existing gaps in emergency response preparedness.

The application and evaluation process must assure that local communities impacted by the operation of the proposed Project, such as the City of Spokane, are not subject to increased harm to their public health, safety and welfare and increased burdens on their emergency response agencies and capabilities, and are not left to manage unrealistic responsibilities beyond their current capabilities.

Respectfully submitted, this 20th day of June, 2016.

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