



# Washington State Energy Facility Site Evaluation Council AGENDA

**MONTHLY MEETING**  
Tuesday, July 21, 2015  
1:30 PM

1300 S Evergreen Park Drive SW  
Olympia, WA 98504  
Hearing Room 206

1. Call to Order ..... Bill Lynch, EFSEC Chair
2. Roll Call ..... Tammy Mastro, EFSEC Staff
3. Proposed Agenda ..... Bill Lynch, EFSEC Chair
4. Minutes      **Meeting Minutes**..... Bill Lynch, EFSEC Chair
  - June 16, 2015
5. Projects      **a. Kittitas Valley Wind Project**
  - Operational Update..... Eric Melbardis, EDP Renewables**b. Wild Horse Wind Power Project**
  - Operational Update..... Jennifer Diaz, Puget Sound Energy**c. Grays Harbor Energy Center**
  - Operational Update..... Rich Downen, Grays Harbor Energy**d. Chehalis Generation Facility**
  - Operational Update..... Mark Miller, Chehalis Generation Staff**e. Columbia Generating Station**
  - Operational Update..... Shannon Khounnala, Energy Northwest**f. WNP - 1/4**
  - Non-Operational Update..... Shannon Khounnala, Energy Northwest**g. Tesoro/Savage Vancouver Energy Distribution Terminal**
  - Project Update..... Sonia Bumpus, EFSEC Staff**h. BP Cherry Point Cogeneration**
  - Non-Operational Update..... Stephen Posner, EFSEC Staff
6. Action Items      **a. Air Rules Adoption**
  - Activity Update..... Jim La Spina, EFSEC Staff

*The Council may consider and take **FINAL ACTION** on adoption of air rules to be consistent with Department of Ecology and EPA rules*

**b. Revised Penalty Guidance**
  - Activity Update..... Bill Lynch, EFSEC Chair

*The Council may consider and take **FINAL ACTION** on adoption of a penalty policy and procedure*
7. Other      **a. EFSEC Council**
  - Legislation Update ..... Bill Lynch, EFSEC Chair
  - Other Rules Update..... Bill Lynch, EFSEC Chair
  - 1<sup>st</sup> Quarter Cost Allocation..... Stephen Posner, EFSEC Staff
8. Adjourn ..... Bill Lynch, EFSEC Chair

Note: "FINAL ACTION" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.02

Verbatim Transcript of Monthly Council Meeting

Page 1	Page 3
<p>1</p> <p>2</p> <p>3</p> <p>4 WASHINGTON STATE</p> <p>5 ENERGY FACILITY SITE EVALUATION COUNCIL</p> <p>6 Richard Hemstad Building</p> <p>7 1300 South Evergreen Park Drive Southwest</p> <p>8 Conference Room 206</p> <p>9 Olympia, Washington</p> <p>10 Tuesday, June 16, 2015</p> <p>11 1:30 p.m.</p> <p>12</p> <p>13</p> <p>14</p> <p>15 MONTHLY COUNCIL MEETING</p> <p>16 Verbatim Transcript of Proceedings</p> <p>17</p> <p>18</p> <p>19</p> <p>20 REPORTED BY: RYAN ZIEGLER, RPR, CCR #3348</p> <p>21 Buell Realtime Reporting, LLC</p> <p>22 1325 Fourth Avenue</p> <p>23 Suite 1840</p> <p>24 Seattle, Washington 98101</p> <p>25 206.287.9066   Seattle</p> <p>360.534.9066   Olympia</p> <p>800.846.6989   National</p> <p>www.buellrealtime.com</p>	<p>1 Olympia, Washington</p> <p>2 1:30 p.m.</p> <p>3 --o0o--</p> <p>4</p> <p>5 P R O C E E D I N G S</p> <p>6 CHAIR LYNCH: Good afternoon. Today is</p> <p>7 June 16th, 2015. It's 1:30 p.m. It is the June regular</p> <p>8 council meeting for the Energy Facility Site Evaluation</p> <p>9 Council.</p> <p>10 And could we please have the Staff call the</p> <p>11 role?</p> <p>12 MS. MASTRO: Department of Commerce?</p> <p>13 MS. GREEN TAYLOR: Liz Green Taylor here.</p> <p>14 MS. MASTRO: Department of Ecology?</p> <p>15 MR. STEPHENSON: Cullen Stephenson here.</p> <p>16 MS. MASTRO: Fish and Wildlife?</p> <p>17 MR. STOHR: Joe Stohr's here.</p> <p>18 MS. MASTRO: Department of Natural Resources?</p> <p>19 MR. SIEMANN: Dan Siemann here.</p> <p>20 MS. MASTRO: Utilities and Transportation</p> <p>21 Commission?</p> <p>22 MR. MOSS: Dennis Moss is here.</p> <p>23 MS. MASTRO: Local governments and optional</p> <p>24 state agencies.</p> <p>25 Department of Transportation?</p>
Page 2	Page 4
<p>1</p> <p>2 A P P E A R A N C E S</p> <p>3 Council Members Present:</p> <p>4 BILL LYNCH, Chairman</p> <p>5 LIZ GREEN TAYLOR, Department of Commerce</p> <p>6 CULLEN STEPHENSON, Department of Ecology</p> <p>7 JOE STOHR, Fish and Wildlife</p> <p>8 DAN SIEMANN, Natural Resources</p> <p>9 DENNIS MOSS, Utilities &amp; Transportation Commission</p> <p>10</p> <p>11 Local Government and Optional State Agencies:</p> <p>12 KEN STONE, Department of Transportation</p> <p>13 GREG SHAFFER, Clark County</p> <p>14 LARRY PAULSON, Port of Vancouver</p> <p>15 BRYAN SNODGRASS, City of Vancouver</p> <p>16</p> <p>17 Attorney General's Office:</p> <p>18 ANN C. ESSKO, Assistant Attorney General</p> <p>19</p> <p>20 EFSEC Staff:</p> <p>21 CASSANDRA NOBLE, Administrative Law Judge</p> <p>22 KALI WRASPIR</p> <p>23 TAMMY MASTRO</p> <p>24 STEPHEN POSNER</p> <p>25 SONIA BUMPUS</p> <p>JIM LASPINA</p> <p>JOAN AITKIN</p> <p>26</p> <p>27 Guests:</p> <p>28 RICHARD DOWNEN, Grays Harbor Energy</p> <p>29 KEVIN FREEMAN, Cardno ENTRIX</p> <p>30 JAN AARTS, Cardno ENTRIX</p> <p>31 SUSAN DRUMMOND, City of Vancouver (via phone)</p> <p>32 TIM MCMAHAN, Stoel Rives (via phone)</p> <p>33 SHANNON KHOUNNALA, Energy Northwest (via phone)</p> <p>34 GRANT BAILEY, Golder Associates (via phone)</p> <p>35 CONNIE SUE MARTIN, Schwabe, Williamson, and Wyatt (via phone)</p>	<p>1 MR. STONE: Ken Stone is here.</p> <p>2 MS. MASTRO: City of Vancouver?</p> <p>3 MR. SNODGRASS: Bryan Snodgrass is here.</p> <p>4 MS. MASTRO: Clark County?</p> <p>5 MR. SHAFFER: Greg Shafer, here.</p> <p>6 MS. MASTRO: Port of Vancouver?</p> <p>7 MR. PAULSON: Larry Paulson's here.</p> <p>8 MS. MASTRO: Chair, there is a quorum.</p> <p>9 CHAIR LYNCH: Thank you.</p> <p>10 I'm going to just have the Council Members</p> <p>11 take a quick look at the proposed agenda. Note that, after</p> <p>12 we take a look at the -- approve the minutes from the May</p> <p>13 meeting, that we're going to be going into executive</p> <p>14 session for roughly half an hour. And for now, I'll just</p> <p>15 ask if there's any changes to the proposed agenda.</p> <p>16 Seeing none, let's go ahead and take a look</p> <p>17 at the minutes from the May 19th meeting. I would just</p> <p>18 note one correction that I -- I found, and that's on</p> <p>19 page 14, line 10. On line 10, it makes a reference to "the</p> <p>20 internal optimist," instead of "the eternal optimist." An</p> <p>21 internal optimist is more like Council Member Stohr. He's</p> <p>22 optimistic; he just doesn't tell anybody.</p> <p>23 MR. MOSS: Chair Lynch, I would note a second</p> <p>24 minor correction, ironically enough, to the word "meeting"</p> <p>25 on line 22 of page 5, which should be "minutes."</p>



Verbatim Transcript of Monthly Council Meeting

Page 5	Page 7
<p>1 CHAIR LYNCH: That's right. Very good.</p> <p>2 Any other corrections?</p> <p>3 At this point in time, I'll entertain a</p> <p>4 motion to approve the May 19 meeting minutes as corrected.</p> <p>5 MR. MOSS: Chair Lynch, I would move that we</p> <p>6 approve the meeting minutes of May 19th as corrected.</p> <p>7 CHAIR LYNCH: Do we have a second?</p> <p>8 MR. STOHR: I'll second.</p> <p>9 CHAIR LYNCH: It's been moved and seconded</p> <p>10 that we approve the May 19th meeting minutes as corrected.</p> <p>11 All those in favor say, "Aye."</p> <p>12 MULTIPLE SPEAKERS: Aye.</p> <p>13 CHAIR LYNCH: Opposed?</p> <p>14 Motion carries.</p> <p>15 And at this point in time, I would like to</p> <p>16 announce a brief executive session for the -- pursuant to</p> <p>17 RCW 40 -- excuse me -- 42.30.110, sub 1, sub little i, to</p> <p>18 discuss with legal counsel potential litigation to which</p> <p>19 the agency may become a party.</p> <p>20 This will last approximately one half hour,</p> <p>21 so we -- we should be back by 5 after 2; and with that,</p> <p>22 we're in recess for executive session.</p> <p>23 (A recess was taken from 1:34 p.m. to 2:07 p.m.)</p> <p>24 CHAIR LYNCH: Let's go ahead and go back on</p> <p>25 the record. The Council has finished its executive</p>	<p>1 to see if there were any things of note?</p> <p>2 MR. LASPINA: No, sir. The -- the project</p> <p>3 representatives were instructed that, unless they have</p> <p>4 something nonroutine to report, that it would not be</p> <p>5 necessary to call in because we didn't know how long the</p> <p>6 executive session would be.</p> <p>7 CHAIR LYNCH: Okay. Very good. There's --</p> <p>8 doesn't appear that -- there's no incidents.</p> <p>9 And so we'll move ahead to Wild Horse Wind</p> <p>10 Power Project. I think I heard Ms. Diaz say she was on the</p> <p>11 line. No?</p> <p>12 Well, let's take a look here to see what</p> <p>13 they've reported.</p> <p>14 MR. LASPINA: Nothing -- nothing routine --</p> <p>15 nonroutine to report, Chair Lynch, and their report's on</p> <p>16 the pink paper.</p> <p>17 CHAIR LYNCH: Okay. So we'll move forward to</p> <p>18 Grays Harbor Energy Center, and I see Mr. Downen has taken</p> <p>19 a seat in front of the microphone. Welcome.</p> <p>20 MR. DOWNEN: Afternoon, Chair Lynch, Council</p> <p>21 Members, and Staff.</p> <p>22 For the month of May, our operational report,</p> <p>23 the only thing off normal there is that we finished up our</p> <p>24 maintenance outage in the first week of May, and that's the</p> <p>25 only thing nonroutine.</p>
Page 6	Page 8
<p>1 session, and what I'd like to do is give those people who</p> <p>2 are on the phone who wish to identify themselves the</p> <p>3 opportunity to do so now.</p> <p>4 MS. DRUMMOND: Susan Drummond, City of</p> <p>5 Vancouver.</p> <p>6 MR. MCMAHAN: Tim McMahan, Stoel Rives.</p> <p>7 MS. KHOUNNALA: Shannon Khounnala, Energy</p> <p>8 Northwest.</p> <p>9 (Multiple speakers.)</p> <p>10 COURT REPORTER: I'm sorry?</p> <p>11 CHAIR LYNCH: I'm sorry. Let's have the --</p> <p>12 the woman go first and then the gentleman afterwards who</p> <p>13 just spoke.</p> <p>14 MS. MARTIN: Thank you, and I'm sorry.</p> <p>15 Connie Sue Martin, Schwabe, Williamson, and Wyatt.</p> <p>16 MR. BAILEY: Grant Bailey with Golder in</p> <p>17 Seattle.</p> <p>18 CHAIR LYNCH: Okay. It's time to move into</p> <p>19 our updates for the projects.</p> <p>20 Kittitas Valley Wind Project. Mr. Melbardis?</p> <p>21 Do we have Mr. Melbardis with us?</p> <p>22 MR. LASPINA: Mr. Melbardis was not able to</p> <p>23 join us with us today, so the Kittitas Valley Wind Project</p> <p>24 report's on the green paper in your folder.</p> <p>25 CHAIR LYNCH: And Mr. LaSpina, did you happen</p>	<p>1 And then I was going to talk about something</p> <p>2 that happened in June, which would be in next month's</p> <p>3 report, but I figured we could talk about it now since</p> <p>4 we've reported it to --</p> <p>5 CHAIR LYNCH: Yes, please go ahead.</p> <p>6 MR. DOWNEN: -- EFSEC Staff, so.</p> <p>7 Yesterday, we made the -- submitted our</p> <p>8 official report to Mr. LaSpina, and maybe I'll just kind of</p> <p>9 do a broad overview and then a summary and then talk about</p> <p>10 the actions that we took or that we're in the process of</p> <p>11 taking.</p> <p>12 CHAIR LYNCH: Sure.</p> <p>13 MR. DOWNEN: Okay.</p> <p>14 CHAIR LYNCH: But realizing that we'll</p> <p>15 probably have -- just kind of keep it on a higher level,</p> <p>16 because we'll probably have more of an in-depth report from</p> <p>17 you next month.</p> <p>18 MR. DOWNEN: Correct.</p> <p>19 So on -- on June 7th -- so this is related to</p> <p>20 our outfall, which is the blowdown stream of water that</p> <p>21 goes -- leaves our cooling tower basin and it goes to</p> <p>22 the -- to the Chehalis River, and it's a monitored</p> <p>23 discharge point. We monitor pH, chlorine, and temperature.</p> <p>24 And during the routine maintenance of the pH</p> <p>25 probe that's in that line, we -- they performed the</p>



Verbatim Transcript of Monthly Council Meeting

<p style="text-align: right;">Page 9</p> <p>1 maintenance on the -- on the line, on the pH probe, and  2 then the operator put a simulated value of 7.0 pH in to be  3 able to reopen the -- the outflow fall valve.  4 And it's -- part of that -- part of that  5 maintenance process is it gets rinsed with various buffers  6 or tested and -- with various buffers, so it was giving an  7 erroneous reading, and to -- to establish flow, you have to  8 open the valve, so you have to simulate the value so that  9 the valve, which is locked out by that pH probe, will open.  10 So -- so they did that, and then there were a  11 number -- number of things came up. He forgot that he had  12 the -- the false value plugged into the system, and it  13 wasn't -- it was about three days later that someone on  14 staff noticed that pH hadn't changed in that -- in that  15 out- -- outfall value, so it was corrected at that point.  16 The value was -- the false value was removed and -- and pH  17 read normal.  18 So there's -- there's two pH probes that  19 monitor that water. One is in the basin, and the pipe  20 exits the basin and goes to outfall, and there's a pH probe  21 there. So looking at -- looking at data during that --  22 that period of time, we're absolutely certain of what  23 the -- the range of pH fluctuation was during that  24 three-day period with that -- with that instrument  25 effectively out of service.</p>	<p style="text-align: right;">Page 11</p> <p>1 of big picture what happened.  2 The -- the corrective actions that we've --  3 we've taken, we -- immediately, we validated that the  4 two -- that -- that the pH -- that the two locations of the  5 same -- same piece of water were -- were in agreement with  6 each other, and we put it back in service, and we -- we  7 continued on.  8 We called Mr. LaSpina to let him know what  9 happened, and -- and then these are the -- the corrective  10 actions that we have -- have taken and that we are planning  11 to take. So the weekly outfall pH and free chlorine  12 analyzer calibration procedure's been changed to perform  13 the final pH probe rinse with a pH 7 buffer.  14 If you rinse it with something outside of the  15 normal band, it keeps that valve locked out, and you  16 have -- you have to do something to -- to open that valve,  17 so -- and we changed the procedure to -- to finally rinse  18 it with a pH 7 buffer solution so that it would be more in  19 agreement with what the processed water is.  20 This action will prevent the control valve  21 from being locked out due to -- to mineralized water or a  22 lower or higher pH buffer being used to rinse the probe.  23 And we've also made the decision that we're  24 going to -- we're going to modify the -- going to make a  25 modification to the plant were -- what we don't have is --</p>
<p style="text-align: right;">Page 10</p> <p>1 And that -- the basin-level pH varied from a  2 low of 7.56 to a high of 8.02, which is well within the  3 limits of the 6 to 9 range that we are permitted to -- to  4 discharge water.  5 So -- so our -- the biggest concern that we  6 had is, did we discharge water outside of -- of our normal  7 means without -- without knowing it, and the answer to that  8 is no, we did not, because we have basically two pH probes  9 that monitor the same -- the same body of water, if you  10 would call it that.  11 So -- so we didn't discharge any -- any water  12 that was outside of our allowed band, but what we did not  13 do is, with that one pH probe out of service, we're  14 required to take four-hour grab samples just to validate,  15 and that -- that wasn't done.  16 There's normal samples that are taken at the  17 cooling tower basin twice a day, and -- and those were  18 always validated that that basin water pH probe was -- was  19 accurate and tracking.  20 So the -- the real -- I mean, there's --  21 there's a few issues, but the big issue permit-wise is that  22 we weren't taking four-hour grab samples, which is what  23 we're required to do, and it allows us to operate if that  24 probe was completely out of service, it was broke and we  25 didn't have a replacement for it. So that's -- that's kind</p>	<p style="text-align: right;">Page 12</p> <p>1 is we have the -- the basin, and then we have the discharge  2 pipe, and then we have a pH probe down here (indicating)  3 and a pH probe in the basin.  4 So we're going to -- we're going to put in a  5 flushing line that goes from the -- right before the  6 outfall valve back to the -- back to the cooling tower  7 basin so that we can recirculate that and have flow across  8 that probe prior to needing to open the valve, so we're  9 going to make that modification. That'll take a little bit  10 of time, but -- but we -- we think that that's the right --  11 the right -- the right plant fix.  12 Following actions will be taken to prevent  13 recurrence of this noncompliance: Each operation's crew  14 will receive training on the implemented procedure change.  15 They will also receive training on the limitations for use  16 of simulated values. Training will occur on the proper and  17 expected use of the plant logging system. Details of this  18 event will be reviewed with each operation's crew, and  19 installation of that piping to allow recirculation.  20 So that's the corrective actions that we've  21 began -- begun to implement and will continue until they're  22 done.  23 CHAIR LYNCH: Okay. Thank you, I'm going to  24 hold off on having Council Members ask Mr. Downen any  25 questions. Because our Staff just got the report --</p>



## Verbatim Transcript of Monthly Council Meeting

Page 13	Page 15
<p>1 MR. DOWNEN: Right.</p> <p>2 CHAIR LYNCH: -- on this, I -- we'd like an</p> <p>3 opportunity to have our Staff review and report back to us</p> <p>4 with any recommendations.</p> <p>5 MR. DOWNEN: Okay.</p> <p>6 CHAIR LYNCH: I appreciate you being here</p> <p>7 today to let us know about this.</p> <p>8 MR. DOWNEN: So I just want to make sure that</p> <p>9 everybody understands that -- that no water was discharged</p> <p>10 that was outside of -- that -- that's the -- the big</p> <p>11 emphasis that I wanted to make sure that you guys know,</p> <p>12 that we didn't put any bad water in the river.</p> <p>13 CHAIR LYNCH: Thank you.</p> <p>14 MR. DOWNEN: Are there any other questions on</p> <p>15 my report? All right.</p> <p>16 CHAIR LYNCH: All right. Thanks, Mr. Downen.</p> <p>17 MR. DOWNEN: Thank you.</p> <p>18 CHAIR LYNCH: Is Mr. Miller here, Chehalis</p> <p>19 Generation Facility?</p> <p>20 Mr. LaSpina?</p> <p>21 MR. LASPINA: The -- the Chehalis re- --</p> <p>22 monthly report's on the light blue paper. They didn't have</p> <p>23 anything nonroutine to report.</p> <p>24 CHAIR LYNCH: Okay. And Council Members can</p> <p>25 certainly review their -- the reports from the various</p>	<p>1 safety incidents or regulatory issues to report.</p> <p>2 Any questions regarding Columbia?</p> <p>3 CHAIR LYNCH: Any questions regarding</p> <p>4 Columbia for Ms. Khounnala?</p> <p>5 Why don't you go ahead and continue on with</p> <p>6 WNP 1 and 4?</p> <p>7 MS. KHOUNNALA: Certainly. In regard to</p> <p>8 WNP 1 and 4, the status of that project has not changed</p> <p>9 since the last report in that the Department of Energy is</p> <p>10 continuing to work with their selected contractor in</p> <p>11 scoping and the beginning preparations of a NEPA EA for</p> <p>12 implementation of the water rights that were obtained</p> <p>13 earlier this year.</p> <p>14 CHAIR LYNCH: Any questions for</p> <p>15 Ms. Khounnala?</p> <p>16 Very good. Thank you.</p> <p>17 MS. KHOUNNALA: Thank you.</p> <p>18 CHAIR LYNCH: And now we're going to have the</p> <p>19 project update regarding Tesoro/Savage Vancouver Energy</p> <p>20 Distribution Terminal, and Ms. Bumpus, why don't you give</p> <p>21 us an update?</p> <p>22 And Mr. Freeman, why don't you go ahead and</p> <p>23 work your way up to the microphone up here, because we're</p> <p>24 going to -- following Ms. Bumpus's update, Mr. Freeman,</p> <p>25 who's with Cardno, our -- our consultant for the Tesoro</p>
Page 14	Page 16
<p>1 projects following the meeting.</p> <p>2 Columbia Generating Station. Ms. Khounnala?</p> <p>3 MS. KHOUNNALA: Yes. Good afternoon, Chair</p> <p>4 Lynch and Council Members. Reporting for Columbia</p> <p>5 Generating Station. Today, reporting that we are in our</p> <p>6 final days of our R22 refueling outage. It should be</p> <p>7 coming to a close later --</p> <p>8 COURT REPORTER: I'm sorry. I can't hear.</p> <p>9 CHAIR LYNCH: I'm sorry, Ms. Khounnala. Can</p> <p>10 you -- we are barely able to hear what you're saying, so</p> <p>11 could you mind getting a little closer to the phone or</p> <p>12 speaking a little louder?</p> <p>13 MS. KHOUNNALA: Sure. Is that better?</p> <p>14 CHAIR LYNCH: That's much better. Thank you.</p> <p>15 MS. KHOUNNALA: Okay. Sure.</p> <p>16 So today, we just want to report out that our</p> <p>17 R22 refueling outage is coming to a close later this week</p> <p>18 and this weekend, and it is expected that Columbia will be</p> <p>19 resuming online operations the week of June 22nd.</p> <p>20 To date, we are also happy to report that</p> <p>21 there has been no recordable or lost-time injuries during</p> <p>22 this refueling outage when, of course, we have a large</p> <p>23 number of supplemental staff on site, so we consider that</p> <p>24 part of our success here.</p> <p>25 Outside of that, there are no other events or</p>	<p>1 project -- and yes, and Jan Aarts is also joining him --</p> <p>2 they're going to update us on where we are.</p> <p>3 But, Ms. Bumpus, please go ahead.</p> <p>4 MS. BUMPUS: Thank you. Good afternoon,</p> <p>5 Chair Lynch and Council Members. I'm going to just give a</p> <p>6 couple of updates with respect to the permits to start off.</p> <p>7 The stormwater NPDES construction permit,</p> <p>8 EFSEC received comments from our ecology permit writer</p> <p>9 contractor earlier this month. We received those comments,</p> <p>10 and EFSEC is reviewing that information and preparing to</p> <p>11 submit it to the applicant, and it is requesting some</p> <p>12 additional information for development of the NPDES</p> <p>13 construction permit.</p> <p>14 For the stormwater NPDES industrial permit,</p> <p>15 the contractor at Ecology is coordinating with EFSEC and is</p> <p>16 still reviewing that information, and we do expect that</p> <p>17 that review will be complete in the next couple of weeks,</p> <p>18 and we'll be coordinating information exchange with the</p> <p>19 applicant, so we'll keep you posted on that.</p> <p>20 For the notice of construction air permit,</p> <p>21 that permit is still under -- under review, but is also</p> <p>22 being written, and we're coordinating the preparation and</p> <p>23 development of that permit with the Ecology contractor, so</p> <p>24 again, we'll keep you updated, but that is moving along.</p> <p>25 At this point, I just want to bring your</p>



## Verbatim Transcript of Monthly Council Meeting

Page 17	Page 19
<p>1 attention to a letter that is in your packets. This is a  2 memorandum dated May 28th, 2015, from the U.S. Army Corps  3 of Engineers with respect to the nationwide permit that the  4 Corps originally, in early 2014, was anticipating for the  5 work proposed at the marine terminal for this project.  6 And once you've had a chance to review the  7 letter, you'll see that they do provide some explanations,  8 some details. They are going to go the route of a standard  9 individual permit. Part of that will require that Ecology  10 and EFSEC and the Corps do some coordination. There's a  11 public notice that's involved. When the Corps goes out to  12 comment for the Section 404, we will also coordinate joint  13 comment on the Section 401.  14 Are there any questions about -- about that  15 before I continue?  16 CHAIR LYNCH: Any questions so far for  17 Ms. Bumpus?  18 No. Please continue.  19 MS. BUMPUS: Okay. So I'll move on to the  20 EIS update. We're still working on the draft environmental  21 impact statement. We have Jan Aarts and Kevin Freeman here  22 from Cardno to discuss the work that they're doing with us  23 and all of the coordination efforts and -- and work that  24 are -- are ahead.  25 So I'll go ahead and hand this over to Jan</p>	<p>1 traffic related to the project on the outbound end of this  2 terminal project.  3 Some of the -- all of those issues come  4 together in terms of a risk analysis that we are  5 conducting. We've engaged Dagmar Etkin to assist us with  6 that. Dagmar assisted the State of Washington in their  7 rail analysis that was completed earlier this year, and we  8 think it's very important that the work we do be consistent  9 with that work.  10 In addition to the risk analysis -- and by  11 the way, that does look at rail and vessels -- we have  12 conducted a seismic hazard analysis at the request of  13 Council, knowing how important that is to all of you and to  14 the state.  15 We've brought in the expert support of  16 Dr. C.B. Crouse and his team from AECOM. Dr. Crouse and I  17 have worked together over many years. He is an expert in  18 the Cascadia Subduction Zone and the potential seismic  19 issues surrounding that zone, and that work is ongoing as  20 we speak.  21 We also are, you know, looking at fire safety  22 analyses and emergency response capabilities along the  23 route; and again, we have expert support to make sure that  24 our outreach to emergency responders along the corridor is  25 appropriate and complete.</p>
Page 18	Page 20
<p>1 and -- and Kevin.  2 CHAIR LYNCH: Mr. Freeman and Mr. Aarts,  3 welcome. Certainly appreciate how the role of your firm  4 has changed since you originally bid on this project. You  5 were originally going to just review a draft EIS prepared  6 by another consultant, and that's morphed into not only  7 preparing a draft EIS but modifying someone else's draft  8 EIS.  9 And we certainly also understand and  10 appreciate that this is a very complex, major project  11 you're dealing with, but having -- having said all that, we  12 thought we were on track to get a draft EIS in July, and  13 could you please tell us -- tell the Council why Cardno  14 needs some more time, and can you give us some specific  15 examples regarding that.  16 MR. FREEMAN: Sure. Well, first, good  17 afternoon, Chairman Lynch, Council Members, Council Staff,  18 and other guests who are either here or on the phone.  19 Partial answer to the question you just  20 asked, Chairman Lynch, is that, as you said, this is a very  21 complicated project. As many of you know, we're assessing  22 impacts not only of the site at the Port of Vancouver, but  23 we're looking at rail impacts in the State of Washington  24 along the proposed rail route to the facility. We're  25 looking also at vessels and the potential impacts of vessel</p>	<p>1 And interestingly enough, just this week, we  2 also outreached to BNSF with the support of your Staff. We  3 were able to have a meeting with them to talk about some of  4 their response capabilities.  5 Because of the complexity of the project,  6 even though a very large volume of information was provided  7 to EFSEC by the applicant, in the work that we have done,  8 we have asked and completed nine additional data requests  9 and submitted those to the applicant and their consultants  10 so that they can provide additional detail or clarification  11 where we felt we needed clarification or that there might  12 be some additional data that would assist in the impact  13 analysis.  14 CHAIR LYNCH: Let me stop you right there,  15 just -- and all of those data requests have been responded  16 to?  17 MR. FREEMAN: Absolutely.  18 CHAIR LYNCH: Okay.  19 MR. FREEMAN: Absolutely. In fact, the  20 applicant and their consultants have been very forthcoming,  21 and we feel that we've had some very important and  22 meaningful meetings up to and including over the last week  23 relative to vessel traffic, number of vessels in, number of  24 vessels out, size of vessels.  25 And you asked for examples. That's</p>



## Verbatim Transcript of Monthly Council Meeting

Page 21	Page 23
<p>1 actually -- we'll segue into that as an example. I mean,  2 part of what the risk analysis needs to do is to look at  3 the -- you know, the volume of oil, how is that oil being  4 transported, and when.</p> <p>5 And while there's -- there were descriptions  6 of that provided within the information that the applicant  7 initially gave to EFSEC, through the course of discussions  8 with the applicant, we've clarified some of the vessel mix  9 and the size of the vessels involved and what the  10 percentage of various sized vessels is likely to be, both  11 at the beginning of the project and as the project  12 proceeds.</p> <p>13 Now, that's important because the risk  14 analysis is looking at, what potential is there for a  15 release? Even though these are, you know, very  16 remote-possibility events, we have to look at that because  17 a release is an important thing to consider in the overall  18 impact analysis.</p> <p>19 So we have worked with the applicant to make  20 sure we clearly understand the number of trains that are  21 coming to the facility, the maximum number of trains that  22 would be at the facility on any given day, how many would  23 be the maximum number transporting the rail route in a day,  24 and how does that tie into the number of vessels coming in,  25 the need for storage, and what mix of vessels would be</p>	<p>1 site.</p> <p>2 That information, you know, includes the  3 implementation of things called deep-soil mixed panels, and  4 those are being supported by a combination of stone columns  5 and jet grout columns.</p> <p>6 You can imagine that, to do that, you know,  7 there's the requirement for batch plants and other things  8 at the facility, and our analysts need to have that  9 information so that they can go back: Does that impact  10 traffic in and out of the site during construction? Does  11 it impact noise? Does it impact air quality? All of these  12 are the kind of things that we are addressing.</p> <p>13 And in addition to that, you know, we're  14 looking at those -- those improvements, those ground  15 improvements. We're providing those to Dr. Crouse and his  16 team and having them, you know, look at it, and if they  17 have any questions, then they're providing those back to  18 the applicant, so those are examples of the kind of very  19 complicated interactions that are going on.</p> <p>20 This is to get us all to a point where we  21 have a complete and defensible environmental analysis, and  22 for that reason, you know, the schedule -- more time is  23 required to get the draft EIS completed.</p> <p>24 CHAIR LYNCH: I appreciate you mentioning  25 that we need something -- a product that's complete and</p>
Page 22	Page 24
<p>1 going out.</p> <p>2 All that is -- is to assist in the risk  3 analysis that we're performing, and that takes time, and  4 it's complicated. And again, the applicant's provided us  5 what we need to get that done.</p> <p>6 As a result, I think not only of the fact  7 that we've been asking these questions, but that the  8 applicant themselves have continued on with their design,  9 probably moving closer to final design than maybe they  10 initially were thinking they'd have to be at this point in  11 time, but they have provided us additional information as a  12 result of ongoing design efforts, and we're taking that  13 information.</p> <p>14 As we get that new information, then that  15 really has a bit of a ripple effect in the overall resource  16 analysis, because as we get information on design changes,  17 then we have to provide that to our resource analysts, and  18 they have to, you know, decide what are the potential  19 impacts that could be related to the implementation of  20 these new design changes.</p> <p>21 An example that I think is appropriate to  22 that is -- and -- and I think this again shows the -- the  23 interaction that's occurring between EFSEC and the  24 applicant -- a lot more information has been developed  25 relative to ground improvements at the marine terminal</p>	<p>1 defensible, because, I mean, we need them to manage the  2 project in a manner that's, you know, efficient, but yet we  3 need to be comprehensive enough so that we're meeting our  4 responsibilities that we have under the law.</p> <p>5 And I'd say, at this point in time, now, that  6 we're less dependent on getting information from the  7 applicant. I mean, they've responded to numerous requests  8 of yours and -- and our Staff, and so I -- I think we're at  9 the point where I want Cardno to provide the Council with a  10 schedule for the rest of the work on the DEIS, and I would  11 really like this by the end of this week. We just need to  12 get the -- the draft EIS done. It's -- so much is tied to  13 that draft EIS.</p> <p>14 And in the development of the schedule, I  15 mean, I -- recognizing that in -- you know, we need to be  16 both economical, so we need to have an efficient schedule,  17 but we also need to be realistic in terms of the timing of  18 it. I know things -- things always come up, and, you know,  19 that just happens with any project.</p> <p>20 But I want you to communicate to all the  21 subconsultants that are working with you that we expect  22 them to meet the milestones that are established as part of  23 this schedule in order to have the DES -- DEIS completed.</p> <p>24 Because when we manage this project, we have  25 to manage it -- the project well not only for the</p>

## Verbatim Transcript of Monthly Council Meeting

Page 25	Page 27
<p>1 applicant, but for the community, not only the Vancouver 2 community, but the entire Washington community and for the 3 governor. And I think that we also need to -- you know, to 4 provide assurance that what we're doing is -- is -- you 5 know, as a Council is that we're managing this project 6 effectively.</p> <p>7 And do you believe you can get us a schedule 8 by the end of this week?</p> <p>9 MR. FREEMAN: We've discussed that with EFSEC 10 Council Staff, and we will be working with them this week, 11 and we believe together, as a team, we can get you that 12 schedule by the end of the week.</p> <p>13 CHAIR LYNCH: Okay. Very good.</p> <p>14 At this point in time, I'll just ask if any 15 Council Members have any questions or comments.</p> <p>16 Seems they're in complete agreement with 17 everything I had to say and you had to say. So with that, 18 thank you, Mr. Freeman and Mr. Aarts.</p> <p>19 I did want to say a little bit for those of 20 you who are listening regarding the -- the project, and I 21 know that the -- the applicant has asked for a schedule for 22 the entire project, including permits. And I believe that 23 establishing a schedule for the main -- for the remainder 24 of the draft EIS, I believe that's appropriate.</p> <p>25 I'm not so inclined to do so, however, for</p>	<p>1 Another reason is SEPA not only informs the 2 whole project and informs the development of the permits as 3 well. As the project becomes more defined and the options 4 are narrowed, that helps with the permit writing, and so I 5 think that's actually a good thing.</p> <p>6 And finally, and most importantly, I think 7 the permit -- I'm confident that the permit development 8 will not hold up the overall process. Because after the 9 DEIS is completed and the adjudication is more underway 10 than what it is already, the permits can be being 11 finalized, and I think this is a wise way to sequence the 12 work that remains to be accomplished.</p> <p>13 And regarding the adjudication, we already 14 have a schedule that has been developed by our ALJ, and 15 I've spoken to our ALJ recently, and she's going to be 16 communicating with the parties to suggest that they move 17 forward with any matters that can be addressed at this 18 time.</p> <p>19 So for example, if there are, say, some 20 jurisdictional issues that can be raised by a motion, 21 then -- and it's a -- seems appropriate that that can be 22 done at this point in time without actually requiring the 23 completion of the draft EIS, then by all means, I don't see 24 any reason why we can't go forward and still make progress 25 on that area.</p>
Page 26	Page 28
<p>1 the permits, and there's a few reasons for that. First of 2 all, we contract with other state agencies for the 3 development of these permits -- permits that we issue, and 4 I'm pleased that these other agencies have been able to 5 provide resources for that purpose, but I believe that 6 establishing a rig- -- a rigid schedule for permit 7 development is actually counterproductive, and for these 8 following reasons.</p> <p>9 One, it requires the Staff to focus on the 10 per- -- by requiring Staff to focus on the development of 11 the permits, that's actually diverting these same people 12 away for the completion of the draft EIS, and that's 13 necessarily our highest priority right now.</p> <p>14 Another reason is I'm not going to call a 15 director of another state agency and tell them they have to 16 tell their staff to finish up an EFSEC permit by some hard 17 date when they're already taking an additional work 18 assignment by working on our projects. I don't think it'd 19 work in our favor in either the short run or the long run.</p> <p>20 And once in a while, on a rare occasion, 21 we've needed to nudge or give a reminder to some staff 22 person from another agency that we need to have a permit 23 done, but they've actually been really pretty responsive 24 when they've done that, and so I don't think requiring them 25 to have a -- stick to a hard schedule is really needed.</p>	<p>1 So I'm still optimistic about us moving 2 forward expeditiously with this proposal, and I think 3 having those requests for information which the applicant's 4 consultant has provided to our consultant, those are in 5 hand now. I -- I just feel very optimistic about our 6 way -- our ability to move forward.</p> <p>7 Does anybody want to add to that, or any 8 questions? Very good. Thank you.</p> <p>9 Do we have anything else in front of the 10 Council today?</p> <p>11 Hearing none, I'd like to thank everyone for 12 their appreciation, and we're adjourned. 13 (Meeting concluded at 2:41 p.m.)</p> <p>14 15 16 * * * * *</p> <p>17 18 19 20 21 22 23 24 25</p>



Verbatim Transcript of Monthly Council Meeting

Page 29

CERTIFICATE

STATE OF WASHINGTON  
COUNTY OF KING

I, Ryan Ziegler, a Certified Shorthand Reporter in  
and for the State of Washington, do hereby certify that the  
foregoing transcript of the monthly meeting of the  
Washington State Energy Facility Site Evaluation Council on  
June 16, 2015, is true and accurate to the best of my  
knowledge, skill, and ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this June 24, 2015.

RYAN ZIEGLER, RPR, CCR

## Kittitas Valley Wind Power Project Monthly Project Update

June 16, 2015

### Project Status Update

#### May Production Summary:

MWh 29,176 MWh

Wind 7.7 m/s or 17.2 mph

CF 38.9%

#### Safety:

No incidents

#### Compliance:

Project is in compliance as of June 12th, 2015.

#### Sound:

No complaints

#### Shadow Flicker:

No complaints

#### Environmental:

Nothing non-routine



## **Wild Horse**

**Wind Production:** May generation totaled 32,247 MWh for an average capacity factor of 15.90%.

**Safety:** No lost-time accidents or safety incidents to report in May.

**Compliance/Environmental:** Nothing to report.



EFSEC Monthly Operational Report

May, 2015

1. Safety and Training

- 1.1. There were no accidents or injuries during the month of May.
- 1.2. Conducted scheduled and required monthly training.
- 1.3. Conducted the scheduled safety committee meeting.

2. Environmental

- 2.1. Submitted the April Discharge Monitor Report (DMR) for outfall to EFSEC.
- 2.2. Notified EFSEC of RATA and stack test scheduled for the week of 24 August.
- 2.3. Continued dialogue with EPA on PSD amendment 4.

3. Operations & Maintenance

- 3.1. Grays Harbor Energy operated 19 days and generated 221,748 MWh during the month of May.
- 3.2. The capacity factor (CF) was 48.1% in May, and 13.0% YTD.
- 3.3. The availability factor (AF) was 77.3% in May, and 91.4% YTD.
- 3.4. GHE performed the 2015 Spring Maintenance Outage from Apr 25 through May 8.

4. Noise and/or Odor

- 4.1. There were no complaints made to the site during the month of May.

5. Site Visits

- 5.1. There were no site visitors during the month of May.

6. Other

- 6.1. Grays Harbor is currently staffed with 20 personnel. We are in the process of reviewing applications to fill two open operations positions.
- 6.2. Installation of noise monitoring equipment is budgeted and planned for the 2<sup>nd</sup> half of 2015.





Chehalis Generation Facility  
1813 Bishop Road  
Chehalis, Washington 98532  
Phone: 360-748-1300

## **Chehalis Generation Facility---Monthly Plant Report - May 2015** **Washington Energy Facility Site Evaluation Council**

12 April 2015

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### **Safety:**

- There were no recordable incidents this reporting period and the plant staff has achieved 4578 days without a Lost Time Accident.

### **Environment:**

- Waste water monitoring results are in compliance with the permit limits for the month of May 2015.

### **Personnel:**

- Authorized plant staffing level is currently 19 with 19 positions filled.

### **Operations and Maintenance Activities:**

- The Plant began a 45 day major maintenance overhaul of the entire plant on May 2<sup>nd</sup>. The planned end date is Monday June 15, 2015.

### **Regulatory/Compliance:**

- There were no air emissions deviations, waste-water or stormwater deviations or spills during the month of May 2015.
- Sound monitoring: There were no noise complaints to report.

### **Carbon Offset Mitigation**

Nothing to report this period

Respectfully,

Mark A. Miller  
Manager, Gas Plant



**Energy Northwest  
EFSEC Council Meeting  
June 19, 2015  
(Shannon Khounnala)**

**I. Columbia Generating Station Operational Status**

Columbia is currently offline for the R22 refueling outage. The plant operated for 683 continuous days leading up to the start of this outage.

The R22 refueling outage is coming to a close mid-June and it is expected that Columbia will resume online operations the week of June 22, 2015. To date, there have been no recordable or lost time injuries.

There are no other events, safety incidents, or regulatory issues to report.

**II. WNP 1/4 Water Rights**

The Department of Energy continues to work on the NEPA Environmental Assessment (EA) for WNP 1/4. Currently, DOE is awaiting the bid from their contractor for preparation of the EA. The NEPA Environmental Assessment will allow a new lease to be signed between EN and the Department of Energy, and thereby allow for use of the water rights obtained in January of this year. The preparation of the NEPA Environmental Assessment is expected to last through the summer and fall of 2015 with formal reviews to follow.



Reference: NWS-2013-962; Tesoro Savage Vancouver Energy Distribution Terminal, LLC

MEMORANDUM FOR RECORD

SUBJECT: Revised Permit Application Evaluation Procedure

1. On 12 February 2014, the U.S. Army Corps of Engineers, Seattle District (Corps) received an application from Tesoro Savage Vancouver Energy Distribution Terminal, LLC for Department of the Army (DA) authorization under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA) to construct an export terminal along the Columbia River at the Port of Vancouver, in Clark County, Washington. The proposed terminal would transfer up to 360,000 barrels of crude oil per day from train to ship for transport primarily to West Coast refineries. Proposed activities in the Columbia River requiring DA authorization from the Corps include seismic and safety upgrades, installing concrete anchors in existing steel piles, minor configuration modifications to existing mooring facilities, and installing a transfer pipeline on one of the mooring facility piers. The transportation of crude oil to the terminal by rail is not within the Corps' control and responsibility and, therefore, not part of the permit review.
2. Based on its review of the application, the Corps initially determined the proposed upgrades and other modifications, which include replacing decking, mooring hardware and fender systems, installing concrete anchors in existing steel piles, and also removing portions of some overwater structures, could be evaluated for potential authorization by Nationwide Permit (NWP) 3 (Maintenance). The Corps also determined the proposed transfer pipeline, which would include piping, a jib crane, manifolds and related facilities, could be evaluated for potential authorization under NWP 12 (Utility Line Activities). These determinations were based on the Corps' understanding that the DA authorization for the original construction of Berths 13 and 14 (Permit No. 93-25, issued to the Port of Vancouver by Portland District on 12 September 1993) contemplated future use of the berths for cargo handling.
3. As part of the application evaluation process, the Corps conducted further research on the use of the Berth 13 and 14 piers. During conversations with the Port of Vancouver (POV), the Corps learned the piers have been used for lay berthing and, on a few occasions, the provisioning of vessels, but not for cargo loading or unloading. In April 2015, the Corps examined the original 1993 permit decision documents and preliminarily concluded cargo handling was not a use contemplated by the Corps in that original permit decision. The permit documentation contemplates "short and long term" lay berthing, not cargo handling. The short term berthing refers to Ready Reserve Vessels, while long term berthing refers to cargo handling vessels. Because the currently proposed work would facilitate a use for the structure "differing from those uses specified or contemplated for it in the original permit", the proposed work does not meet the terms and conditions of NWP 3.

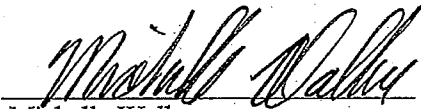
CENWS-OD-RG

SUBJECT: NWS-2013-962; Tesoro Savage Petroleum Terminal LLC

4. On 6 May 2015, Corps staff met with the applicant and POV to further discuss historic and ongoing use of the Berth 13 and 14 piers. The applicant subsequently submitted additional documentation, including provisioning receipts and a copy of Port of Vancouver Resolution 10-92, which discussed anticipated site improvements at Terminal 4. The Corps reviewed the submitted information and determined it does not sufficiently support the applicant's assertion that use of the Berth 13 and 14 piers for cargo handling was contemplated at the time the original permit was issued. Rather, a plain reading of the original permit application and permit form is that the intended use of the Berth 13 and 14 piers was for lay berthing and not cargo handling. After considering all the available information and completing internal coordination, I have determined the proposed work cannot be authorized by NWP and requires evaluation under the Corps' standard individual permit procedures.

5. Proposed activities requiring Section 10 RHA (only) authorization by the Corps are often evaluated under the Corps' Letter of Permission (LOP) procedures. However, use of the LOP procedures is limited to situations when "the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition" (33 CFR 325.2(e)(1)(i)). As with the review under the NWP process, the Corps regulates the proposed in- and over-water work but does not have sufficient control and responsibility over the associated rail transportation to warrant its review under the National Environmental Policy Act. There is appreciable public opposition to this project. The Corps has already received over 17,000 unsolicited email comments, multiple congressional inquiries, and a number of letters of opposition from local governments and Indian tribes. Given this level of opposition, I have determined the proposed project does not qualify for evaluation under LOP procedures.

6. In light of the above, I have directed my staff to continue evaluating this permit application under our standard individual permit procedures, and will notify the applicant accordingly.



Michelle Walker  
Chief, Regulatory Branch  
U.S. Army Corps of Engineers, Seattle District

5/28/15  
Date



## Agenda Item #5 a

### Kittitas Valley Wind Power Project Monthly Project Update

July 21, 2015

#### Project Status Update

##### **June Production Summary:**

Power generated: 39,730 MWh  
Wind speed: 9.5 m/s or 21.3 mph  
Capacity Factor: 54.7%

##### **Safety:**

No incidents

Completed medical emergency, hazardous material spill and severe weather drills during an all hands 'Safety Day'.

##### **Compliance:**

Project is in compliance as of July 17, 2015.

##### **Sound:**

No complaints

##### **Shadow Flicker:**

No complaints

##### **Environmental:**

Nothing non-routine

## Agenda Item #5 b

### Wild Horse

**Wind Production:** June generation totaled 50,038 MWh for an average capacity factor of 25.49%.

**Safety:** No lost-time accidents or safety incidents to report in June.

**Compliance/Environmental:** Nothing to report.



## EFSEC Monthly Operational Report

June, 2015

1. Safety and Training

- 1.1. There were no accidents or injuries during the month of June.
- 1.2. Conducted scheduled and required monthly training.
- 1.3. Conducted the scheduled safety committee meeting.
- 1.4. Conducted first aid and fire extinguisher training for stragglers and dependents.

2. Environmental

- 2.1. Completed the Annual Outfall inspection.
- 2.2. Completed the annual Outfall Instrumentation Functional Testing.
- 2.3. Submitted the May DMR
- 2.4. Notified EFSEC of NPDES non-compliance due to failure to obtain 4 hour grab samples with pH instrument OOS.
- 2.5. Submitted 5-day letter to EFSEC on outfall pH non-compliance.
- 2.6. Met with EFSEC, EPA, Ecology, Environ, and ORCAA on PSD-4 draft from EPA.
- 2.7. Met with EFSEC, Ecology, and AECOM on Engineering Report. The current report will be submitted then remaining pollution prevention activities will occur. Plant discharge will be re-evaluated and the results will be captured in an addendum to the Engineering Report.

3. Operations & Maintenance

- 3.1. Grays Harbor Energy (GHE) operated 29 days and generated 393,243 MWh during the month of June.
- 3.2. The capacity factor (CF) was 88.1% in June, and 25.4% YTD.
- 3.3. The availability factor (AF) was 100% in June, and 91.1% YTD.

4. Noise and/or Odor

- 4.1. There were no complaints made to the site during the month of June.

5. Site Visits

- 5.1. There were no site visitors during the month of June.

6. Other

- 6.1. Grays Harbor is currently staffed with 20 personnel. We have made offers to candidates to fill two open operations positions.
- 6.2. Installation of noise monitoring equipment is planned for the 2<sup>nd</sup> half of 2015. The noise monitor has been purchased, and the installation engineering and planning is currently taking place.





Chehalis Generation Facility  
1813 Bishop Road  
Chehalis, Washington 98532  
Phone: 360-748-1300

## **Chehalis Generation Facility----Monthly Plant Report - June 2015**

### **Washington Energy Facility Site Evaluation Council**

15 July 2015

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#### **Safety:**

- There were no recordable incidents this reporting period and the plant staff has achieved 4608 days without a Lost Time Accident.

#### **Environment:**

- Waste water monitoring results are in compliance with the permit limits for the month of June 2015.

#### **Personnel:**

- Authorized plant staffing level is currently 19 with 19 positions filled.

#### **Operations and Maintenance Activities:**

- The Plant began a 45 day major maintenance overhaul of the entire plant on May 2<sup>nd</sup>. The overhaul was complete on Monday June 15, 2015.
- The Plant generated 113,269 MW-hrs in June and a capacity factor YTD of 9.5%.

#### **Regulatory/Compliance:**

- There were no air emissions deviations, waste-water or stormwater deviations or spills during the month of June 2015.
- Sound monitoring: There were no noise complaints to report.

#### **Carbon Offset Mitigation**

Nothing to report this period

Respectfully,

A handwritten signature in black ink, appearing to read "Mark A. Miller".

Mark A. Miller  
Manager, Gas Plant



**Energy Northwest  
EFSEC Council Meeting  
July 21, 2015  
(Shannon Khounnala)**

**I. Columbia Generating Station Operational Status**

Columbia is online at 64% power and producing 683 MWs. The plant returned to online operations on June 28<sup>th</sup>, 2015.

During the process to return to full power, Columbia encountered some difficulties with a reactor feed water valve. Troubleshooting revealed that the discharge valve contained an internal component that is stuck. With only one of the pumps operating as designed, Columbia is limited to approximately 65 percent power. Following this discovery, Energy Northwest thoroughly vetted the repair options and has chosen to complete the repair while continuing to operate at reduced power. The repair requires use of an external specialty vendor and began after the July 4<sup>th</sup> holiday. The repair will continue this week.

While the reactor feed water value issue poses a temporary hurdle to returning the plant to 100% power, the refueling outage has been a success in completing over 2000 maintenance work orders. A couple notable maintenance activities included work on our main generator and the replacement of 3 of our 4 main transformers with new units.

The outage was completed without any recordable or lost time injuries.

There are no other events, safety incidents, or regulatory issues to report.

**II. WNP 1/4 Water Rights**

No change from the June report:

The Department of Energy continues to work on the NEPA Environmental Assessment (EA) for WNP 1/4. Currently, DOE is awaiting the bid from their contractor for preparation of the EA. The NEPA Environmental Assessment will allow a new lease to be signed between EN and the Department of Energy, and thereby allow for use of the water rights obtained in January of this year. The preparation of the NEPA Environmental Assessment is expected to last through the summer and fall of 2015 with formal reviews to follow.



US Army Corps  
of Engineers  
Seattle District

# Joint Public Notice

## Application for a Department of the Army Permit and an Energy Facility Site Evaluation Council Water Quality Certification

### US Army Corps of Engineers

Regulatory Branch  
Post Office Box 3755  
Seattle, WA 98124-3755  
Telephone: (206) 316-3047  
ATTN: Steve Manlow,  
Project Manager

### Energy Facility Site Evaluation Council

Post Office Box 43172  
Olympia, WA 98504-3172  
Telephone: (360) 664-1363  
ATTN: Sonia Bumpus,  
Energy Facility Siting  
Specialist

**Public Notice Date: July 2, 2015**

**Expiration Date: August 1, 2015**

**Reference No.: NWS-2013-962**

**Name: Tesoro Savage Petroleum  
Terminal, LLC**

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Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Energy Facility Site Evaluation Council (EFSEC) have received an application to perform work in waters of the U.S. as described below and shown on the enclosed drawings dated January 2014.

The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. EFSEC and its contractor the Department of Ecology (Ecology) will review the work pursuant to Section 401 of the CWA, with applicable provisions of State water pollution control laws.

**APPLICANT:** Tesoro Savage Petroleum Terminal, LLC  
6340 South 3000 East, Suite 600  
Salt Lake City, Utah 84121  
Attention: Kelly Flint  
Telephone: (801) 944-6600

**AGENT:** BergerABAM  
1111 Main Street, Suite 300  
Vancouver, Washington 98660  
Attention: Brian Carrico  
Telephone: (360) 823-6112

**LOCATION:** In the Columbia River at the Port of Vancouver berths 13 and 14, 5501 Northwest Lower River Road, in Vancouver, Clark County, Washington.

**WORK:** Conduct seismic and safety upgrades and utility line work at existing piers in the Columbia River. This work is part of a proposal to construct a terminal that would receive up to an average of 360,000 barrels of crude oil per day from train. Oil would be stored onsite for eventual transfer to marine vessels, for transport primarily to refineries along the west coast of the U.S. Seismic and safety upgrades include replacing decking, mooring hardware and fender systems, filling existing hollow steel pipe piles with concrete, and removing portions of some overwater structures. The utility line work includes installing a transfer pipeline, return line, manifolds, hoses, a crane structure, and other facilities on an existing pier. The remainder of the proposed terminal would be built in



## **NWS-2013-962, Tesoro Savage Petroleum Terminal, LLC**

uplands and not require Department of the Army authorization from the Corps. Those upland activities include constructing rail lines, above-ground storage tanks, buildings, ground modifications to meet seismic design requirements, and related facilities.

**PURPOSE:** To construct an export facility for the transfer of crude oil to marine vessels.

**MITIGATION:** Compensatory mitigation is not proposed.

**ENDANGERED SPECIES:** The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. After receipt of comments from this public notice, the Corps will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

**ESSENTIAL FISH HABITAT:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact EFH in the project area. The Corps has determined that the proposed action will not adversely affect designated EFH for federally managed fisheries in Washington waters. No further EFH consultation is necessary.

**CULTURAL RESOURCES:** The Corps has reviewed the latest published version of the National Register of Historic Places, Washington Information System for Architectural and Archaeological Records Data and other sources of information. A historic properties investigation has also been conducted within the permit area. No historic properties determined eligible for or listed on the National Register of Historic Places were found to exist within the permit area. The Corps invites responses to this public notice from Native American Tribes or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns regarding historic properties and sites of religious and cultural significance at or near the project area. After receipt of comments from this public notice, the Corps will evaluate potential impacts and consult with the State Historic Preservation Officer and Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, as appropriate.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

**EVALUATION – CORPS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

## **NWS-2013-962, Tesoro Savage Petroleum Terminal, LLC**

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

The described discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the CWA. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

**SOURCE OF FILL MATERIAL:** Fill material that would be placed in waters of the U.S. will be limited to discharge of concrete into existing steel piles. The applicant has not yet identified the source of the fill material. Should a permit be issued, the Corps will evaluate the fill material source prior to the start of construction.

**EVALUATION – EFSEC:** EFSEC is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. EFSEC will be considering all comments to determine conditions the applicant would need to meet in designing the project to be in compliance with Section 401 of the CWA.

**COMMENT AND REVIEW PERIOD:** Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether authorizing the work would not be contrary to the public interest. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

**CORPS COMMENTS:** All e-mail comments should be sent to [nws.tesoro\\_savage@usace.army.mil](mailto:nws.tesoro_savage@usace.army.mil). Conventional mail comments should be sent to: U.S. Army Corps of Engineers, Regulatory Branch, Attention: Steven Manlow, P.O. Box 3755, Seattle, Washington 98124-3755. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses.

**EFSEC COMMENTS:** Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA and/or Coastal Zone Management consistency concurrence, may do so by submitting written comments to the following address: Washington Energy Facility Site Evaluation Council, P.O. Box 43172, Olympia, Washington 98504-3172, or e-mail to [ecyfedefsec@ecy.wa.gov](mailto:ecyfedefsec@ecy.wa.gov). Ecology will be coordinating the management and review of all comments received, on behalf of EFSEC.

To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: Tesoro Savage Petroleum Terminal, LLC; NWS-2013-962

Encl: Figures (7)





**Legend**

- Vancouver City Limits
- Railroad
- Roads
- Major Roads
- Port of Vancouver

PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of Natural Resources (WDNR),

**FIGURE 1**  
**VICINITY MAP**  
Corps Ref: NWS-2013-962

**TESORO SAVAGE VANCOUVER**  
**ENERGY DISTRIBUTION TERMINAL**

LAT/LONG: N 45.642/ W 122.719  
NEAR/AT: VANCOUVER  
COUNTY OF: CLARK  
STATE OF: WA  
APPLICATION BY:  
TESORO SAVAGE PETROLEUM TERMINAL LLC  
In: Columbia River

Page 1 of 7  
January 2014





### Legend

- Site Location
- Tax Lots

PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of  
Natural Resources (WDNR),

### FIGURE 2 EXISTING CONDITIONS/ TAX LOTS

Corps Ref: NWS-2013-962

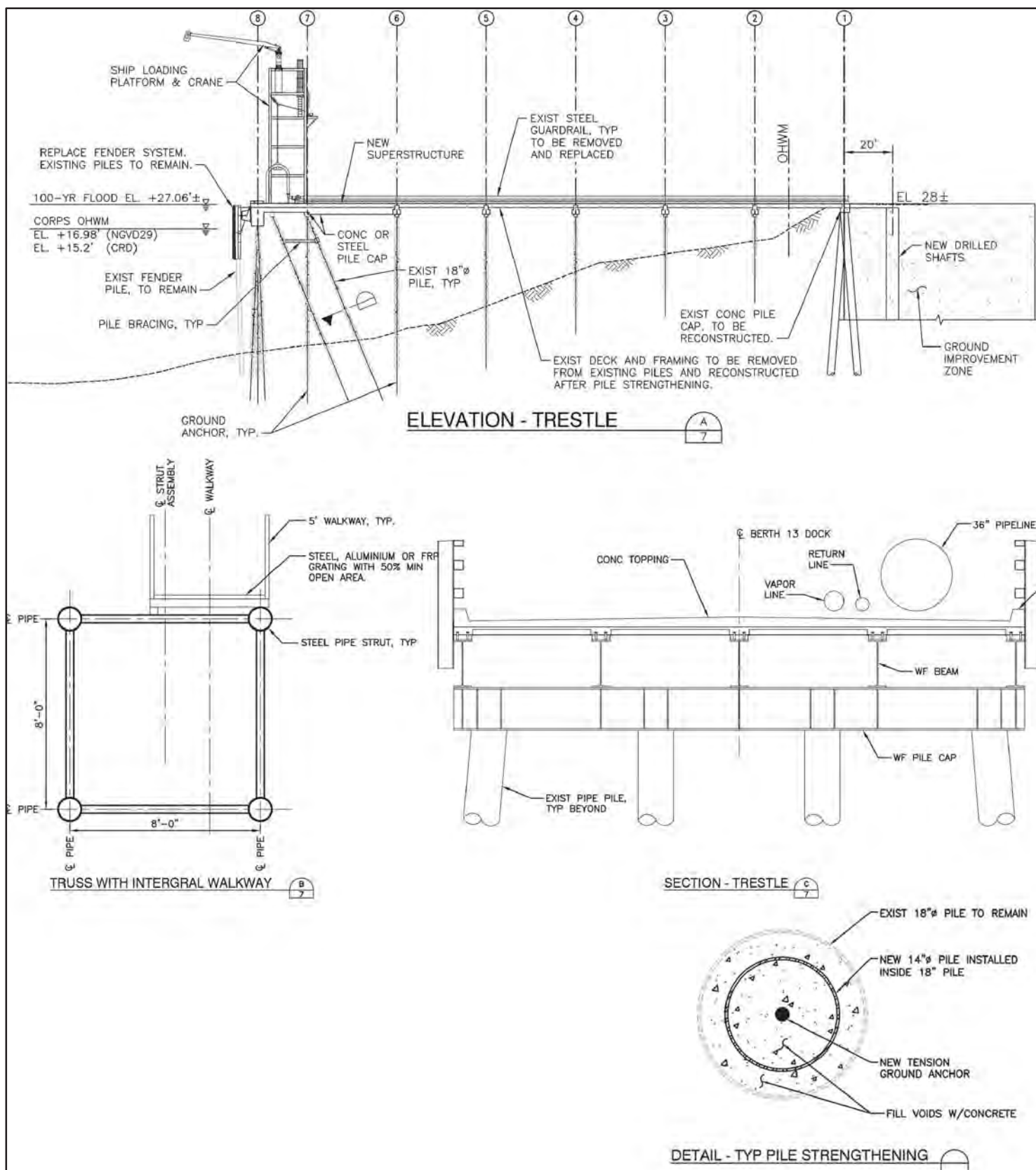
TESORO SAVAGE VANCOUVER  
ENERGY DISTRIBUTION TERMINAL

LAT/LONG: N 45.642/ W 122.719  
NEAR/AT: VANCOUVER  
COUNTY OF: CLARK  
STATE OF: WA  
APPLICATION BY:  
TESORO SAVAGE PETROLEUM TERMINAL LLC  
In: Columbia River

Page 2 of 7  
January 2014







PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

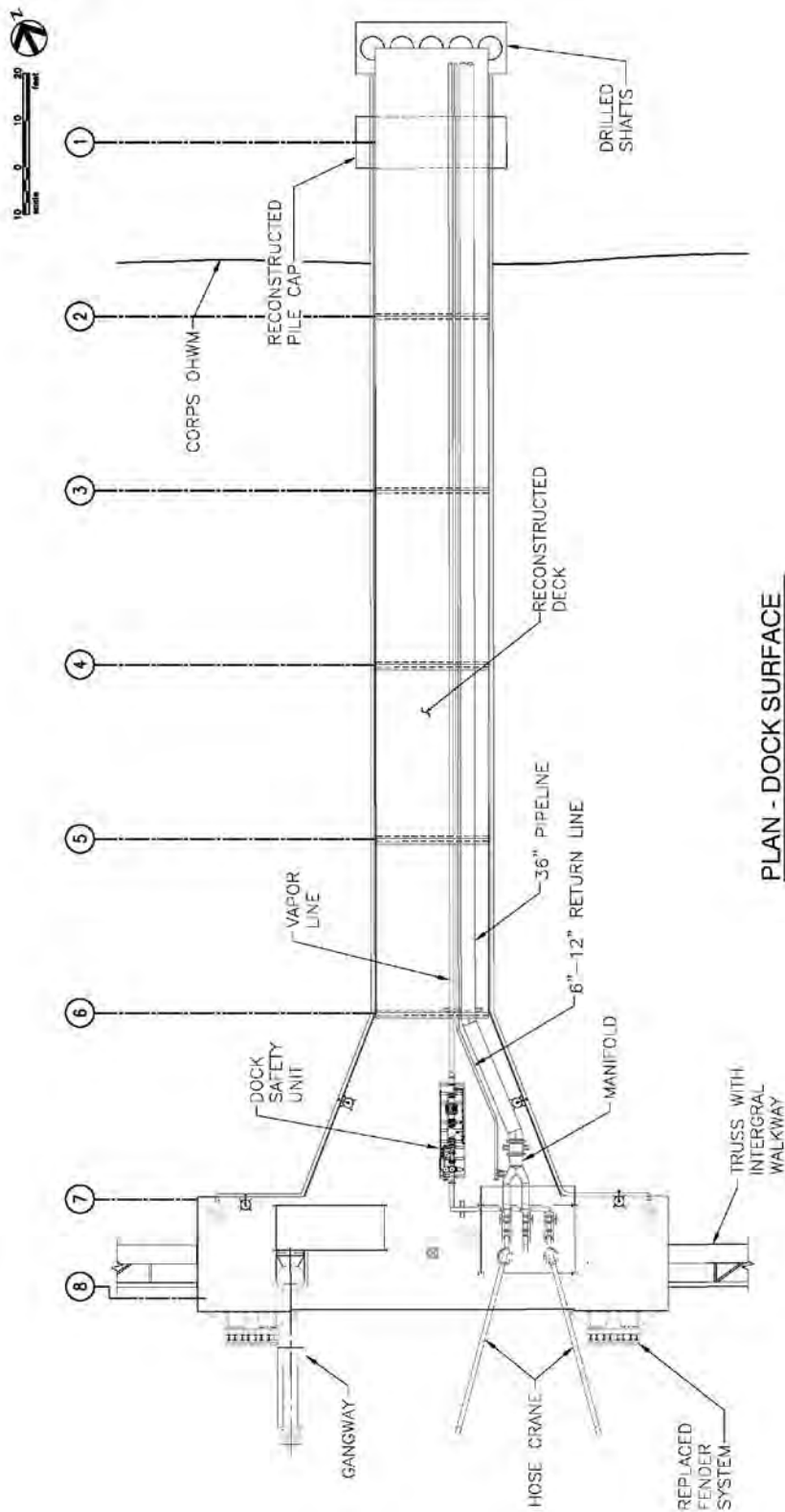
ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of Natural Resources (WDNR),

# **FIGURE 4** **CROSS SECTION DETAILS** Corps Ref: NWS-2013-962

TESORO SAVAGE VANCOUVER  
ENERGY DISTRIBUTION TERMINAL

LAT/LONG: N 45.642/ W 122.719  
NEAR/AT: VANCOUVER  
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STATE OF: WA  
APPLICATION BY:  
TESORO SAVAGE PETROLEUM TERMINAL LLC  
In: Columbia River  
Page 4 of 7  
January 2014





**PLAN - DOCK SURFACE**

PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

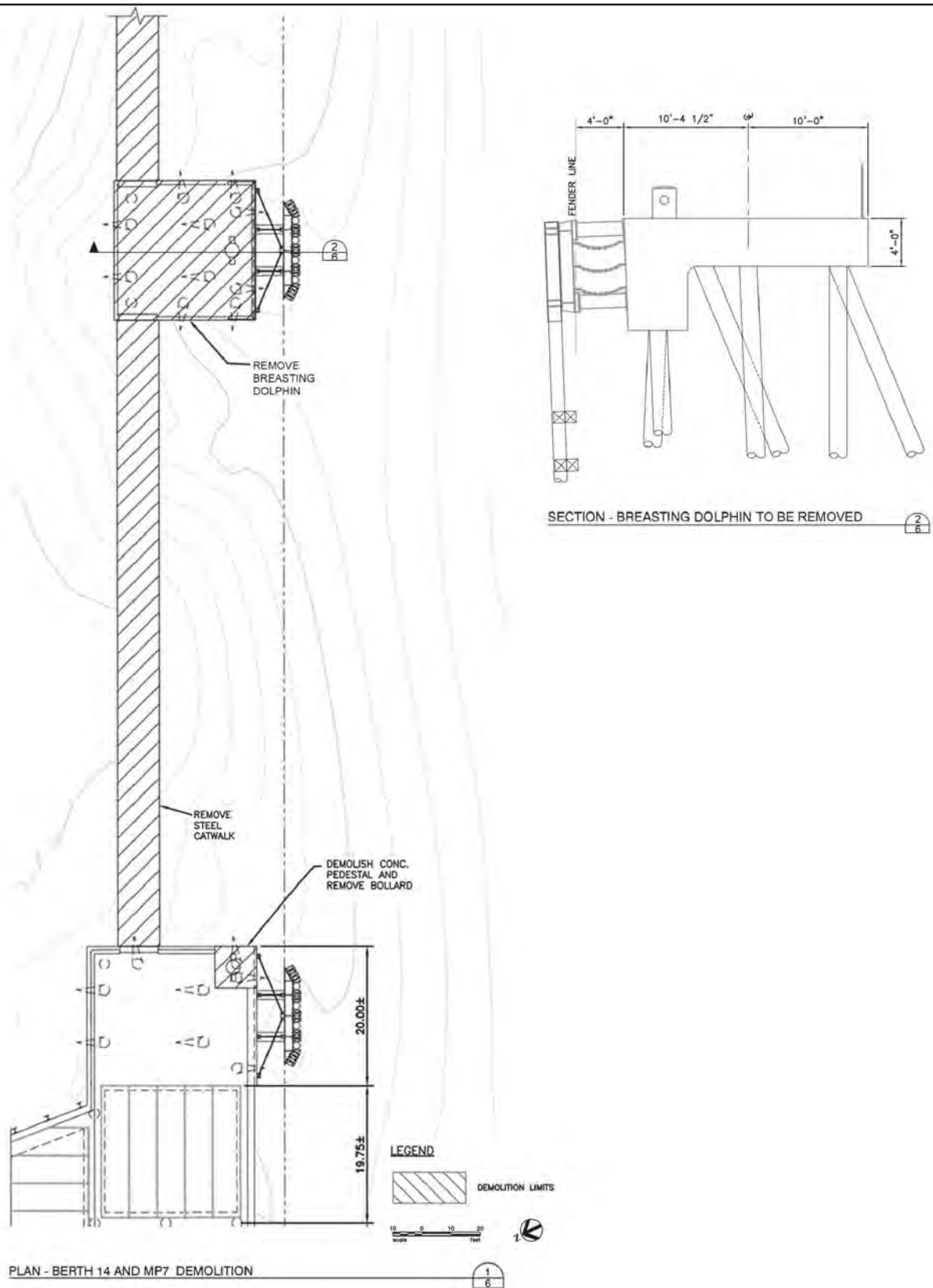
ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of  
Natural Resources (WDNR),

**FIGURE 5**  
**DOCK SURFACE PLAN**  
Corps Ref: NWS-2013-962

TESORO SAVAGE VANCOUVER  
ENERGY DISTRIBUTION TERMINAL

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TESORO SAVAGE PETROLEUM TERMINAL LLC  
In: Columbia River

Page 5 of 7  
January 2014



PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of Natural Resources (WDNR),

# FIGURE 6 DEMOLITION PLAN Corps Ref: NWS-2013-962

TESORO SAVAGE VANCOUVER  
ENERGY DISTRIBUTION TERMINAL

LAT/LONG: N 45.642/ W 122.719  
NEAR/AT: VANCOUVER  
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STATE OF: WA  
APPLICATION BY:  
TESORO SAVAGE PETROLEUM TERMINAL LLC  
In: Columbia River  
Page 6 of 7  
January 2014





Photo 1: Existing Berth 13 Trestle and Dock

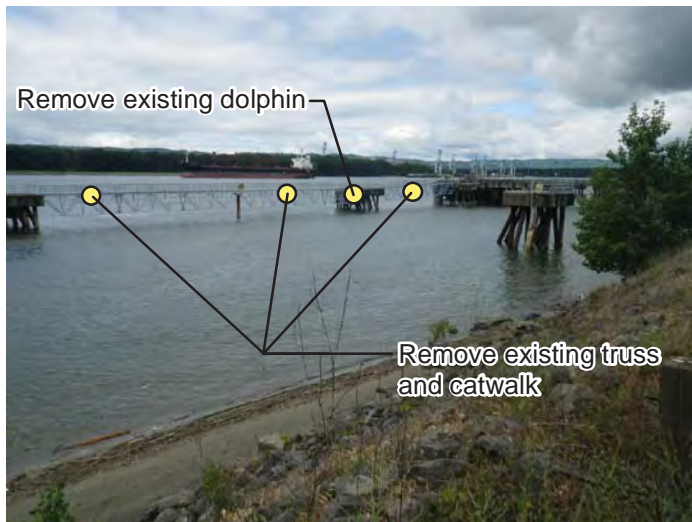


Photo 2: Existing Dolphin and Catwalk to be removed



Photo 3: Existing Mooring Dolphin



Photo 4: Existing Bank Conditions

PURPOSE: Bring the currently serviceable structure up to current seismic design standards for the continued use of the dock to berth marine vessels (NWP 3) and to install pipelines and associated facilities to allow for the transportation of crude oil from upland unloading and storage facilities to marine vessels (NWP 12).

APPLICANT: Tesoro-Savage

ADJACENT PROPERTY OWNERS:  
Port of Vancouver, Washington Department of  
Natural Resources (WDNR),

### FIGURE 7 Photo Sheet

Corps Ref: NWS-2013-962

TESORO SAVAGE VANCOUVER  
ENERGY DISTRIBUTION TERMINAL

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Page 7 of 7  
January 2014



## STATE OF WASHINGTON

## ENERGY FACILITY SITE EVALUATION COUNCIL

June 22, 2015

Schedule For Development - Draft Environmental Impact Statement (DEIS)

Tesoro Savage Vancouver Energy Distribution Terminal

Cardno, independent consultant for the Energy Facility Site Evaluation Council (EFSEC), in consultation with EFSEC staff has prepared the following schedule for completion of the DEIS.

Task Name	Start	Finish
<b>Prepare Draft EIS</b>	<b>Wed 6/17/15</b>	<b>Tue 11/10/15</b>
<b>Prepare DEIS for EFSEC staff review</b>	<b>Wed 6/17/15</b>	<b>Mon 6/29/15</b>
Finish Chapter 4 Risk of Accidents, Emergency Response, and Potential Impacts	Wed 6/17/15	Fri 6/26/15
Submit for EFSEC staff review	Mon 6/29/15	Mon 6/29/15
<b>EFSEC staff remaining actions</b>	<b>Thu 6/18/15</b>	<b>Fri 6/19/15</b>
Chapter 3 section review complete	Thu 6/18/15	Thu 6/18/15
Direction on AG comments	Fri 6/19/15	Fri 6/19/15
<b>Prepare Complete DEIS for EFSEC Staff, Legal and Contractor Preliminary Review</b>	<b>Mon 6/22/15</b>	<b>Fri 8/14/15</b>
Executive Summary	Fri 7/10/15	Thu 7/16/15
Front Matter and Glossary	Wed 7/1/15	Tue 7/7/15
Chapter 1 Purpose and Need	Mon 6/22/15	Wed 6/24/15
Chapter 2 Project Description and Alternatives	Wed 6/24/15	Wed 7/1/15
Incorporate updated PD and vessel info	Wed 6/24/15	Fri 6/26/15
Address EFSEC staff and AG comments	Mon 6/29/15	Wed 7/1/15
Chapter 3 Affected Environment and Potential Impacts from Proposed Action and Related Actions	Mon 6/22/15	Thu 7/9/15
Chapter 3 comment review, PD changes, define path forward	Mon 6/22/15	Thu 6/25/15
Authors revise resource sections	Fri 6/26/15	Thu 7/9/15
Chapter 4 Risk of Accidents, Emergency Response, and Potential Impacts	Fri 6/26/15	Fri 6/26/15
Chapter 5 Cumulative Impacts	Wed 6/17/15	Thu 6/18/15
Chapter 6 References	Mon 6/29/15	Mon 6/29/15
Chapter 7 List of Preparers	Mon 6/22/15	Tue 6/23/15
Finalize Appendices	Wed 6/17/15	Tue 7/7/15
Combine all sections (tech edit, formatting)	Wed 7/8/15	Tue 7/14/15
Final content and consistency review of entire DEIS	Wed 7/15/15	Tue 8/11/15
Submit entire DEIS for EFSEC staff, contractor, legal review	Tue 8/11/15	Tue 8/11/15
<b>EFSEC Staff, Legal and Contractor review of Complete DEIS</b>	<b>Wed 8/12/15</b>	<b>Tue 9/1/15</b>
EFSEC staff to review legal review comments	Wed 9/2/15	Tue 9/8/15
Cardno address comments	Wed 9/9/15	Tue 9/29/15
<b>EFSEC Staff Review of Complete DEIS</b>	<b>Wed 9/30/15</b>	<b>Tue 10/6/15</b>
Cardno revise DEIS for Council review	Wed 10/7/15	Tue 10/13/15
Submit DEIS for Council review	Wed 10/14/15	Wed 10/14/15
<b>EFSEC Council Members Review of Complete DEIS</b>	<b>Wed 10/14/15</b>	<b>Tue 11/10/15</b>
Council review period	Wed 10/14/15	Tue 10/27/15
EFSEC staff address Council comments	Wed 10/28/15	Tue 11/10/15
<b>Cardno revise and create camera ready DEIS for publication</b>	<b>Wed 11/11/15</b>	<b>Tue 11/17/15</b>
DEIS production (30 hard copies)	Wed 11/18/15	Tue 11/24/15
<b>Publish DEIS</b>	<b>Tue 11/24/15</b>	<b>Tue 11/24/15</b>



## Agenda Item #5 h



BP Cherry Point Refinery  
4519 Grandview Road  
Blaine, Washington 98230  
Telephone 360 371-1500

May 4, 2015

Stephen Posner, Project Manager  
State of Washington EFSEC  
P.O. Box 43172  
Olympia, WA 98504-3172

RE: BP Cherry Point Cogeneration – Project Status

Dear Mr. Posner:

On behalf of BP West Coast Products, LLC (BP), I am writing to confirm that BP does not intend to move forward with construction of the Cherry Point Cogeneration Project authorized by the Site Certification Agreement between EFSEC and BP executed on December 21, 2004, and subsequently amended. We understand that the Site Certification Agreement has expired by its terms.

Please contact me at (360) 319-4599 or via e-mail at [jeff.chalfant@bp.com](mailto:jeff.chalfant@bp.com) if you have any questions or need additional information regarding this matter. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Chalfant', written over a horizontal line.

Jeff Chalfant  
BP Cherry Point Refinery

cc: Kara Millhollin, BP Cherry Point Refinery  
Karen McGaffey, Perkins Coie LLP



STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

BRIEFING MEMO

TO: Energy Facility Site Evaluation Council

FROM: Staff

DATE: July 21, 2015

SUBJECT: Recommendation for Adoption of Revisions to Chapter 463-78 WAC –  
General and Operating Permit Regulations for Air Pollution Sources

Background

EFSEC is authorized by the U. S. Environmental Protection Agency (EPA) to implement a prevention of significant deterioration (PSD) permit program through a delegation agreement executed in January, 1993. EFSEC is partially delegated, which means its PSD permits must be signed by both the EFSEC Chair and a senior EPA official at Region 10 in Seattle. In the past, EFSEC PSD permits were written by either an Ecology Air Quality Program permit writer or an EPA permit writer, depending on the circumstances.

At this time EFSEC is in the early stages of preparing an update to its state implementation plan (SIP). A SIP describes how the state plans to implement, maintain, and enforce National Ambient Air Quality Standards (NAAQS). As part of its effort to update its SIP, EFSEC has nearly completed an adoption by reference of existing Ecology air quality rules. Washington statute requires that Ecology and EFSEC rules be consistent to provide maximum coordination and avoid duplication between the two agencies. At least one additional EFSEC rule amendment in support of its SIP update will occur in the next 18 months.

Current Rule Adoption

EFSEC's current adoption by reference of existing Ecology rules encompasses five rule amendments implemented by Ecology between December 2010 and November 2012,



generally in response to rule revisions implemented by EPA. Ecology's rule amendments encompassed everything from major revisions to permitting processes to reorganizations to editorial revisions made to clarify rule language.

In this rulemaking EFSEC also proposed adopting seven categories of federal new source performance standards (NSPS) from 40 CFR Part 60. These seven industrial categories of standards may be applicable to future potential EFSEC projects. A summary of EFSEC proposed rule adoptions is contained in Attachment A to this memo.

EFSEC's current rule adoption utilized the expedited rulemaking process. The expedited rulemaking process requires a minimum 45-day public comment period. The public comment period began when the CR-105 notice was published in the State Register on May 20, 2015 and ended July 7, 2015. EFSEC also concurrently conducted a SEPA public comment process. EFSEC did not receive any comments on the proposed rule adoption.

#### Recommendation

Adoption of these proposed revisions to EFSEC's air quality rule, Chapter 463-78 WAC, will help to assure consistency with Ecology's air quality rules, as required by state statute, and will allow EFSEC to incorporate federal performance standards into PSD permits for future EFSEC projects.

For these reasons EFSEC Staff recommends the Council approve the proposed revisions to EFSEC's air quality rule.

#### Note

Included in your meeting packet are documents labeled OTS-7067.1Final and ch463-78wac\_strikethrough\_4 2015. The OTS document contains only those parts of the revised rule chapter. The strikethrough document contains the entire chapter to provide context for your review.

regardless of their emissions of other pollutants. These newly subject sources must apply for an Air Operating Permit on or before July 12, 2012.

Operating Permit Regulation, Chapter 173-401 WAC, effective 9/10/11.

- This rule making does not change the greenhouse gas reporting requirements in Chapter 173-441 WAC.

Standards of Performance for New Stationary Sources, Title 40, Code of Federal Regulations, Part 60, as it exists on July 1, 2014.

List of new source performance standards in WAC 463-78-115 revised to incorporate additional categories of industries to be consistent with EFSEC's jurisdictional authority in Chapter 80.50 Revised Code of Washington (RCW).



## Attachment A

From 2010 through 2012 Department of Ecology conducted five rulemaking processes to revise air quality rules contained in Chapter 173-400 WAC and Chapter 173-401 WAC. The purpose of these rule revisions was to assure consistency and compliance with recent US Environmental Protection Agency (EPA) rule revisions.

In this rulemaking, EFSEC proposes to adopt by reference recent Ecology rule revisions that apply to facilities under EFSEC jurisdiction. State statute requires that EFSEC rules be consistent with the Washington Clean Air Act and Ecology rules, so those Ecology rule revisions that do not apply to EFSEC facilities have been deleted.

A summary of Ecology and Federal rule revisions encompassed by this rulemaking that EFSEC proposes to adopt by reference is presented below and organized by the effective date of Ecology rule adoption.

General Regulations for Air Pollution Sources, Chapter 173-400 WAC, effective 4/1/11.

- Bring the rule into compliance with EPA's regulations including standards for excess emissions and major stationary sources located in a nonattainment area, and update the date of federal regulations adopted by reference.
- Set a new exemption level for greenhouse gas emissions and particulate matter, PM2.5, below which permitting is not required.
- Keep the rule consistent with recent updates to related WACs.
- Update definitions to match current state and federal regulations.
- Establish a permitting procedure for emergency engines.
- Update the rule to resolve State Implementation Plan deficiencies.
- Additional housekeeping corrections and changes.

General Regulations for Air Pollution Sources, Chapter 173-400 WAC, and Operating Permit Regulation, Chapter 173-401 WAC, effective 9/10/11.

- This rule making does not change the greenhouse gas reporting requirements in Chapter 173-441 WAC.

General Regulations for Air Pollution Sources, Chapter 173-400 WAC, effective 12/29/12.

- Make the rule consistent with requirements in the Federal Clean Air Act.
- Support EFSEC's request for EPA's approval of State Implementation Plan (SIP) revisions.
- Amend the rule sections related to permits for industrial sources of air pollution including minor new source review and major new source review (Prevention of Significant Deterioration).
- Help emitters comply with the rule through better access to references, improved readability, and better understanding of regulations and permitting requirements.

Operating Permit Regulation, Chapter 173-401 WAC, effective 1/1/11.

- Make the rule consistent with EPA and Ecology requirements for reporting emissions of greenhouse gases.
- Beginning January 1, 2011, sources with an Air Operating Permit must report their greenhouse gas emissions when revising or renewing this permit.
- Beginning July 1, 2011, sources that have the potential to emit 100,000 tons per year or more of greenhouse gases become subject to the Air Operating Permit Program,

## Energy Facility Site Evaluation Council

### Enforcement Guidance

**Purpose:** To provide guidance to Energy Facility Site Evaluation Council (EFSEC or Council) staff and Council members on the enforcement process, and to provide for the consistent levying of penalties.

#### General

This document expresses the Council's current view of its enforcement policies. As a policy statement adopted under the Administrative Procedures Act, chapter 34.05 RCW, it is not intended to be binding as a formally adopted rule. The Council retains discretion to apply and adapt its enforcement efforts in individual cases to implement its overall duty to assure compliance with all site certification agreements and permits issued by the Council. Adoption of this policy advances the effective and equitable enforcement of the laws under the Council's responsibility.

Enforcement is a tool for protecting the public health and the environment. As directed by RCW 80.50.040(9), other agencies perform any on-site inspections required by the Council pursuant to interagency agreement. EFSEC, however, retains authority for determining compliance relative to monitoring. The inspecting agency may recommend a penalty for a violation to EFSEC based upon the penalty criteria adopted by the Council.

A violation does not necessarily result in the issuance of a penalty. A notice of incident and request for assurance of compliance may be issued when a violation is being corrected quickly and effectively by the violator, no substantial danger to humans or the environment resulted from the violation, and a penalty does not appear to be appropriate in light of the seriousness of the violation or as an incentive to secure future compliance.

The purpose of a civil penalty is to influence behavior, encourage compliance, and deter future violations. Penalty amounts will include a gravity component and an economic benefit component. The gravity component will carefully match the significance of the violation to the impact of the enforcement action. The Council will recover any economic benefit in order to promote a level playing field for those businesses that expend money to comply with environmental laws and regulatory requirements.



## I. Range of Council Actions

EFSEC is authorized to take four types of enforcement actions to apparent violations. The range of actions allows EFSEC to use an approach, in its discretion, which is best suited to address the seriousness of the apparent violation, the potential damage to humans or the environment, the willingness and ability of the violators to make required corrections, and the speed with which corrective actions should be taken. WAC 463-70-070(1).

The four different types of enforcement actions in response to an apparent violation are:

- 1) The Chair of the Council, or the Chair's designee, may take emergency action to stop or eliminate any imminent or actual substantial danger to health or welfare of persons or the environment. The Council must consider any emergency action as soon as practical after the emergency action is taken, and may adopt, rescind, or modify the emergency action taken and may take other enforcement action. WAC 463-70-070(2).
- 2) The Council may issue a notice of incident and request for assurance and compliance when the Council believes: that a violation occurred, that the violation is being corrected quickly and effectively by the violator, that the violation caused no substantial danger to humans or the environment, and that a penalty does not appear to be appropriate in light of the seriousness of the violation or as an incentive to secure future compliance.

The Council may issue a notice of incident and request for assurance and compliance if it has probable cause to believe that a term or condition of a certificate agreement or permit has been violated. If the Council issues a notice of incident and request for assurance and compliance, within 30 days of service of the notice the certificate holder must provide the Council with a report of the incident and assurance of compliance, including appropriate measures to preclude a recurrence of the incident. The Council shall review the assurance of compliance and may close out the matter by resolution or take such other action it deems necessary. WAC 463-70-070(3).

- 3) The Council may issue a notice of violation when the Council believes that a violation has occurred, that a violation is not being timely or effectively corrected, that a violation may cause a substantial risk of harm to humans or the environment, or that a penalty may be appropriate as an incentive to future compliance.

The Council may issue a notice of violation if it has probable cause to believe that a term or condition of a certificate agreement or permit has been violated. The notice must specify the provisions of law or rule, or the certificate agreement or permit which are alleged to have been violated and must include a requirement for corrective action to be taken. If the Council issues a notice of violation, it may include a penalty. WAC 463-70-070(4)(a).

- 4) A penalty may be issued pursuant to RCW 80.50.150, or RCW 74.90.431 if the violation is of the Washington Clean Air Act. See also RCW 70.94.422 and 90.48.262; WAC 463-70-070(4)(b), 463-74-040, 463-76-065(6), 463-78-230, 463-80-080, 463-85-240.

## **II. Imposition of Penalties**

RCW 80.50.150(5) provides that every person who violates the provisions of certificates and permits issued or administered by the Council is subject to a penalty of up to \$5000 per day for every violation. This section remains in effect for any violations occurring before October 9, 2015. Any violation occurring on or after October 9, 2015 is subject to a penalty of \$10,000 per day per violation (SB 5310, section 5).

Each violation is considered a separate and distinct offense. In the case of a continuing violation, every day's continuance is deemed a separate and distinct violation.

The total penalty will consist of a gravity component and an economic benefit component.

### **Consistent Penalties – Gravity Component of Penalty**

After EFSEC has decided to issue a penalty, the gravity component amount is calculated by using the Gravity Criteria Scoring Worksheet, which contains a penalty matrix. The worksheet asks several questions, and for each question, assigns points based on the response to the particular question. The number of points for all of the questions are then totaled to produce a score for that violation. In the case of a continuing violation, each day's continuance is deemed a separate and distinct violation. The score for the violation is then translated into a specific penalty amount by referring to the range of penalties contained in the penalty matrix. The greater the number of points, the greater the potential penalty. The penalty amounts determined for each violation are added together to produce the statutory maximum amount of the gravity component of the potential penalty.

For example, a regulated entity committed two separate permit violations. One violation is scored at 5 points and the second violation is scored at 16 points. Turning to the penalty matrix, the first violation produces a potential \$1000 penalty, and the second violation produces a potential \$3000 penalty. These two penalties are added together to produce the potential maximum penalty of \$4000 under the gravity component. In another example, a violation generates a potential penalty of \$1000, but the violation was continuing and occurred for eight days. The potential maximum penalty under the gravity component for this continuing violation is \$8000 (\$1000 per day violation x 8 days = \$8000).

NOTE: The penalty matrix for determining the gravity component of a penalty is based upon a statutory daily maximum of \$10,000 per day, per violation. This maximum penalty amount is authorized pursuant to SB 5310, which was enacted during the 2015 third special session. The effective date of this bill is



October 9, 2015. For any violations occurring before October 9, 2015, the maximum penalty amount is \$5000 per day, per violation. Therefore, in determining the maximum penalty under the gravity component for violations occurring prior to October 9, 2015, the range of penalty amounts contained in the penalty matrix must be reduced by one-half.

The worksheet is not intended to determine if a penalty is appropriate, but rather it enables the program to be consistent in the penalty amounts imposed. The Gravity Criteria Notes may be used to help answer questions contained on the worksheet.

### **Council Discretion on Gravity Component of Penalty**

When determining the amount of the gravity component of the penalty, Council will be mindful of the purpose of a civil penalty, which is to influence behavior, encourage compliance, and deter future violations. The Council may reduce, but not increase, the potential amount of the penalty amount generated through use of the Gravity Criteria Scoring Worksheet.

The factors that the Council will consider when deciding whether to reduce the gravity component of a penalty are:

- 1) The seriousness of the violation. This includes the gravity of the damage to human health, the environment, or the property of others. The Council will also consider the circumstances of its occurrence, including whether the violator's actions were done knowingly.
- 2) The prior behavior of the violator. Specific criteria include the record of similar violations or a pattern of violations indicating general disregard of environmental laws and rules, and precautions taken to prevent the violation. The Council will take harsher steps against violators who have a history of non-compliance, repeated violations of the same or other regulations, and previous penalties.
- 3) Subsequent actions taken to rectify the problem. The Council will consider the degree the responsible party cooperated with EFSEC and other agencies to gain compliance, and how timely and appropriately corrective actions were taken. Corrective actions that are delayed will generally not be considered as favorably as corrective actions that are taken as soon as the violation was discovered.

The Council balances all of these factors to best achieve the purpose of a civil penalty. The Council shall describe the basis used for any reduction in the amount of the gravity component of the penalty.

### **Economic Benefit Component of Penalty**

EFSEC will recover the economic benefit of noncompliance when penalizing violators. Economic benefit is usually found in the form of delayed or avoided costs, such as the failure to install necessary

equipment, obtain necessary permits, or conduct necessary tests. In recognition that the economic benefit component can be difficult to calculate, EFSEC may rely upon an economic analysis used by the inspecting agency for determining the economic benefit of noncompliance. It is general Council policy not to adjust or mitigate the economic benefit component. If the Council decides to adjust the economic benefit component, the reasons must be set forth in the final Council decision.

### **III. Issuance of Penalty**

A penalty must be imposed in writing, either by certified mail with return receipt requested, or by personal service. The penalty notice must describe the violation with reasonable particularity and include the right to appeal of the Council's decision.

### **IV. Remission/Mitigation of Penalties**

For violations occurring before October 9, 2015, a certificate holder may seek remission or mitigation of a penalty from the Council. The request for remission or mitigation must be filed with the Council within 15 days after *receipt* of the notice of violation. RCW 80.50.150(5). Note that the Council's regulation provides that this request must be filed within 15 days after *service* of the notice of violation. See WAC 463-70-070(4)(c)(i). The Council will rely upon the date of receipt for calculating the 15-day time period for requesting remission or mitigation. A decision by the Council to remit or mitigate a penalty is an administrative decision which the Council makes within its discretion. Remission or mitigation is only generally allowed to raise items not considered as part of the imposition of the original penalty.

The ability to request remission or mitigation of a penalty was repealed as part of SB 5310, which was enacted during the 2015 third special session.

### **V. Appeal Rights**

Any person may appeal a penalty imposed by the Council to the Council within 30 days after the date of receipt of the notice imposing the penalty. For violations occurring before October 9, 2015, if an application for remission or mitigation is filed, the appeal of the penalty must be filed within 30 days of receipt of notice from the Council setting forth the disposition of the application. Timely appeal to the Council is required before an appeal of the penalty may be made to superior court.



### EFSEC Gravity Criteria Scoring Worksheet

The Gravity Criteria Scoring Worksheet is used to help determine the appropriate penalty amount for violations of any permit or site certification requirement by an entity regulated by EFSEC. When a continuing violation occurs, each day that the violation occurs may be calculated as a separate violation. The penalty amount generated through this worksheet constitutes the maximum gravity component of a penalty, which may be adjusted by EFSEC's discretion to achieve the purposes of applicable statutes and regulations. EFSEC will add any economic benefit gained from noncompliance to the penalty amount assessed.

1. Did the violator know, or reasonably should have known, about the requirement?  
Yes – 5  
No – 0
2. Is the violator a large business, small business, or an individual?  
Large business – 5  
Small Business - 3  
Individual – 1
3. Does the violator have a history of violations?  
Yes, same law or regulation – 5  
Yes, laws or regulations other than the current violation that deal with the environment or natural resources or have a direct bearing on the violation being addressed – 3  
No – 0
4. Did the violation result in a risk to the health, safety, welfare, the environment, property, a business and/or enjoyment of personal property?  
Yes – 5  
No – 0
5. Did the risk in Question #4 result in an impact or is it reasonably expected that an impact did occur?  
Yes – 5  
No - 0
6. What were the impacts in Question #5? (to determine the score, mark all impacts and add the scores together for the total points for this question)  
A) Impacts to an individual's health, safety, or welfare – 5  
B) Damage to the environment – 3  
C) Impacts to an individual's enjoyment of personal property – 2  
D) Damage to property or a business – 2
7. Did the violator take actions to correct the violation?  
No, the violation could be corrected, but no actions were taken – 5

No, the violation could not be corrected, and the violator was uncooperative – 5

No, the violation could not be corrected, but the violator was cooperative – 3

Yes, the violation could be corrected, but the violator delayed taking action – 3

Yes, the violation could be corrected, and the violator took prompt action – 0

8. Was there an economic benefit to the violator from this violation, or did the violator expect an economic benefit was being derived from the violation?

Yes – 3

No - 0

**Penalty Matrix**

Points	1-3	4-6	7-9	10-12	13-15	16-17	18-19	20-21	22-23	24-25
Penalty	\$500	1,000	1500	2000	2500	3000	3500	4000	4500	5000

Points	26	27	28	29	30	31	32	33	34	35-35+
Penalty	\$5500	6000	6500	7000	7500	8000	8500	9000	9500	10,000

Penalty Amount from Penalty Matrix: \_\_\_\_\_

Penalty Amount from All Other Violations: \_\_\_\_\_

Economic Benefit from Noncompliance: \_\_\_\_\_

Total Possible Penalty: \_\_\_\_\_



## EFSEC Gravity Criteria Notes

When scoring the eight questions, use the point values listed on the Gravity Criteria Scoring Worksheet as listed. Do not use other point values other than those specifically listed.

1. Did the violator know, or reasonably should have known, about the requirement?

Knowledge may be obtained from a variety of sources, including previous technical assistance. Do not look only at direct contact between the agency and the violator addressing the laws and regulations violated. Knowledge may also be obtained by focused outreach efforts (such as to an industry group or to residents in a specific area) and general outreach efforts by federal, state, or local agencies, or activist/interest groups.

Claims of a lack of knowledge due to "not reading," "not listening," or "not seeing," etc. educational efforts by entities that have been reasonably presented to the violator should be considered a knowing violation.

2. Is the violator a large business or a small business?

Penalties should act as deterrents to future violations. The deterrent value of a penalty is relative to the ability of the violator to pay the penalty. A penalty that would have little impact to a large corporation may have a devastating impact to a small business.

Small and large businesses may be differentiated by using the definition of a "small business" under the Regulatory Fairness Act, Chapter 19.85 RCW. RCW 19.85.020(1) defines a "small business", in part, as a business entity with fifty or fewer employees.

3. Does the violator have a history of violations?

This question addresses the past behavior of the violator towards environmental laws, and other laws as they apply to the violator's operation in general. Violations considered for this question should be either state, federal, or local environmental/natural resources laws and regulations, or should have a direct bearing on the violation being addressed.

Violations that are for the same or very similar violation should be scored higher than for other violations (example: a violator of a water quality law who has violated water quality laws and regulations before would score higher than a violator who has violated air quality laws before but not water quality laws).

4. Did the violation result in a risk to the health, safety, welfare, the environment, property, a business and/or enjoyment of personal property?

This question addresses whether the violation created a risk, not if the risk resulted in impacts. Certain types of violations might merit penalties, but do not create risks (example – some record keeping errors). The issue is whether a risk was created by the violation, not the statistical probability of the risk.

5. Did the risk in Question #4 result in an impact or is it reasonably expected that an impact did occur?

This question addresses the issue of whether impacts actually occurred or are reasonably expected to have occurred.

Two evaluations of this question are necessary:

- a) The first evaluation should be for documented impacts. Documentation may be through reliable complaints, observations, medical records, or other appropriate methods.
- b) The second evaluation deals with either quantified or estimated probabilities (more likely than not) based on modeling, professional knowledge or other defensible method. If the location, nature, and other factors concerning the violation are such that it is probable that impacts occurred, then it should be presumed that there were impacts.

Persons or businesses are sometimes impacted, even severely impacted, and they do not know to report such impacts to the appropriate state agency. Therefore, it is not valid to presume that there were no impacts based upon no impacts being reported. Any presumption of no impacts should be based on the same type of evaluation as a presumption of impacts.

6. What were the impacts in Question #5? (mark all impacts and add the scores together for the total number of points)

This question looks to address the severity/importance of the impacts created. Impacts to an individual's physical self are considered the most severe.

When answering this question, items "A) Impacts to an individual's health, safety, or welfare" and "C) Impacts to an individual's enjoyment of personal property" are intended to be used for situations where a specific harm and individual or business is identified.

Item "B) Damage to the environment" should be used when an impact to an area occurred, there is no specific individual or business identified, it would be reasonable to expect at least one person or business would be in the impacted area, and an impact to a person or business in the impacted area would be expected.

To determine the score for Question #6, mark all impacts and add the score for each impact together for a total score.

7. Did the violator take actions to correct the violation?

Review any action considered for this question by asking: "Does the action focus on correcting and/or mitigating impacts to the environment and/or human health?"

The Council may be more lenient if the violator promptly corrects a violation, and any underlying system problems, when these are pointed out by staff. Specific actions include purchasing new technology, making system changes, or training company personnel. The Council may be more lenient if the violator has an active and adequate compliance program in place.

The Council may also be more lenient if the violator self-reported the violation, and if the violator is cooperative and responsive during the investigation of the violation.

8. Was there an economic benefit to the violator from this violation, or did the violator expect an economic benefit was being derived from the violation?

The quantitative measurement of economic benefit is reserved for a separate calculation to be added to the penalty amount. This question is aimed at reflecting a greater severity of a violation if one of the reasons for the violation is a perceived economic benefit even when the benefit is not actually obtained. In order to support an evaluation of the perception of an economic benefit for the violation, look for statements such as "I can't afford to wait for a permit, or install such equipment."



## Energy Facility Site Evaluation Council

### Non Direct Cost Allocation for 1st Quarter FY 2016 July 1, 2015 – September 30, 2015

The EFSEC Cost Allocation Plan (Plan) was approved by the Energy Facility Site Evaluation Council in September 2004. The Plan directed review of the past quarter's percentage of EFSEC technical staff's average FTE's, charged to EFSEC projects. This information is used as the basis for determining the non-direct cost percentage charge, for each EFSEC project. In addition, the Plan allows for adjustment due to anticipated work load and the addition of new projects.

Based on the levels of work during the 4th quarter of FY 2015, using the procedures for developing cost allocation, and allowance for new projects, the following percentages shall be used to allocate EFSEC's non direct costs for the 1st quarter of FY 2016:

<b>Kittitas Valley Wind Power Project</b>	<b>8%</b>
<b>Wild Horse Wind Power Project</b>	<b>8%</b>
<b>Columbia Generating Station</b>	<b>16%</b>
<b>WNP-1</b>	<b>3%</b>
<b>Whistling Ridge Energy Project</b>	<b>3%</b>
<b>Grays Harbor 1&amp;2</b>	<b>9%</b>
<b>Chehalis Generation Project</b>	<b>9%</b>
<b>Desert Claim Wind Power Project</b>	<b>2%</b>
<b>Grays Harbor Energy 3&amp;4</b>	<b>3%</b>
<b>Tesoro Savage</b>	<b>39%</b>



Stephen Posner, EFSEC Manager

Date:

7/21/15