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WASHINGTON STATE  
ENERGY FACILITY SITE EVALUATION COUNCIL  
Clark County Public Service Center  
1300 Franklin Street, Hearing Room 680  
Vancouver, Washington

Wednesday, April 2, 2014  
1:10 p.m.

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SPECIAL MEETING  
Verbatim Transcript of Proceeding

REPORTED BY: Marcel Johnson, State of Washington Certified Court  
Reporter No. 0002947

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APPEARANCES

STATE AGENCY MEMBERS:

- Chair: Bill Lynch
- Commerce: Liz Green-Taylor
- Ecology: Cullen Stephenson
- Natural Resources: Andrew Hayes
- Utilities and Transportation Commission: Dennis Moss

LOCAL GOVERNMENT AND OPTIONAL STATE AGENCY

- Department of Transportation: Christina Martinez
- City of Vancouver: Bryan Snodgrass
- Clark County: Jeff Swanson
- Port of Vancouver: Larry Paulson

ASSISTANT ATTORNEY GENERAL

- Assistant AG: Ann Essko

COUNCIL STAFF:

- Stephen Posner
- Sonia Bumpus
- Kali Wraspir

1 VANCOUVER, WASHINGTON; WEDNESDAY, APRIL 2, 2014

2 1:10 p.m.

3 \* \* \*

4 PROCEEDINGS

5 CHAIRMAN LYNCH: Good afternoon, and  
6 welcome. It's nice to be back in Vancouver.

7 Today is April 2nd, and it's a little bit  
8 after 1:00 p.m. And this is a meeting of the Energy  
9 Facility Site Evaluation Council, and we're meeting in  
10 the Clark County Commissioners' hearing room. And I  
11 want to express my appreciation to Clark County for  
12 making this facility available to us today.

13 And before we take the roll call and  
14 actually go into the discussion of the scoping  
15 proposal, what I'd like to do is just give a short  
16 overview of what it is that we're doing today.

17 We're not going to be taking any public  
18 testimony today. The work today is based upon the  
19 public input that has already been made. So our  
20 reason for coming to Vancouver is to listen, and then  
21 discuss and provide direction to our staff and our  
22 consultant regarding the scope of the Draft  
23 Environmental Impact Statement that's required under  
24 the state Environmental Policy Act for the proposed  
25 Tesoro project.

1           And to my knowledge, this is the first time  
2 that the council has provided such feedback prior to a  
3 Draft EIS being prepared. And so the idea behind it  
4 is that we wanted council input at the very front end  
5 of the process, and we wanted also to make this a  
6 transparent process. And that's consistent with  
7 Governor Inslee's directive about making government  
8 operations more transparent. So we wanted to have  
9 that discussion in front of the people here in  
10 Vancouver, where the proposed site of this project is.

11           And just a quick reminder, what is the  
12 purpose of SEPA. And that's to provide decision  
13 makers with all relevant information about the  
14 potential consequences of a proposed action and to  
15 provide a basis for a reasoned judgment that balances  
16 the benefits of a proposed project against the  
17 potential adverse effects of the project.

18           So the SEPA process is just one of three  
19 tracks that the EFSEC approval process conducts in  
20 developing a recommendation to the governor.

21           So we'll have the SEPA process, and so after  
22 the -- there will be another opportunity for the  
23 public to comment once the Draft EIS is prepared.

24           And along with the SEPA EIS process that the  
25 council goes through, we have a separate process for

1 the development of permits. And there's also a  
2 separate adjudicatory process that occurs, and that  
3 occurs after the Draft EIS is issued.

4 And after taking roll call today, we're  
5 going to have a staff presentation on the scoping  
6 report that's been prepared by our consultant. And  
7 council members can ask questions of staff following  
8 that presentation.

9 And next, the staff will present a  
10 recommendation to the council regarding how we  
11 should -- how they recommend we should proceed with  
12 the scoping process. And this is an area where I  
13 expect quite a bit of board discussion and input.

14 And at the conclusion of this discussion, I  
15 will be entertaining a motion on whether the staff  
16 proposal should proceed as suggested. And I'm looking  
17 forward to hearing from our staff and my colleagues on  
18 the council. I'm eager to examine and learn about  
19 proposed environmental impacts, and I hope the public  
20 is as well.

21 And at this point, Kali, can you please call  
22 roll?

23 MR. POSNER: Chair Lynch, I will be calling  
24 the role.

25 CHAIRMAN LYNCH: Okay. Mr. Posner.

1 MR. POSNER: Department of Commerce?

2 MS. GREEN-TAYLOR: Liz Green-Taylor, here.

3 MR. POSNER: Department of Ecology?

4 MR. STEPHENSON: Cullen Stephenson, here.

5 MR. POSNER: Department of Fish and  
6 Wildlife?

7 CHAIRMAN LYNCH: Mr. Stohr is unavailable  
8 today, but he did provide us some input.

9 MR. POSNER: Department of Natural  
10 Resources?

11 MR. HAYES: Andy Hayes, here.

12 MR. POSNER: Utilities and Transportation  
13 Commission?

14 MR. MOSS: Dennis Moss for the Commission,  
15 here.

16 MR. POSNER: Department of Transportation?

17 MS. MARTINEZ: Christina Martinez, here.

18 MR. POSNER: City of Vancouver?

19 MR. SNODGRASS: Bryan Snodgrass, here.

20 MR. POSNER: Clark County?

21 MR. SWANSON: Jeff Swanson, here.

22 MR. POSNER: Port of Vancouver?

23 MR. PAULSON: Larry Paulson, here.

24 MR. POSNER: And the Chair?

25 CHAIRMAN LYNCH: Bill Lynch is here.

1 MR. POSNER: Do you have a quorum?

2 CHAIRMAN LYNCH: Thank you, Mr. Posner. And  
3 I believe at this time, we'll have a presentation by  
4 Ms. Bumpus of our staff regarding the scoping report.

5 MS. BUMPUS: Good afternoon, Chair Lynch and  
6 council members. Thank you.

7 My name is Sonia Bumpus. I'm an energy  
8 facilities specialist with EFSEC, and I'm going to  
9 provide a presentation for council that will discuss  
10 some of the general information that was included in  
11 the SEPA scoping report for the Tesoro-Savage  
12 Vancouver Energy Distribution Terminal Project  
13 proposal.

14 I'm also going to talk a little bit about  
15 methodologies that we used to develop the scoping  
16 report and highlight some of the information from the  
17 data in the report.

18 As Chair Lynch mentioned already, there will  
19 be an opportunity to ask questions of staff on this  
20 presentation. And if council could note any questions  
21 they have throughout, we can address those.

22 We also have Jan Aarts from EFSEC's  
23 consultant, Cardno ENTRIX. Cardno ENTRIX prepared the  
24 scoping report on behalf of EFSEC. So Jan is here  
25 also to answer questions on the report.

1           So the scoping for this project began with  
2 EFSEC's issuance of a Determination of Significance  
3 and SEPA Scoping Notice. There is a copy of the DS  
4 and scoping notices in the scoping report.

5           And information on the DS and scoping notice  
6 included information on the duration of the SEPA  
7 public scoping comment period, instructions on how to  
8 submit comments, and other information about the  
9 project, including location.

10           The proposed site for the project is located  
11 at the Port of Vancouver. This is a photo of the  
12 port, and you may recognize it from the cover page of  
13 the SEPA scoping report EFSEC prepared.

14           There is also information about the  
15 project -- project's key elements, which included  
16 information about the proposals that it was too -- or,  
17 sorry -- is to construct and operate a facility that  
18 would be able to receive up to an average of four unit  
19 trains per day carrying crude oil by rail, with a  
20 capacity of up to an average of 360,000 barrels per  
21 day.

22           The facility would include a storage area  
23 with six storage tanks, each with a working capacity  
24 of approximately 340,000 barrels.

25           Oil received at the facility would be loaded

1 onto marine vessels at an existing marine terminal at  
2 berths 13 and 14 for shipment to refineries along the  
3 U.S. West Coast.

4 After EFSEC's issuance of the DS and  
5 initiation of scoping, EFSEC's comment period included  
6 several opportunities for agencies, tribes, local  
7 communities and organizations and the public to  
8 provide scoping comments.

9 There were also two EFSEC SEPA scoping  
10 public meetings held in Vancouver, Washington; and in  
11 Spokane, Washington. And all the comments received  
12 during the scoping period were indexed within SEPA --  
13 the SEPA scoping report.

14 So this brings us to the point that we are  
15 at now, which is considering the comments, considering  
16 all of the information we have on the project  
17 proposal, and then making a determination on the scope  
18 of the DEIS.

19 What we would expect after this would be the  
20 development of a Draft EIS, and eventually the  
21 publishing of that document. And it, too, would go  
22 out for public comment and there would be  
23 opportunities for the public to provide feedback on  
24 the document.

25 The comments received on the DEIS would be

1 indexed and organized, and responses to those comments  
2 would be included in the final EIS. And public input  
3 would continue to be of value in the development of  
4 the FEIS because it does have the potential to impact  
5 the areas of study in the final EIS and things of that  
6 nature.

7           So this is just a list of the milestones  
8 that are listed in the SEPA scoping report. I did  
9 want to -- I'm not going to go over all of these, but  
10 I wanted to note that there was a reissuance of a  
11 revised DS and SEPA scoping notice due to an extension  
12 of the comment period. We moved that from November 18  
13 to December 18.

14           And EFSEC also held the second SEPA scoping  
15 meeting in Spokane because there was a request to have  
16 an additional meeting in that location from the  
17 public.

18           Once the comment period closed on  
19 December 18, EFSEC was able to begin finalizing their  
20 SEPA scoping document.

21           The SEPA scoping report was completed on  
22 February 24 -- sorry -- the 21st. And the report  
23 doesn't make conclusions about the data that it  
24 contains. It's a nonconclusive document that simply  
25 tries to show the data that was received from the

1 public comments.

2           So our approach to this was to try to  
3 quantify the material in the comment letters. It  
4 began with the collection and aggregation of the  
5 comments. The comments were evaluated and reviewed  
6 for discrete issues. And we also developed issue  
7 codes that were based off of SEPA's elements of the  
8 environment.

9           So this spreadsheet contains some of the  
10 issue categories and codes that were developed based  
11 upon SEPA's elements of the environment. It's not all  
12 of them.

13           The first column lists the issue categories.  
14 The next column shows the corresponding issue codes.  
15 And the next one over shows the definition for those  
16 issue codes.

17           So comment reviewers analyzed the content of  
18 each comment letter to identify the unique statements  
19 about the project that the commenter made. This issue  
20 code key was then used for assigning the appropriate  
21 issue code to the statement.

22           So this is just as an example, but this is  
23 an actual comment letter submitted by e-mail during  
24 EFSEC's scoping comment period. This comment letter  
25 was screened for discrete comment issues, and the

1 highlighted sections are statements concerning the  
2 project that triggered a particular issue category or  
3 code, if you will.

4 So each discrete issue expressed in a  
5 comment letter was assigned to the appropriate issue  
6 code. This complete spreadsheet is taken from  
7 Appendix F, and it shows the specific codes that were  
8 generated from this comment letter that I showed you  
9 on the previous slide.

10 So this -- the letter that we just looked at  
11 with the highlighted areas triggered ten issue codes.  
12 And so that's really just what I'm trying to show  
13 here, is the list of the ten different issue codes  
14 that were generated by that letter.

15 So by coding the issues in the comment  
16 letters, we could organize the data to show the number  
17 of concerns by categories. This was also useful  
18 because it allowed us to show where there may be very  
19 concentrated levels of concern for a particular  
20 category.

21 So all of the comments we received were  
22 analyzed and coded using the same method. But when we  
23 were developing the scoping report, we wanted to break  
24 down the types of the letters that we had received.

25 So this is just listing the number of the comment

1 letters that we received for these particular letter  
2 types or comment letter types.

3 We received 22 agency comment letters, 105  
4 comments both through -- through both of the public  
5 SEPA scoping meetings that we held. We also had 10  
6 form letter templates that were submitted. And you  
7 can see there, the number is very high. 30,212 of our  
8 comments came from these ten different types of form  
9 letters.

10 And then discrete comment letters, which are  
11 comments that are unique and on their own, submitted  
12 by an individual organization totaled 735. So that  
13 gets us to our 31,074 total comments -- comment  
14 letters that we received.

15 So I wanted to talk about sort of the way we  
16 categorized these, and then also talk about the  
17 agencies, to start off.

18 On the last slide, as I showed you, we only  
19 received 22 agency comment letters, but the comment  
20 letters that the agency submitted were very  
21 descriptive, very detailed in their scoping comments,  
22 and I wanted to define what that means.

23 It does have its own section within our  
24 scoping report. The agency comment letters were  
25 analyzed and broken down within -- within an agency

1 comment section of the report.

2 So these would have been comments submitted  
3 by government agencies, tribal nations, representative  
4 tribal organization, cities, counties, and any elected  
5 officials.

6 This is just one pie chart. There are pie  
7 charts for every type of comment that we received.  
8 But this is just one showing the issue categories --  
9 or the percentage of the issue categories for  
10 agencies, tribes, and officials.

11 So you can see from this graph that  
12 environmental health and safety is very high.  
13 16 percent. Transportation is 16 percent. Fish and  
14 wildlife and vegetation, 12 percent.

15 I want to note that we did include these in  
16 a table. So we broke down the comment issue codes and  
17 tables in the report as well. But this is a really  
18 quick way of seeing where the areas of concern were  
19 maybe higher than other areas.

20 So the environmental health and safety --  
21 I'm going to go over all of the comment types. But  
22 for environmental health and safety, these are things  
23 like concerns regarding risk of oil spills, fire,  
24 explosion, things of that nature.

25 The transportation is a very broad category.

1 That would include marine vessels, rail traffic, and  
2 it could be on- or off-site concerns.

3 For the public meetings -- I'm not going to  
4 show the pie charts for every single one of them. I  
5 know that you've all had a chance to look at the  
6 report. But for the public meetings, the Vancouver  
7 meeting had a very high general comment category. It  
8 was 16 percent for the general category.

9 General categories are comments that are  
10 basically saying they're opposed or supportive of the  
11 project, or they just don't fall within any of the  
12 SEPA elements of the environment categories. So they  
13 don't trigger a particular issue code. So it was very  
14 high for the Vancouver meeting. But environmental  
15 health and safety and concerns about climate change  
16 were also relatively high.

17 For the Spokane meeting, there was a lot of  
18 the same concentration of concern. Transportation was  
19 14 percent. Environmental health and safety,  
20 15 percent. And cumulative effects off-site were also  
21 very high.

22 For form letters, again, environmental  
23 health and safety. We saw that throughout for the  
24 form letters and the discrete comment letters.

25 So I just want to talk a little bit about

1 the form letters. We received ten different templates  
2 for -- of these form letters. All together, they  
3 triggered a total of 82 distinct issue codes. Form  
4 letter number 2 was approximately 5,000 comment  
5 letters. And then form letter number 3 was just over  
6 24,000 of the comment letters. So form letters 2 and  
7 3 have the highest proportion of issue categories  
8 represented here in this -- in this graph.

9 So there were subcategories that were also  
10 developed to distinguish between on- and off-site  
11 concerns within the issue categories.

12 From the meetings that we held with Spokane  
13 and Vancouver, the majority of the off-site concerns,  
14 which is denoted by the red bars, were related to  
15 cumulative effects, transportation concerns off-site,  
16 and environmental health and safety, again. So these  
17 are very similar to what we were seeing with the pie  
18 graphs.

19 Form letters. Transportation, environmental  
20 health and safety, again, a high focus there. And the  
21 same for the discrete comments, environmental health  
22 and safety concerns and transportation, which is,  
23 again, a very broad category.

24 So the -- the blue does -- I just wanted to  
25 talk about this graph for a second. The blue is

1 representing the on-site issue codes that were  
2 triggered, but that are related to an on-site concern.  
3 And then red, off-site. And then green, that  
4 particular issue code did not -- did not have a  
5 distinction between an on- and an off-site concern.

6 That concludes the presentation, and I'd be  
7 happy to hear any questions that you have on the  
8 presentation, or regarding the scoping report.

9 CHAIRMAN LYNCH: Just a couple quick things,  
10 Ms. Bumpus. I just want to clarify. Just because  
11 comments might have come in the form of a form letter,  
12 those are still fully considered and evaluated; is  
13 that correct?

14 MS. BUMPUS: That's correct.

15 CHAIRMAN LYNCH: And if somebody wanted to  
16 review these comments and a copy of the scoping  
17 report, they could find these on our website?

18 MS. BUMPUS: That's correct. They can find  
19 them on the website. Also, the agency comments are  
20 actually scanned and in the appendices of the scoping  
21 report. And there are examples of each of the ten  
22 form letter templates in the appendices of the scoping  
23 report as well. And the entire scoping report is on  
24 the website, too.

25 CHAIRMAN LYNCH: And could you give the

1 website? Because we're not the UTC website.

2 MS. BUMPUS: Sure. It's [www.efsec.wa.gov](http://www.efsec.wa.gov).

3 CHAIRMAN LYNCH: Any other questions for  
4 Ms. Bumpus? Very good. Thank you.

5 MS. BUMPUS: Thank you.

6 CHAIRMAN LYNCH: Mr. Posner?

7 MR. POSNER: Yes. Good afternoon, Chair  
8 Lynch, council members.

9 I would like to direct your attention to one  
10 of the documents that is in your packet. And it is  
11 titled Draft EIS Scope Document.

12 And I'd like to talk about that document  
13 just a little bit. Essentially, that -- that document  
14 summarizes -- and it is a draft document -- summarizes  
15 what the EFSEC staff essentially is recommending as  
16 the scope for the Draft EIS.

17 And I'll just reiterate, I'm not sure if  
18 Ms. Bumpus mentioned this in her presentation, but  
19 it's been mentioned a number of times previously, is  
20 that we did receive almost 32,000 public comments.  
21 And the scoping report basically analyzed and  
22 summarized those comments. Those comments came from  
23 the public agencies, nongovernment organizations, and  
24 tribes.

25 The document that is in your packet

1 essentially summarizes what the staff is recommending,  
2 which is, first of all, the listing of all elements of  
3 the environment, which are listed in the SEPA rules.

4 And that includes indirect and cumulative impacts.

5 And there's also a section that will deal with an  
6 alternatives analysis. We recommend that that all be  
7 addressed in the Draft Environmental Impact Statement.

8 On the third page of the document, there are  
9 some, what we call, other recommendations; areas which  
10 generally fall, we believe, into elements of the  
11 environment under the SEPA rules, but may not be very  
12 clearly identified under those elements of the  
13 environment. But nonetheless, we believe should be  
14 addressed as, for the most part, indirect impacts. So  
15 those are listed separately.

16 So you may, when you read those, you may --  
17 you may see some overlap. But essentially, we wanted  
18 to call those out, just to bring to your attention,  
19 which we feel are the areas that need to be addressed  
20 in the Draft Environmental Impact Statement.

21 And what I'd like to do for the benefit of  
22 the public that is here, later in my presentation,  
23 just to read through those so the public can hear what  
24 those areas of analysis are that we are recommending.

25 Generally, what we are recommending is a

1 very detailed analysis on the probable impacts at and  
2 near the site, including the Vancouver area. And then  
3 as we move further away from the site, we look at  
4 probable impacts to be evaluated in other parts of the  
5 state. And then outside of the state, there will be a  
6 less detailed discussion of probable impacts.

7 And in considering the recommendations that  
8 are before you, I would just ask that you, as council  
9 members, consider some of the guidance that is given  
10 in SEPA. And I'm just going to read a couple of the  
11 sections that I think are pertinent for today's  
12 meeting.

13 This is under the content of environmental  
14 review, under SEPA 197-11-060. And it says that in  
15 assessing the significance of an impact, the lead  
16 agency shall not limit its consideration of the  
17 proposal's impact only to those aspects within its  
18 jurisdiction, including local or state boundaries.

19 One other important statement, a direction  
20 in the SEPA rules, is that the range of impacts to be  
21 analyzed, direct, indirect, and cumulative, may be  
22 wider than the impacts for which mitigation measures  
23 are required of applicants.

24 So the way we interpret that and the way I  
25 interpret that, as the SEPA-responsible official, is

1 that there may be indirect impacts that the project  
2 has that the council, as the decision maker and as the  
3 lead agency, will not be in a position to prescribe  
4 mitigation measures for, but that should be identified  
5 in the environmental documents. And so some of our  
6 recommendations are based on that SEPA guidance.

7 So to sort of summarize where we're at, the  
8 document that you have in front of you, EFSEC staff  
9 believes that those recommendations address the SEPA  
10 regulatory requirements, and we would request the  
11 council's consideration and approval of that document  
12 as the guideline for moving forward in developing the  
13 draft environmental impact statement.

14 So what I would like to do, if it's okay  
15 with the council, is just read -- basically, what I  
16 will say is that the document contains all of the  
17 general areas of elements of the environment, and that  
18 includes the natural environment, earth, air, water,  
19 plants and animals, energy and natural resources,  
20 built environment, including environmental health,  
21 land and shoreline use, transportation, and public  
22 services and utilities. And there are a number of  
23 subgroups under each one of those headings.

24 All of those we recommend be addressed in  
25 the Draft EIS.

1           We also recommend that cumulative impacts,  
2 indirect impacts be addressed and that the -- an  
3 alternatives analysis -- a reasonable alternatives  
4 analysis which shall include other actions that could  
5 feasibly obtain or approximate the project's  
6 objectives should be reviewed in the Environmental  
7 Impact Statement.

8           And then on the last page, noting the number  
9 of bulleted items, I can go ahead and read through  
10 those. Or if the council members would just like to  
11 discuss them, I'm open either way. So do council  
12 members have a preference? I'm fine just reading them  
13 for the benefit of the public.

14           CHAIRMAN LYNCH: That would be my  
15 preference, Mr. Posner, is to go ahead and read those  
16 so the public is aware of what we're considering.

17           MR. POSNER: Okay. So under the other  
18 recommendations, we are recommending that there be a  
19 detailed analysis of rail transportation impacts near  
20 the project site, specifically including Vancouver and  
21 nearby communities; that there be a detailed analysis  
22 of greenhouse gases and other air emissions from  
23 project site operations; a detailed analysis of  
24 project site emergency response capabilities,  
25 including HAZMAT response to incidents involving crude

1 oil transported by railcar; analysis of project  
2 impacts on socioeconomic resources, including  
3 employment, tax revenue, and economic conditions;  
4 analysis of rail transportation impacts on select  
5 communities within the state of Washington; analysis  
6 of emergency response capabilities, including HAZMAT  
7 response to incidents involving crude oil transported  
8 along the railroad route within Washington; analysis  
9 of greenhouse gas and other air emissions from rail  
10 and vessel traffic within Washington; analysis of  
11 emergency response capabilities along cargo ship  
12 traffic lines on the Columbia River from the project  
13 site to the confluence with the Pacific Ocean;  
14 analysis of cargo ship impacts from the project site  
15 to the confluence with the Pacific Ocean; qualitative  
16 analysis of rail transportation data along the  
17 railroad route beyond the state boundary; qualitative  
18 analysis of cargo ship transportation data beyond the  
19 state boundary; and qualitative analysis of project  
20 data related to crude oil extraction and refining.

21           So just to reiterate, the recommendation as  
22 before you, we believe that this recommendation meets  
23 the regulatory requirements of SEPA and, again, takes  
24 into consideration the numerous comments we received  
25 from public, government agencies, nongovernment

1 organizations, the tribes.

2 And that concludes my presentation. I'd be  
3 happy to answer any questions. In fact, Sonia, we're  
4 both available to answer questions, if the council  
5 members have any.

6 CHAIRMAN LYNCH: Thank you, Mr. Posner.  
7 What I think I'll do today in terms of questions -- I  
8 originally thought we could just have council members  
9 speak without being recognized by the Chair. But  
10 having worked with court reporters before, I think  
11 it's a little nicer if the Chair would recognize  
12 somebody before they spoke. And it also prevents  
13 people from talking over each other.

14 And just a couple quick questions before I  
15 open it up to other council members.

16 Under the alternatives analysis, am I  
17 correct in saying that a public entity has more  
18 responsibility for developing an alternatives analysis  
19 than a private entity?

20 MR. POSNER: That is correct. The SEPA  
21 rules, basically, there are more requirements for a  
22 project that is deemed a public project. And when a  
23 proposal is for a private project on a specific site,  
24 the lead agency shall be required to evaluate only the  
25 no-action alternative, plus other reasonable

1 alternatives for achieving the proposal's objective.

2 Public projects are required to do a  
3 reasonable alternatives analysis.

4 For this particular project, because we  
5 consider the relationship of the Port of Vancouver to  
6 this proposed project, and we felt that -- EFSEC staff  
7 felt that it would be -- that the best option for  
8 dealing with an alternatives analysis would be to  
9 consider other options besides the no-action  
10 alternative as if this was a private project.

11 So we're not making, at this time, the  
12 determination whether it's a public or a private  
13 project. But we feel that an alternatives analysis  
14 should go further than what is required specifically  
15 for a well-defined or clearly-defined private project.

16 CHAIRMAN LYNCH: Thank you for that. Those  
17 are tough questions when you deal with -- I think  
18 particularly with port districts because of the very  
19 nature of a port district and what their  
20 responsibility is.

21 But I would agree with you that, I think in  
22 this particular instance, that if -- if we handle it  
23 like a public project -- and do you know if the  
24 applicant -- has that been indicated to the -- is the  
25 applicant agreeable to that approach?

1           MR. POSNER: I have had discussions with the  
2 applicant, and they are aware of, you know, staff's  
3 position on that. And they understand the position,  
4 as far as I know, that this is -- they understand  
5 where the staff is coming from on this position.

6           CHAIRMAN LYNCH: I guess my preference would  
7 be if we could pursue that, but not necessarily be  
8 establishing a precedent for all other future  
9 projects, that that -- I think it would take away some  
10 potential appeal items that might come up.

11           If the applicant is willing to pursue this  
12 EIS be developed as a public project and we actually  
13 get more information as a result of that to act upon,  
14 I think there's no reason for us to be making a  
15 declaration that this is a public project or a private  
16 project.

17           I will just -- I want to have some other  
18 comments, but I just wanted to get any other council  
19 members' thoughts about that particular aspect.

20 Mr. Paulson?

21           MR. PAULSON: If I may, Mr. Posner, just to  
22 clarify what Chair Lynch was saying, it does not set a  
23 precedent in terms of future activities at a port  
24 always being considered a public project?

25           MR. POSNER: That's my -- excuse me --

1 that's my understanding, yes. I think when we -- when  
2 we came to this point, we looked at the relationship  
3 of the Port of Vancouver to the joint venture,  
4 Tesoro-Savage, and we looked at these are the factors  
5 that we considered, is that the Port of Vancouver  
6 issued a Statement of Interest seeking proposals to  
7 develop this type of facility, specifically a  
8 petroleum-by-rail facility, and that the Port of  
9 Vancouver, by means of this project, may be carrying  
10 out some of its governmental functions. So that in  
11 considering that information, the relationship between  
12 the project -- the proposed project and the port, we  
13 did not feel that it was clearly a private project,  
14 that there may be enough information to consider it  
15 not being a private project. So we feel that -- that  
16 the alternatives analysis should go further in the  
17 Draft EIS than what would be required for a private  
18 project.

19 And I will -- just to get back to your  
20 earlier question, just to be more specific, I have had  
21 this discussion with representatives of the applicant,  
22 and they essentially agree that that would be,  
23 essentially, acceptable. They understood and they  
24 would be fine pursuing that option. And that is  
25 something not -- that is something that was discussed

1 with them, is this is what the staff recommendation is  
2 going to be. I wanted to make sure that they're aware  
3 that. Because initially, I think there may have been  
4 some concern, or at least there was some belief that  
5 this was clearly a private project, and I think -- I'm  
6 not sure that there is enough to declare it a private  
7 project.

8 MR. PAULSON: My understanding from some  
9 other discussions is that they had agreed to this,  
10 that it would be considered -- understood it was going  
11 to be considered a a public project. But it's EFSEC's  
12 position that it isn't necessarily -- any port project  
13 is not necessarily a public project in the future?

14 MR. POSNER: That's correct.

15 MR. PAULSON: All right.

16 CHAIRMAN LYNCH: Thank you. Any other  
17 questions related to this one particular item?

18 Then I have just a couple more questions,  
19 Mr. Posner.

20 One, I see that -- I think it's implied in  
21 here that there will actually be a detailed analysis  
22 of the type of oil that would actually be transported.  
23 Because I'm looking at, under environmental health,  
24 that risk of explosions would be considered, and then  
25 other recommendations of the detailed analysis of the

1 emergency response capabilities. And I think, I guess  
2 in my own mind, that in order to have -- to be able to  
3 properly assess the potential dangers and the  
4 potential to -- for adequacy of response, that there  
5 needs to be a pretty good idea of the characteristics  
6 of the oil that's being transported. And I think  
7 that's implied by what you have in here, but I just  
8 wanted to make sure that that was, in fact, your  
9 understanding.

10 MR. POSNER: That is my understanding, yes.

11 CHAIRMAN LYNCH: Okay. And the last  
12 question I have for the moment, in terms of cumulative  
13 impact, there are, of course, a number of other  
14 projects that are proposed for using the train tracks.  
15 And -- and we -- and you have, Cumulative impact  
16 analysis shall include vessel and rail traffic impacts  
17 from similar projects proposed in the state.

18 And so you're talking about similar energy  
19 projects. So it would be like coal trains, for  
20 example?

21 MR. POSNER: That's correct.

22 CHAIRMAN LYNCH: But I guess I want to make  
23 sure in my own mind for a SEPA analysis that just  
24 because a -- I'll just say what my own thoughts are, I  
25 guess, in terms of what's appropriate to include under

1 a cumulative analysis, impacts analysis.

2 There's always lots of proposed projects  
3 being kicked around. But I think in my own mind, if  
4 we were to look at and focus on those projects where  
5 applications have already been submitted, the projects  
6 are either ongoing now or there's applications  
7 proposed, I kind of like that bright-line test.  
8 Because otherwise, you end up in a situation where a  
9 project is being discussed somewhere and how do you  
10 decide to include that in the cumulative impacts  
11 analysis? What indicia do you look at?

12 And I think that's -- the concern I have is  
13 that that could lead you down a slippery slope of,  
14 well, this project makes it but this one doesn't. And  
15 it just looks like -- like you can -- it looks -- the  
16 potential for being arbitrary opens itself up so --  
17 but with the idea of projects that have been applied  
18 for, in this state we have a strong vesting doctrine  
19 where if an entity, a developer or whoever applies for  
20 a project, that's when both rights and  
21 responsibilities are triggered. And I guess I  
22 would -- I'm expressing my own opinion that, for the  
23 cumulative impacts analysis, that we consider, as you  
24 suggested, similar projects, but it's for projects  
25 that are either going at the moment or for which

1 applications have been filed.

2 And with that -- I could keep going on.  
3 There's so many interesting things in here, but I'd  
4 like to hear from my colleagues. Ms. Martinez?

5 MS. MARTINEZ: Stephen, I have, first, a  
6 couple administrative-type questions or  
7 clarifications. Does the -- do the documents that we  
8 have -- are the documents that we have in front of us  
9 available to the public? Does everybody else have a  
10 copy of these?

11 MR. POSNER: Not at this time. We consider  
12 this a draft document, a pre-decisional document,  
13 which we will make available, depending on what the  
14 council decides at the end of this meeting. It could  
15 be available as early as right after the meeting, but  
16 that depends on what sort of action the council takes.  
17 Or we will make it available as soon thereafter as a  
18 scope is finalized.

19 MS. MARTINEZ: Okay. So we have a copy  
20 of -- a description of the areas of the affected  
21 environment and built environment that we're going to  
22 study, so a list of the themes that will be studied in  
23 the EIS.

24 And then we also have a table that lists  
25 areas by natural environment and built environment and

1 breaks that out into, you know, what will the direct  
2 impact analysis look at, what will the indirect impact  
3 analysis look at, et cetera. How are these two  
4 related?

5 MR. POSNER: Thank you for that question,  
6 and I didn't really touch on the second document very  
7 much.

8 It is referenced in the last paragraph of  
9 the recommendations document. When you read that, it  
10 is essentially describing the analysis by resource  
11 document. Which is basically, what we're asking is  
12 when we look at the affected environment, the  
13 resources and the direct impact analysis, indirect and  
14 cumulative impact analysis, what we want to see is  
15 what information is being used. What studies, what  
16 data, how is that being analyzed to serve as sort of  
17 the basis for filling in the blanks, if you will, on  
18 all of these areas that are recommended in the  
19 document, whether it be under the other  
20 recommendations or the elements of the environment.

21 So we would expect to see this information  
22 provided by the applicant reviewed and -- by EFSEC and  
23 EFSEC's independent consultant, ultimately approved by  
24 EFSEC, which will essentially serve the basis for sort  
25 of the technical foundation for developing the Draft

1 EIS.

2 MS. MARTINEZ: Okay. So can I proceed with  
3 more content-related questions?

4 CHAIRMAN LYNCH: Yes. Please follow up.

5 MS. MARTINEZ: Okay.

6 CHAIRMAN LYNCH: And you might want to pull  
7 that microphone over toward you a little bit.

8 MS. MARTINEZ: Following on from the Chair's  
9 discussion about the reasonably foreseeable actions,  
10 we are talking about applications that have been  
11 submitted, which I'm comfortable with. But I think we  
12 have some reasonably foreseeable actions that haven't  
13 yet submitted application that may have EISs or  
14 environmental assessments put forward, but maybe don't  
15 have a permanent application on hand. And, quite  
16 frankly, I'm thinking of some of the intercity  
17 passenger rail projects that we have. Those, I think,  
18 would be appropriate for consideration in the  
19 cumulative impact section, yet they might not yet have  
20 a permanent application submitted.

21 MR. POSNER: Well, in that case, there would  
22 have been a -- there would have been expenses --

23 MS. MARTINEZ: But they are undergoing the  
24 SEPA procedures, and they have funding. So that's  
25 just one little caveat to your earlier comment that I

1 would add.

2 CHAIRMAN LYNCH: And to your knowledge, are  
3 they engaged in a detailed pre-application process?

4 MS. MARTINEZ: Yes, I would say. They are  
5 starting to submit permit applications to the Corps,  
6 going through Endangered Species Act consultations.  
7 But I don't think anything has been formally submitted  
8 yet for those projects that are being actively  
9 pursued.

10 MR. POSNER: Right. And I think that's  
11 consistent with the guidance. Reasonably foreseeable  
12 is the guidance that the regulations provide. And I  
13 think that then there's some discretion that the lead  
14 agency has in making, you know, what does that mean.

15 CHAIRMAN LYNCH: One of the things I guess I  
16 was a little bit concerned about is, I don't want to  
17 discourage a pre-application process where if people  
18 believe that they are -- if they are engaged in a  
19 pre-application process, which I could easily see this  
20 particular council going to in future years, that  
21 somehow that would trigger all these other things.  
22 And I didn't want to discourage people from engaging  
23 in pre-application because it might trigger some  
24 responsibilities on their part.

25 But if they're already engaged in an

1 extensive pre-application process, which it sounds  
2 like they are, is what you're referring to, I think  
3 that's appropriate. Of course, you don't have to just  
4 listen to me, either.

5 Any further questions? Any other follow-ups  
6 about this?

7 MS. MARTINEZ: I have a few more, but I  
8 don't want to hog the microphone. So I think Mr. Moss  
9 has something.

10 CHAIRMAN LYNCH: Mr. Moss?

11 MR. MOSS: Yeah. I want to follow up on the  
12 same line of questions. With respect to cumulative  
13 and indirect impacts, I notice the way it's phrased in  
14 the final sentence of the section. It says, Projects  
15 proposed in the state.

16 And what I want to be confident is that that  
17 does not necessarily exclude a project that would be  
18 quite relevant, perhaps, but not located in the state.  
19 And I'm thinking in particular of the recent impress  
20 that I've seen concerning an oil-by-rail terminal on  
21 the Oregon side of the river, just to the west of  
22 here.

23 MR. POSNER: Right.

24 MR. MOSS: And that seems to me that that  
25 would be something, as I looked at the maps and the

1 impress, those rail routes seem to me to be the same  
2 up to the point of Vancouver, and then the line  
3 crosses the river.

4 So I don't know if that would need to be  
5 rephrased, necessarily, in your document here. But I  
6 think we would want to be sure that those were looked  
7 at, at least.

8 MR. POSNER: Thank you.

9 CHAIRMAN LYNCH: Any other council comments?  
10 Ms. Green-Taylor?

11 MS. GREEN-TAYLOR: Thank you, Chair. I just  
12 wanted, number one, to reiterate what Mr. Moss just  
13 said about considering things on both sides of the  
14 Columbia. That seems important to me.

15 But the other question that I have,  
16 primarily for staff, is regarding the process itself.  
17 And the flowchart that was in the staff's presentation  
18 indicated that we're here at the scope of the Draft  
19 EIS, and that the next step is to publish the Draft  
20 EIS.

21 And I just wanted to have staff clarify a  
22 little bit that there are some intermediary steps in  
23 there, including, which Mr. Posner mentioned, more  
24 detail on the technical approach and methodology for  
25 completing the DEIS.

1           MR. POSNER: That is correct. That diagram  
2 that was in Ms. Bumpus's presentation, there are other  
3 steps in between, but that just summarizes the key  
4 steps. And, essentially, we need to have the  
5 foundation for the document before the document gets  
6 produced. So -- and that's what we're asking for in  
7 this analysis by resource document.

8           MS. BUMPUS: So, that's correct, what  
9 Mr. Posner just said. And really what the diagram was  
10 attempting to show was that we are going to be doing a  
11 process that will allow additional public input. And  
12 that that public input continues until we get to that  
13 final EIS. So that's more of what it was trying to  
14 show an overview of, that that process continues.

15           The SEPA scoping public comment period has  
16 closed, but the process of public input continues as  
17 we go into the development of these future documents.

18           MS. GREEN-TAYLOR: And the development of  
19 the document includes that what we were referring to  
20 previously as the phase 2 scoping document, if I  
21 remember that correctly, that has more detail on the  
22 methodology, correct?

23           MS. BUMPUS: That's right. That's correct.

24           MS. GREEN-TAYLOR: Thank you.

25           CHAIRMAN LYNCH: So if I could follow up on

1 that question.

2 So what we're really doing today is setting  
3 a broader framework for the staff and consultants to  
4 pursue. And then if I'm hearing you correctly, you'll  
5 come back with a more detailed presentation to the  
6 council about here is the real particulars -- based  
7 upon the general direction that council has provided  
8 us, here is the how do we get there sort of  
9 presentation that we would have an opportunity in a  
10 public meeting to review and discuss.

11 MR. POSNER: That is my expectation. We  
12 will -- we will be updating the council at least  
13 regularly at the regular scheduled council meetings as  
14 we move forward. And so we will keep the council  
15 members updated on where we're at and also open it up  
16 for input from the council members, seek your input  
17 and comment on the process.

18 CHAIRMAN LYNCH: Thank you.

19 MR. STEPHENSON: Mr. Chair, I have a quick  
20 comment on this.

21 Can we talk about the timeline? This shows  
22 a series of discrete boxes, and it sort of looks like  
23 the process that we've done to date is going to be  
24 about the same time as from here on out, and that's  
25 not really correct. So I'd just like for you to

1 clarify that for us.

2 MS. BUMPUS: Mr. Stephenson, yeah, there's  
3 no timeline on here. We would have a set comment  
4 period, just like we have done with the SEPA scoping  
5 comment period. I don't know how long that comment  
6 period would be. That would be determined by council.

7 CHAIRMAN LYNCH: But I think what the  
8 council member is suggesting is it could be quite a  
9 while before we hear back from the staff regarding the  
10 particulars of the -- of how the EIS is to proceed.

11 MR. POSNER: Well, one thing for council  
12 members to consider is, you know, the requirements for  
13 an application for site certification, which the  
14 applicant has already submitted and which is under  
15 review as well, the requirements for that document are  
16 very similar to a SEPA EIS document.

17 So in some sense, some of the work, as we  
18 move towards developing any EISs in place, there's  
19 still, obviously, quite a bit more work that needs to  
20 be done. But as far as time frames, one thing I will  
21 say is we hope to give you a clear update on time  
22 frames at the April council meeting, once we get  
23 through this meeting.

24 CHAIRMAN LYNCH: Mr. Hayes?

25 MR. HAYES: Thank you, Chair. Mr. Posner, I

1 wonder if I could just follow up on the previous  
2 discussion related to a more detailed examination of  
3 impacts, what might be contained in the EIS.

4           So just to clarify, so based on the list of  
5 elements in the environment you provided us and then  
6 this list of other recommendations of potential  
7 impacts, it seems like these are sort of distinguished  
8 by one being sort of elements of the environment that  
9 are impacted, and the other being actual impacts to  
10 those elements.

11           I'm guessing that in this sort of phase 2  
12 process that you described, that we would have a more  
13 complete look at what the sort of range of potential  
14 impacts that would be examined in the EIS would be.  
15 Because I -- one of the things I noticed, you know, I  
16 heard a lot of different comments through the public  
17 commenting that were talking about a number of other  
18 types of impacts I don't see captured here explicitly,  
19 but I can see how they relate to certain elements in  
20 the environment.

21           So I'm wondering if that sort of next  
22 check-in will have a more sort of comprehensive or  
23 complete look at the types of impacts that are going  
24 to be examined in the DEIS.

25           MR. POSNER: Yes. That -- that is my

1 expectation, we'll be able to provide that information  
2 to you. The other thing is just to keep in mind that  
3 we looked at every -- we reviewed every letter --  
4 every comment letter. But that's not to say that  
5 every comment is something that needs to be considered  
6 or is required.

7           There are things that people brought up in  
8 their letters that are not related to SEPA. There's  
9 nothing in SEPA that requires, or it's even, you know,  
10 even fits into what sort of review we're doing here.

11           So you may have actually read some things  
12 where there was a public concern about a particular  
13 issue, but it may not be something that we -- that  
14 is -- that falls under the SEPA umbrella, if you will.

15           MR. HAYES: Understood. I think I was more  
16 thinking about there were some other areas --  
17 potential impacts really much more specific than we  
18 have captured thus far in the process.

19           MR. POSNER: Right.

20           MR. HAYES: That I am just concerned about  
21 we're giving a look to.

22           MR. POSNER: Sure. Yeah. And this is --  
23 this is a general sort of direction that we're asking  
24 the council to approve so that we can move forward to  
25 begin the greater detailed analysis.

1 MR. HAYES: Thank you.

2 CHAIRMAN LYNCH: Yes, Mr. Snodgrass?

3 MR. SNODGRASS: Thank you, Mr. Chair.

4 I have a question for staff just to, if you  
5 might talk in a bit more detail of one aspect of this  
6 schedule before us.

7 In terms of the DEIS public comments, I  
8 wonder if you might speak to, just for clarification  
9 of the obligation to respond to those public comments  
10 and include that response within the final EIS  
11 process.

12 MR. POSNER: That is a requirement, and we  
13 intend to respond or provide responses to all the  
14 comments that are received.

15 MR. SNODGRASS: So in my understanding of  
16 SEPA, you would -- a comment received saying that  
17 something that should have been included in the  
18 original scope was not would -- would -- would not be  
19 something that you would be able -- we would be able  
20 to respond to, but certainly a question regarding  
21 whether a particular issue that was scoped is scoped  
22 adequately and deeply enough. That certainly would be  
23 something we'd been obligated to respond to in the  
24 final EIS.

25 MR. POSNER: That's my understanding, yes.

1           CHAIRMAN LYNCH: I would just like to jump  
2 in with, I had a conversation with Mr. Stohr prior to  
3 today, and he wanted to reflect some thoughts.

4           First of all, as the representative for the  
5 Department of Fish and Wildlife, impacts to fish and  
6 wildlife and their habitat are certainly a concern of  
7 his.

8           And one of the things that he spoke to me  
9 about, which I thought was -- I think it's consistent  
10 with what you're proposing here, but that's the  
11 concept of the amount of analysis corresponding with  
12 the amount of risk involved.

13           So for example, if you have a -- evaluating  
14 a potential spill into the Columbia, for example, and  
15 then you wouldn't necessarily -- you wouldn't look at  
16 every foot of rail line for the entire state of  
17 Washington, but you'd be able to look at some  
18 representational communities or some representational  
19 areas where those are looked at in a high degree of  
20 detail. And then it can be -- that same sort of  
21 analysis can be applied to other parts of the state.

22           And that's what I'm -- that was one of the  
23 things I think he was interested in, in making sure  
24 that the amount of analysis corresponded with the  
25 amount of risk. And so if you'd please elaborate on

1 that.

2 MR. POSNER: Well, what we would -- what  
3 this proposal is basically asking or subscribing as  
4 far as that goes, as far as that type of analysis, is  
5 that when we talk about looking at, for instance, rail  
6 transportation impacts along the rail corridor, we  
7 want to look at representative areas of that -- of the  
8 rail corridor which represent different types of  
9 environments, different types of communities. For  
10 instance, a rural community, a mid-sized community, a  
11 large community, and then some areas in between.

12 If there are areas that we know of  
13 specifically, perhaps, that have sensitive  
14 environmental concerns, maybe they're a sensitive  
15 species, we might want to do -- focus in on that area  
16 in particular.

17 If there are areas that we know that  
18 historically or where there's a higher probability of  
19 a rail incident of some sort, based on a past  
20 incidence, we may want to take a look at what sort of  
21 emergency response capabilities exist there. If we're  
22 looking at rail crossings, there is data that we know  
23 that's available that talks about impacts to the  
24 community. Certain rail crossings have more issues  
25 than others. We may want to do a more detailed

1 analysis in that area. But not throughout -- not --  
2 we're not proposing that we do the same level of  
3 analysis, like you mentioned, on every section of  
4 the -- the rail corridor.

5 CHAIRMAN LYNCH: Very good. Any other  
6 questions or comments by council members?

7 Mr. Stephenson.

8 MR. STEPHENSON: Thank you, Mr. Chair.

9 Just a comment to staff. Ecology put in its  
10 comments to you in a letter, and I'm required to be  
11 separate from those comments. So I put in my own  
12 comments as a council member both reflecting my own  
13 sensitivities and training and understanding of the  
14 issues, and then also reflecting what I heard from the  
15 two very detailed public meetings that we went through  
16 in listening to the public on that, and then looking  
17 at the public comments.

18 I just wanted to say, in my estimation,  
19 you've done a nice job of trying to reflect all of  
20 that. I think the comments certainly that I thought  
21 should be in there from what I heard from the public  
22 and from what I thought from my own self and from my  
23 agency, those are in there.

24 I know other council members have been doing  
25 this. We can't get together and do it all together.

1 I think we have to do it separately. But I think  
2 that's been well done, so I just wanted to say thank  
3 you.

4 And then a question, was there anything  
5 special that came up from the written comments after  
6 the public hearings? Did you see any interesting  
7 comments that caught your eye that we didn't hear in  
8 public testimony?

9 MR. POSNER: I'm going to turn to Ms. Bumpus  
10 and see if she has -- nothing comes to mind to me.

11 MS. BUMPUS: One thing that was interesting,  
12 and this actually is related to the two public comment  
13 meetings that EFSEC held.

14 At the first meeting that we held in  
15 Vancouver, we had a large amount of comments that were  
16 general comments which, as I mentioned in the  
17 presentation, those are comments that are just  
18 generally making a statement that they're opposed or  
19 supportive of the project, or that they -- they just  
20 don't fall anywhere within the SEPA elements or the  
21 environment category.

22 And what changed was when we had our meeting  
23 in Spokane, we did have more prescriptive comments  
24 that were related to emergency response, increased  
25 rails under the transportation category. And so there

1 was a shift there.

2 As to whether -- are you asking, though, if  
3 after the public meetings, we had a change? The  
4 comments -- the way that they were submitted, a lot of  
5 them came in in mass numbers, and many of them came in  
6 towards the end of the -- of the comment period. So  
7 it's hard to tell if -- you know, if there were  
8 impacts from us having the meeting in particular, if  
9 that's kind of what we're getting at.

10 MR. STEPHENSON: Just trying to understand  
11 if there are other things that we didn't hear in  
12 public testimony that we need to consider.

13 MS. BUMPUS: I think that the -- from what  
14 I've seen of reviewing the comments, the categories  
15 that were triggered that were very high in the public  
16 meetings, climate change, issues related to  
17 transportation regarding the marine vessel traffic,  
18 impacts on the river, the rail traffic increase,  
19 potential for spills both along the railroad and on  
20 the river, I think that, you know, there wasn't --  
21 there wasn't anything new. I think that those were  
22 pretty consistent throughout. Those were strong in  
23 the meetings, and we -- we heard those from the other  
24 comments.

25 MR. STEPHENSON: Thank you.

1           CHAIRMAN LYNCH: Just to follow up on  
2 Mr. Stephenson.

3           There were some detailed comments that came  
4 in that were consistent. For example, there's a  
5 developer of a proposed waterfront project in the  
6 Vancouver area, and it was -- of course we heard at  
7 the Vancouver hearing that there were some concerns  
8 about whether that project would conflict with this  
9 particular proposal. And I know he or his  
10 representative sent in a rather detailed letter. And  
11 there were some other -- there were a few other very  
12 detailed letters that came in towards the end. But  
13 after -- towards the end of the process.

14           MR. STEPHENSON: Great. Thank you.

15           CHAIRMAN LYNCH: Any other questions? I  
16 know Ms. Martinez was holding back on some questions.

17           MS. MARTINEZ: Okay. I have another  
18 procedural question for you, Mr. Posner.

19           Because we talked about alternatives  
20 analysis and that we --

21           CHAIRMAN LYNCH: Excuse me, Ms. Martinez,  
22 but people can't hear you. Thank you.

23           MS. MARTINEZ: Okay. Mr. Posner, another --  
24 can you hear me now -- another procedural-related  
25 question, and then I do have one more content-related

1 question.

2 Because we are saying that we're going to be  
3 looking at alternatives, including the no action, the  
4 proposal and other alternatives, are we going to have  
5 an opportunity to look at alternatives considered,  
6 screened out, that sort of thing, before we see those  
7 in a Draft EIS? Will the council have an opportunity  
8 to weigh in an alternatives under consideration?

9 MR. POSNER: Yes. Because typically, what  
10 we've done in the past is as we move forward  
11 developing the document to be made available for  
12 public, a Draft EIS, we have a Preliminary Draft EIS  
13 that basically goes through staff review and  
14 independent consultant review.

15 And before we issue that draft document,  
16 we -- we distribute that document to council members  
17 for all council members to take a look at. We do not  
18 want to put that document out until we have -- you  
19 know, until council members have a chance to look at  
20 it. So you would be able to look at that at that  
21 point in time.

22 CHAIRMAN LYNCH: Any other council member  
23 questions? Oh, I'm sorry.

24 MS. MARTINEZ: I'm sorry.

25 CHAIRMAN LYNCH: Just keep going.

1 MS. MARTINEZ: I'll keep going.

2 Well, let me echo Mr. Stephenson's comment  
3 about the quality of work you guys have done. I know  
4 the rigor that's gone into it, and it's pretty obvious  
5 with the information we have in front of us that we're  
6 going to be looking at every area of the affected  
7 environment here to some degree, and I do appreciate  
8 the work that's gone into it.

9 I also appreciate that the council will get  
10 to take another look at the particulars for scoping.  
11 In other words, we kind of have this big picture in  
12 front of us. We know generally what we're going to be  
13 looking at, but there will be another opportunity to  
14 dive into the specifics of what will be analyzed.

15 And so some of those things that I would be  
16 interested in, just for your information, would be for  
17 each area of the affected environment, like what data  
18 sources are we going to be using? What methods will  
19 we be using for analyzing the particular impacts?  
20 What types of impacts?

21 If we are talking -- for example, if we're  
22 talking about, you know, plants and animals, what are  
23 the plants and animals that we're concerned about. So  
24 having a little bit more detail about that will be  
25 helpful in the next step.

1           And, you know, the reason I kind of bring  
2 that up is because when I was looking at the material  
3 in front of us, one thing did kind of pop out in my  
4 mind, and maybe this is something that we'll get into  
5 in the next phase.

6           But, for example, when we're looking at the  
7 greenhouse gas emissions, you've given us a good list  
8 of examples -- example types of analysis. So for  
9 direct impacts, for example, we're going to be looking  
10 at emissions from site operations. For indirect  
11 impacts, we're going to be looking at emissions from  
12 rail traffic.

13           And so what I -- what I'm not really seeing  
14 here is whether or not we're going to be looking at  
15 emissions associated with burning the oil that's  
16 ultimately transported and distributed by this  
17 facility. And so that's just kind of an outstanding  
18 question in any mind, is that something we're going to  
19 be looking at. Not that I think we need to know that  
20 now, but in the next phase, the second-level  
21 scoping-type phase, then that would be something that  
22 I think we need to make a decision on.

23           MR. POSNER: Okay. I do have some thoughts  
24 on that. We did -- under the other recommendations,  
25 we did talk about the qualitative analysis of project

1 data related to crude oil extraction and refining.

2           So beyond refining, we -- we -- we went over  
3 this issue at the staff level, and there's some  
4 question of whether or not it gets into the area  
5 that's sort of speculative a little bit. And so --  
6 but certainly we'd be open to hearing -- when we start  
7 talking to the council, probably as early as -- well,  
8 perhaps we'll have some discussion at the April  
9 meeting -- perhaps we could discuss this further. But  
10 we didn't specifically anticipate going that far, if  
11 you will.

12           CHAIRMAN LYNCH: I would have some -- to  
13 follow up on that. I would -- I think some general  
14 analysis in that area would be appropriate. Because  
15 obviously, burning fossil fuels contributes to  
16 greenhouse gases.

17           But to go too far -- I shouldn't say go too  
18 far -- but to go in a highly detailed area of analysis  
19 on that, in this current law -- and we are concerned  
20 with operating under current law -- this oil would be  
21 consumed within the United States. So you have the  
22 Federal Clean Air Act. It operates as at least a  
23 floor in the United States. A number of other states  
24 have their own extra clean air provisions.

25           And so -- but to try to figure out which

1 state this new oil will end up in and what protections  
2 are provided by those states and -- and I think it's  
3 clear that, yes, greenhouse gases would be generated  
4 by the consumption of this oil. And recognizing that  
5 and getting a ballpark analysis of that, I think, is  
6 appropriate. But with the limited, I guess, resources  
7 and time, things like looking at the -- like fully  
8 analyzing the --

9 MS. MARTINEZ: The impacts of burning that.  
10 I understand where you're going.

11 CHAIRMAN LYNCH: Right. Thank you. That's  
12 a good question to ask.

13 MS. MARTINEZ: I thought I should bring it  
14 up, because I think it did come up quite a bit during  
15 scoping in both the public testimony and in the  
16 comment letters. So some council discussion about  
17 that topic, I thought, was warranted.

18 And I do think there's something we can do  
19 qualitatively within the document, frankly, without  
20 having to go to the, you know, nth degree of what do  
21 the overall impacts of burning fossil fuels mean to  
22 the environment as a whole. I think there's some  
23 qualitative thing that we can do.

24 CHAIRMAN LYNCH: I agree with you that it  
25 should be considered to be part of the entire

1 analysis.

2 MS. MARTINEZ: Okay. Thank you.

3 CHAIRMAN LYNCH: Any further comments or  
4 questions by council members?

5 And I want to just take this opportunity to  
6 thank the staff for putting this proposal together. I  
7 can see that a lot of thought went into this, and I do  
8 think it provides us a good framework to go forward  
9 for the next SEPA scoping round where we get even more  
10 detail back from you and -- and we rely upon you, we  
11 rely upon our valuable Assistant Attorney General as  
12 well giving us some good help.

13 And I also want to thank the council members  
14 before you. As you can see, we have a very engaged  
15 council here. These are people who are not just put  
16 on this council because it's something to do. They're  
17 very engaged in this process, and I appreciate all the  
18 work that they're putting in on this.

19 And if there's no other questions at this  
20 time, I'd like to entertain a motion to -- for the  
21 staff to proceed with this proposal that they've  
22 submitted to us here today.

23 MR. MOSS: So move.

24 CHAIRMAN LYNCH: We have a motion that we  
25 move forward -- that the staff move forward. Do we

1 have a second?

2 MR. SWANSON: Second.

3 CHAIRMAN LYNCH: All those in favor, say  
4 aye.

5 MS. MARTINEZ: Aye.

6 MR. PAULSON: Aye.

7 MR. SNODGRASS: Aye.

8 MR. SWANSON: Aye.

9 MR. MOSS: Aye.

10 MR. HAYES: Aye.

11 MR. STEPHENSON: Aye.

12 MS. GREEN-TAYLOR: Aye.

13 CHAIRMAN LYNCH: Opposed? Motion carries.

14 Is there any further business in front of  
15 the council today?

16 MR. POSNER: No, Chair Lynch.

17 CHAIRMAN LYNCH: Okay. With that, I'd like  
18 to thank everybody for turning out today. Seeing your  
19 interest in this proposal is certainly important. And  
20 with that, we're adjourned.

21 (The special meeting concluded at 2:25 p.m.)

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## 1 CERTIFICATE

2  
3 I, Marcel N. Johnson, Certified Shorthand Reporter  
4 for Oregon and Washington, and a Registered  
5 Professional Reporter, do hereby certify that the  
6 proceedings were had before me at the time and place  
7 set forth herein; that at said time and place I  
8 reported in stenotype all testimony adduced and other  
9 oral proceedings had in the foregoing matter; that  
10 thereafter my notes were transcribed using  
11 computer-aided transcription under my direction; and  
12 the foregoing transcript constitutes a full, true and  
13 accurate record of such testimony adduced and oral  
14 proceedings had and of the whole thereof.

15 Witness my hand and stamp at Portland, Oregon, this  
16 8th day of April, 2014.

17  
18  
19 \_\_\_\_\_  
20 Marcel N. Johnson  
21 Oregon Certified Shorthand  
22 Reporter No. 02-0380  
23 Washington Certified Court  
24 Reporter No. 0002947  
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