



# COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

700 NE Multnomah Street, Suite 1200  
Portland, Oregon 97232

(503) 238-0667  
F (503) 235-4228  
www.critfc.org

February 27, 2015

VIA U.S. MAIL AND ELECTRONIC MAIL  
Energy Facility Site Evaluation Council  
1300 South Evergreen Park Drive SW  
Olympia, WA 98504-3172  
efsec@utc.wa.gov

**RE: Petition for Intervention for Application No. 2013-01, Case No. 15-001.**

To the Council:

Enclosed for filing is the Columbia River Inter-Tribal Fish Commission's **PETITION FOR INTERVENTION** in the above referenced matter.

Please contact the Columbia River Inter-Tribal Fish Commission if there are any problems with the transmission of this filing.

Sincerely,

Faron L. Scissons  
Administrative Assistant  
Policy Development and Litigation Support Dept.  
Columbia River Inter-Tribal Fish Commission

Cc: Parties on Official Service List

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2013-01

TESORO SAVAGE LLC

VANCOUVER ENERGY DISTRIBUTION  
TERMINAL

PETITION FOR INTERVENTION OF  
COLUMBIA RIVER INTER-TRIBAL FISH  
COMMISSION

The Columbia River Inter-Tribal Fish Commission files this Petition to Intervene pursuant to EFSEC's Order Commencing Agency Adjudication, EFSEC Case No. 15-01 (Jan. 28, 2015) as well as RCW 34.05.443, RCW 80.50.090 (3), and WAC 463-30-091.

**IDENTIFICATION OF PETITIONER**

In 1977, the four treaty tribes of the Columbia River – the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Nez Perce Tribe, and the Yakama Nation – created the Columbia River Inter-Tribal Fish Commission (CRITFC). CRITFC has been charged by its member tribes to provide coordination services, technical expertise and legal support in regional, national, and international efforts to ensure that treaty fishing rights and fishery resources are conserved and protected. CRITFC's staff includes fisheries biologists, attorneys, enforcement officers, water specialists and other technical experts to support its objectives.

## **PETITIONER'S ATTORNEY**

Petitioner CRITFC is represented by:

Julie A. Carter OSB#992390  
Robert C. Lothrop OSB#812986  
Columbia River Inter-Tribal Fish Commission  
700 NE Multnomah Street, Suite 1200  
Portland, OR 97213  
503.238.0667 | General  
503.235.4228 | Fax  
carj@critfc.org  
lotr@critfc.org

## **STATEMENT OF INTEREST**

The Tesoro Savage terminal project is a massive energy development proposal that will touch the Columbia River in significant and multiple ways. The project poses significant risks to riverine resources, including fish and water quality. For thirty-eight years CRITFC's mission has been to put fish back in the rivers and restore the watersheds where fish live. CRITFC's participation in this proceeding is consistent with this mission and necessary to protect the Columbia River and its resources. CRITFC has direct and substantial interests in being a party to this proceeding.

### **1. CRITFC HAS PARTICIPATED IN THE REVIEW OF THIS AND SIMILAR PROPOSALS AND HAS EXPERTISE IN THE APPLICABLE AREAS OF LAW.**

For over three decades, CRITFC has contributed its efforts to technical, legal, and political processes in the Columbia River Basin to improve the fisheries of the region. In 1995 – and updated in 2014 – CRITFC published *Wy-Kan-Ush-Mi Wa-Kish-Wit (Spirit of the Salmon)*, an anadromous fish restoration plan that incorporates sound science and tribal policy into a call to action for the Pacific Northwest. In 2003, CRITFC and its member tribes published an Energy

Vision of the Columbia River to help guide the tribes in their management decisions regarding energy development in the Basin. Decades of development that ensued with blind disregard for salmon and tribal interests has left long-lasting and sometimes irreparable harm to the ecosystem of the Columbia River and its tributaries. The tribes, together with their federal and state partners, have been successful in reversing some of the damage done and starting the long path to salmon recovery.

The Tesoro-Savage project, individually and collectively with the multitude of other energy transportation proposals, will cause significant adverse effects to the river and its systems, including fish, wildlife, water quality, air quality, tribal fisheries, and safe access to the river. These resources are essential to accomplishing the goals and strategies of Wy-Kan-Ush-Mi Wa-Kish-Wit, the Energy Vision for the Columbia River, and the many other projects CRITFC carries out.

Issues of concern and risk that CRITFC has identified related to this project and its cumulative effects and connected actions include, but are not limited to: (a) General risks and dangers to the environment related to rail transport of volatile and toxic crude; (b) Safe access to and use of the Columbia River, its tributaries, their shorelines and adjacent lands for tribal fishers; (c) Safe access and use of Treaty Fishing Access Sites developed pursuant to Pub.L. 100-581 (seventeen are located on the Washington side of the Columbia River between Bonneville and McNary dams, fifteen are accessed by grade level crossings); (d) Safe access to and use of In-Lieu Fishing sites developed pursuant to Pub.L. 79-14; (e) Impairment of salmon rebuilding initiatives, projects, programs and measures; and (f) Impairment of Columbia River ecosystem functions including impairment of water quality, fish rearing habitat, fish life cycles and estuarine functions. On December 18, 2013, CRITFC filed scoping comments in the state

environmental review process, identifying many issues of concern with the project. CRITFC incorporates those comments by reference herein.

2. CRITFC’S INTERESTS WOULD BE IMPAIRED AND IMPEDED IF THIS PETITION FOR INTERVENTION IS NOT GRANTED.

There are many people who live and work by the Columbia River – along the crude-by-rail train routes and near the terminal of the Tesoro Savage project. However, a train derailment, an accident at the terminal, an oil spill in the Columbia River, or any of the multiple other potential impacts of the project pose the highest risk and greatest danger to the Columbia River’s ecosystem and tribal people who depend on that ecosystem, and who live and fish along the River. Participation in this proceeding by CRITFC is appropriate to assure that these interests, which are paramount to its mission, are protected and not impaired or impeded.

**FULL PARTICIPATION REQUESTED**

CRITFC requests to be heard in these proceedings and to be afforded the right to participate in these proceedings to the full extent authorized by EFSEC rules. CRITFC’s interests extend to all legal, procedural, environmental, health, safety and socioeconomic issues related to the project. CRITFC’S request includes, but is not limited to, the right to have notice and appear at any and all hearings or proceedings, to produce evidence and cross-examine witnesses, to be heard through counsel by written and oral argument, to be served as a party with copies of all pleadings and other materials filed with EFSEC, and to participate in any other way as may be appropriate.

CRITFC's participation in these proceedings will not prejudice any party to these proceedings. CRITFC's participation will not unduly delay these proceedings nor disrupt the Council's ability to conduct these proceedings in an orderly fashion.

**CONCLUSION**

Wherefore, CRITFC respectfully requests that it be permitted to intervene in the above-titled proceedings and be made a party thereto.

Dated this 26<sup>th</sup> day of February, 2015.

Respectfully Submitted,



---

Julie A. Carter OSB#992390  
Columbia River Inter-Tribal Fish Commission  
700 NE Multnomah Street, Suite 1200  
Portland, OR 97213  
503.736.3592 | Direct  
503.238.0667 | General  
503.235.4228 | Fax  
carj@critfc.org

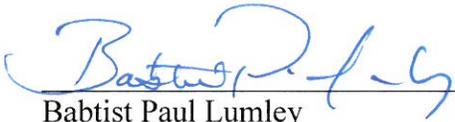
VERIFICATION

STATE OF OREGON )  
 )  
COUNTY OF MULTNOMAH )

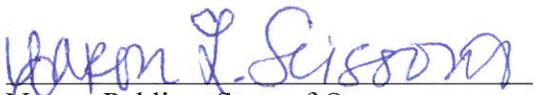
I, Babtist Paul Lumley, being first duly sworn on oath, depose and say:

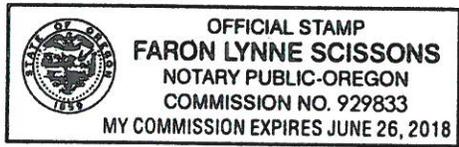
I am an agent of the Petitioner above and am authorized to make this Verification on Petitioner's behalf. I have reviewed the foregoing Petition for Intervention, know the contents thereof, and believe the same to be true.

Signed at Portland, Oregon on February 27, 2015.

  
Babtist Paul Lumley  
Executive Director  
Columbia River Inter-Tribal Fish Commission

SIGNED AND SWORN TO before me this 27<sup>th</sup> day of February, 2015 by Babtist Paul Lumley, as, Executive Director of the Columbia River Inter-Tribal Fish Commission.

  
Notary Public – State of Oregon



## CERTIFICATE OF SERVICE

I certify that on the date provided below, I mailed (First Class Mail) a copy of the foregoing documents to all parties or their counsel of record as listed below:

Kelly J. Flint  
Tesoro Savage Petroleum Terminal, LLC  
901 W. Legacy Center Way  
Midvale, UT 84047  
Tel: (801) 944-660  
kellyf@savageservice.com  
***Applicant***

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Jay Derr, Counsel  
Van Ness Feldman, LLP  
719 Second Avenue, Suite 1150  
Seattle, WA 98104-1728  
Tel: (206) 623-9372  
jpd@vnf.com  
***Attorney for Applicant***

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Matt Kernutt  
Assistant Attorney General  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100  
Tel: (360) 586-0740  
mattk1@atg.wa.gov  
***Attorney for the Environment***

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Brian Bolender, Director  
Department of Commerce  
1011 Plum Street SE  
Olympia, WA 98504-2525  
Tel: (360) 725-4021  
brian.bolender@commerce.wa.gov  
***Department of Commerce***

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Maria D. Bellon, Director  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
Tel: (360) 407-7001  
maria.bellon@ecy.wa.gov  
***Department of Ecology***

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Phil Anderson, Director  
Department of Fish and Wildlife  
600 Capitol Way North  
Olympia, WA 98501-1091  
Tel: (360) 902-2720  
philip.anderson@dfw.wa.gov  
**Department of Fish and Wildlife**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Terence A. Pruitt  
Assistant Attorney General  
1125 Washington Street SE  
Olympia, WA 98504-0100  
Tel: (360) 586-0642  
terryp@atg.wa.gov  
**Department of Natural Resources**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

David Danner  
Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
PO Box 47250  
Olympia, WA 98504-7250  
Tel: (360) 664-1208  
ddanner@utc.wa.gov  
**Utilities and Transportation Commission**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Lynn Peterson  
Department of Transportation  
310 Maple Park Avenue SE  
Olympia, WA 98504-7300  
lynnp@wsdot.wa.gov  
**Department of Transportation**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

E. Bronson Potter, City Attorney  
Attorney for City of Vancouver  
PO Box 1995  
Vancouver, WA 98668-1995  
Tel: (360) 487-8500  
bronson.potter@cityofvancouver.us  
**Attorney for City of Vancouver**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Susan Drummond  
Law Office of Susan Elizabeth Drummond  
5400 Carillon Pt. Bldg 5000  
Kirkland, WA 98033-7337  
Tel: 206-682-0767  
susan@susandrummond.com  
**Counsel for City of Vancouver**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

David Madore, Chair  
Clark County Board of Commissioners  
1300 Franklin Street  
PO Box 5000  
Vancouver, WA 98666-5000  
Tel: (360) 397-2232  
David.madore@clark.wa.gov  
**Clark County**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Todd Coleman, Chief Executive Officer  
Port of Vancouver Board of Commissioners  
3103 NW Lower River Road  
Vancouver, WA 98660  
Tel: (360) 693-3611  
tcoleman@portvanusa.com  
**Port of Vancouver**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

Ann C. Essko, Assistant Attorney General  
Washington State Attorney General's Office  
Government Operations Division  
PO Box 40108  
Olympia, WA 98504-0108  
Tel:  
[anne@atg.wa.gov](mailto:anne@atg.wa.gov)  
**Attorney for EFSEC**

Via hand delivery  
 Via Email  
 Via First Class Mail/ Postage Prepaid  
 Via Facsimile

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

EXECUTED this 27 day of February, 2015, in Portland, Oregon.



Faron Scissons, Administrative Assistant  
Columbia River Inter-Tribal Fish Commission  
700 NE Multnomah Street, Suite 1200  
Portland, OR 97232  
Direct Tel: (503) 731-1290  
General Tel: (503) 238-0667  
[scif@critfc.org](mailto:scif@critfc.org)