

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 INTERVENITION OF
THE CONFEDERATED TRIBES AND
BANDS OF THE YAKAMA NATION

The Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) 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

The Yakama Nation is a federally recognized sovereign Nation, as reflected in the Treaty with the Yakama of 1855 with the United States of America, 12 Stat. 951, (1859) (“Treaty”). The Treaty reserves for Yakama members certain rights and resources necessary to maintain the Yakama Nation and its People’s way of life, customs and traditions, economic well-being, and cultural and natural resources. Among these reserved rights is the right to fish at all usual and accustomed places, including the Columbia River, and the right to hunt and to gather traditional foods, roots, and medicine. The Yakama Nation requests to intervene in this action to protect its Treaty-reserved rights, in addition to its inherent and sovereign rights, and the rights of its members. Yakama Nation’s governmental employees and contracted agents and employees include fisheries biologists, other technical experts, and attorneys who work to protect and advance the interests of the Yakama Nation.

PETITIONER'S ATTORNEY

Petitioner Yakama Nation is represented by:

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STATEMENT OF INTEREST

The Tesoro Savage terminal project (“Project”) threatens significant and irreparable direct and indirect impacts to the Yakama Nation and its People, including, but not limited to, potentially direct adverse impacts to the Yakama Nation’s Treaty-reserved rights. The Yakama Nation’s Treaty rights have been repeatedly upheld in federal courts; notably through an injunction imposed to prohibit the shipment of waste through Yakama Nation’s ceded territory; namely, through the Columbia River Gorge.

The intent of the proposed Project is to develop and operate a new 360,000 barrel-per-day crude oil facility at the Port of Vancouver. This oil will be transported through the Yakama Nation’s ceded lands, and through lands upon which Yakama members currently reside. In particular, the Yakama Nation’s interests are implicated by the following concerns:

- The Project could adversely impact geology and soils at the proposed Project site, as well as along transport corridors that pass through Yakama Nation ceded lands over which it retains rights.
- The Project could adversely impact vegetation, including those of particular cultural significance to the Yakama Nation.

- The Project threatens fish and wildlife protected under federal law and by virtue of the Yakama Nation's reserved rights.
- The Project threatens to adversely impact water and air quality upon which the fish and wildlife crucial to Yakama Nation and its People rely.
- The Project will likely add to the cumulative impacts of climate change, which, in turn, threatens to wreak havoc on Yakama Nation lands, waters, and cultural and natural resources, in addition to its Treaty-protected rights.
- The Project may result in deadly and environmentally devastating spills, threatening fires, explosions, and potential releases of toxic or hazardous materials in transit or at the proposed Project site.
- The Project could imperil historic and cultural resources, including Yakama Nation cultural properties and sites along the transportation corridor and on site.

The Yakama Nation presents the foregoing series of examples as particular interests implicated by the instant action. This list is not an exhaustive list of the interests and issues Yakama Nation intends to raise in this adjudicatory process. The foregoing list does, however, show that considering the foregoing environmental, cultural, and general concerns, coupled with the Yakama Nation's Treaty and other rights implicated by the Project, the Yakama Nation has direct and substantial interests in this proceeding and, therefore, respectfully seeks to intervene as a party participant.

If Yakama Nation is not permitted to intervene in this matter, the aforementioned rights reserved not only to the Yakama Nation itself, but to its People may be impaired or impeded and, indeed, irreparably violated. The Yakama Nation is the only entity with the capacity to legally protect the interests it has that are implicated in this matter and the interests of its membership. Not only

does the Yakama Nation's ceded lands and zone of interests in which it retains usufructuary rights extend to the Project lands and waters that will be impacted by this Project and its cumulative effects, many Yakama People still reside on these lands, and fish in the imperiled waters, and practice their traditions and customs there and in the surrounding lands.

FULL PARTICIPATION REQUESTED

Yakama Nation requests to be heard and to be afforded the right to participate in these proceedings to the full extent authorized by EFSEC rules. Yakama Nation's interests extend to all legal, procedural, environmental, health, safety and socioeconomic issues related to the Project. Yakama Nation'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. Notwithstanding the foregoing, the Yakama Nation's participation in this administrative adjudicatory process is not a waiver or partial waiver of the Yakama Nation's sovereign immunity from suit, counterclaim, discovery, or process, nor does the Yakama Nation, through this petition to intervene and through its participation in the instant action waiver, alter, or otherwise diminish any rights, privileges, remedies, or services guaranteed under the Treaty with the Yakama of 1855.

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

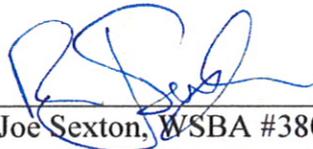
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CONCLUSION

Based on the foregoing, Yakama Nation respectfully requests that EFSEC issue an order permitting it to intervene in the instant proceeding and to be made a party thereto.

Dated this 26th day of February, 2015.



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VERIFICATION

YAKAMA NATION)
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I, Athena Sanchez, being first duly sworn on oath, depose and say:

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

Signed at the Yakama Nation Agency in Toppenish, Washington, on February 27th 2015.

Athena Sanchez
Name:
Position:

SUBSCRIBED AND SWORN TO before me this 27th of February, 2015, by
Sandra L Jim

Yakima, County Wa. St.
Notary Public - State of Washington
exp: 7/20/2015



PROOF OF SERVICE

I, **Molly Jones**, hereby certify that on Friday, February 27th, 2015, I served by email and US Mail a copy of this document on all parties or their counsel of record on the date below as follows:

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I certify under penalty of perjury under the law of the State of Washington that the foregoing is true and correct.

DATED this 27th day of February, 2015, at Seattle, Washington.


 Molly Jones