

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of:	)	CASE NO. 15-001
Application No. 2013-01	)	
TESORO SAVAGE, LLC	)	OPPOSITION TO TESORO-SAVAGE’S
	)	MOTION FOR DETERMINATION
VANCOUVER ENERGY DISTRIBUTION	)	REGARDING ISSUANCE OF
TERMINAL	)	INDUSTRIAL WASTE DISCHARGE
	)	PERMIT
	)	
	)	

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Intervenors Columbia Riverkeeper, *et al.* oppose Tesoro-Savage’s Motion for Determination Regarding Issuance of Industrial Waste Discharge Permit (March 29, 2016) because the Energy Facility Site Evaluation Council (“EFSEC” or “Council”) lacks authority to issue a wastewater pretreatment discharge permit for Tesoro-Savage. The National Pretreatment Program within the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, is administered by the U.S. Environmental Protection Agency (“EPA”), but a local Publicly Owned Treatment Works (“POTW”) is responsible for issuing individual pretreatment permits when EPA has delegated its regulatory authority to a state, 40 C.F.R. § 403.10, and that state has, in turn, approved a local POTW’s pretreatment program, 40 C.F.R. § 403.8.

EFSEC has not been delegated the authority to issue pretreatment discharge permits. In addition to the reasons articulated in the city of Vancouver’s Motion for Order Ruling That EFSEC Lacks Authority to Issue Pretreatment Discharge Permit (March 28, 2016) and the city of Vancouver’s Response to Applicant’s Motion for Determination Regarding Issuance of Industrial Waste Discharge Permit, EFSEC itself has previously arrived at this same conclusion.

In the *Chehalis Generation Facility* case, the Council faced the issue of whether a project applicant must obtain a wastewater pretreatment discharge permit from EFSEC or from another entity. The Council sought clarification from EPA; EPA informed the Council that “EFSEC has not been delegated pretreatment authority by EPA.” *See Chehalis Generation Facility*, EFSEC Order 745 at 3 (May 26, 2000). EFSEC subsequently determined that it did not have jurisdiction over the project’s pretreatment discharge permit. *Id.*; *see also Chehalis Generation Facility*, EFSEC Order 753 at 5 (Feb. 12, 2001).

EPA itself was the designated permitting authority in that case because the state of Washington had not approved a pretreatment program for the city of Chehalis. U.S. ENVIRONMENTAL PROTECTION AGENCY, PERMITTING FOR ENVIRONMENTAL RESULTS, NPDES PROFILE: WASHINGTON AND INDIAN COUNTRY at 18, *available at* [https://www3.epa.gov/npdes/pubs/washington\\_final\\_profile.pdf](https://www3.epa.gov/npdes/pubs/washington_final_profile.pdf) (last visited April 22, 2016). Here, the state has already approved the city of Vancouver’s pretreatment program. *See City of Vancouver’s Mot. for Order*, Attach. 2. The city of Vancouver, through its POTW, is the wastewater pretreatment permitting authority for the Tesoro-Savage project.

Respectfully submitted this 28th day of April, 2016.

*s/ Kristen L. Boyles*

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OPPOSITION TO TESORO-SAVAGE’S MOTION FOR  
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(EFSEC Adjudication No. 15-001)

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**CERTIFICATE OF SERVICE**

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington 98104-1711.

I HEREBY CERTIFY that on April 28, 2016, I served the following document on the parties listed below:

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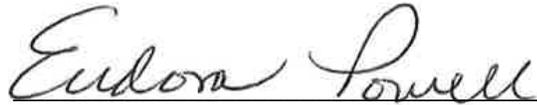
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I, Eudora Powell, declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Executed this 28th day of April, 2016, at Seattle, Washington.



EUDORA POWELL