Van Ness Feldman LLP

719 Second Avenue, Suite 1150
Seattle, WA 98104-1728
206-623-9372
vnf.com

January 8, 2016

Via First Class Mail and E-mail
E. Bronson Potter
Vancouver City Attorney
415 W.6th St.
P.O. Box 1995
Vancouver, WA 98668-1995
Bronson.potter@cityofvancouver.us

Re: Vancouver Energy Project – Application No. 2013-01
EFSEC Case No. 15-001
Informal Discovery Responses

Dear Mr. Potter:

This letter and the documents referenced herein serve as Vancouver Energy's response to the City of Vancouver's informal discovery requests, dated December 9, 2015. Vancouver Energy's responses are based on information now known, and on our understanding and reasonable interpretation of your requests. This response is made without waiving any objections to the information requested, and without admitting the relevancy or materiality of, this response. Vancouver Energy's investigation, discovery, and preparation for the adjudication are ongoing and all answers are given without prejudice to its right to introduce or object to the discovery of any documents, facts, or information discovered after the date of this response.

REQUEST NO. 1: Describe in detail the insurance, bonding or other financial arrangements ("arrangements") which will be or are in place to cover damage to or loss to the physical or human environment from the proposal, including damage and/or losses from construction, operation (including product spills, discharge, explosion during transport, storage, and loading activities), and abandonment and/or termination. Address the extent to which the area arrangements cover intentional acts of sabotage and natural disasters, such as seismic events.

RESPONSE:

Vancouver Energy objects to the request because it is premature and incorrectly assumes the applicant has been required to provide financial assurances. Pursuant to WAC 463-72-040, the applicant must provide the Council with the initial site restoration plan and address site restoration at least ninety (90) days prior to the beginning of site preparation. Only at that stage is the applicant required to provide financial assurances, including evidence of pollution liability insurance coverage in an amount justified for the project, and a site closure bond, sinking fund, or other financial instrument or security in an amount justified in the plan. A project application is sufficient so long as it describes the applicant's commitment to the financial assurances

requirements set forth in chapter 463-72 WAC. Section 1.3 of the Vancouver Energy Project application addresses this requirement and adequately demonstrates Vancouver Energy's commitment to meeting the financial assurances requirements pursuant to WAC 463-72-040.

REQUEST NO. 2: Identify and provide all documents whether paper or electronic which support or substantiate your response to this request and identify with specificity the responsive chapters and sections.

RESPONSE:

See attached document(s).

REQUEST NO. 3: Will the storage tanks at the terminal be permanently manifolded together?

RESPONSE:

Vancouver Energy objects to this request because the term "permanently manifolded together" is vague and ambiguous. Notwithstanding this objection and based on our understanding of the request, the following response is provided:

The manifold is fully welded, with flanges that face either the tank itself, or a connecting valve. This system allows the tanks to work either individually, or in an interconnected configuration, using the valve system. Tanks can be filled or drained/emptied either concurrently, if the valve system is set to allow interconnectivity of the tanks, or one at a time. All tank piping is fully welded, with double block and bleed valves at each tank connection. This allows the operator to close off the valve on each side and operate the tanks independently. The valve also allows the operator to close them off, drain the area between, and work on just one tank (such as for taking a tank offline). These procedures are consistent with industry standards and practices for operation and maintenance.

It is possible that we will identify additional information responsive to your requests in the future. In the event we do so, we will supplement this response.

Sincerely,

VAN NESS FELDMAN LLP

Dale N. Johnson

DNJ/cas

66212-2

Section 1.3 – Assurances

WAC 463-60-075
General – Assurances.

The application shall set forth insurance, bonding or other arrangements proposed in order to mitigate for damage or loss to the physical or human environment caused by project construction, operation, abandonment, termination, or when operations cease at the completion of a project's life. The application shall describe the applicant's commitment to the requirements of chapter 463-72 WAC, Site restoration and preservation.

(Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, amended and recodified as § 463-60-075, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). 87-05-017 (Order 87-1), § 463-42-075, filed 2/11/87. Statutory Authority: RCW 80.50.040(1) and Chapter 80.50 RCW. WSR 81-21-006 (Order 81-5), § 463-42-075, filed 10/8/81.)

Section 1.3 Assurances

Tesoro Savage Petroleum Terminal LLC will establish and maintain, or cause to be established and maintained, several forms of insurance during the construction and operation of the Tesoro Savage Vancouver Energy Distribution Terminal. Insurance will be maintained as required by law and customary business practice and to satisfy third-party participants and lenders.

1.3.1 Commercial General Liability Insurance

The construction contractor and subcontractors will be required to carry commercial general liability insurance, including products and completed operations in amounts sufficient to respond to liability and property damage risks arising during the construction and startup phases of the Tesoro Savage Vancouver Energy Distribution Terminal.

Tesoro Savage Petroleum Terminal LLC will obtain and maintain in full force and effect, commercial general liability insurance against claims for liability and property damage arising out of the use and occupancy of the premises.

Tesoro Savage Petroleum Terminal LLC will purchase insurance policies to cover liabilities arising from environmental, casualty, and other major incidents. The insurance industry views facilities such as the Tesoro Savage Vancouver Energy Distribution Terminal as low to moderate risk. Therefore, high coverage limits are available at reasonable cost.

1.3.2 Automobile Insurance

The construction contractor and subcontractors will be required to carry automobile liability insurance covering all owned, leased, and non-owned and hired automobiles used during the construction and startup phases of the Tesoro Savage Vancouver Energy Distribution Terminal.

Tesoro Savage Petroleum Terminal LLC will obtain and maintain in full force and effect automobile liability insurance covering owned, non-owned, and hired automobiles.

1.3.3 Property Insurance

Tesoro Savage Petroleum Terminal LLC will obtain and maintain at all times during the term of construction and operation of the Facility, physical damage insurance on the buildings and improvements that are to be erected on the premises on an "all risk" basis, including coverage against damage or loss caused by earth movement and flood in an amount sufficient to cover any expected losses or damages.

Upon completion of project design, insurance underwriters will evaluate the design and estimate maximum potential damage due to failure. In some cases, design changes may be implemented to reduce the damages. Insurance will then be purchased to cover the maximum expected damages.

1.3.4 Worker's Compensation and Washington Stop Gap Liability

Tesoro Savage Petroleum Terminal LLC will fully comply with the statutory requirements for worker's compensation as required with respect to any employees performing work in the subject property and premises. Tesoro Savage Petroleum Terminal LLC also will insure its exposure with employer's liability insurance (Washington Stop Gap Liability).

Tesoro Savage Petroleum Terminal LLC will require that any construction contractor and all subcontractors working on the project comply similarly with the statutory requirements for worker's compensation with respect to their employees performing work on the subject property and premises. Tesoro Savage Petroleum Terminal LLC also will require employer's liability insurance for exposure under Washington Stop Gap Liability.

1.3.5 Environmental Impairment

1.3.5.1 Environmental Impairment Liability Insurance

Tesoro Savage Petroleum Terminal LLC and its operator(s) will be responsible, as required by law, for acts of environmental impairment related to the ownership and operation of the Tesoro Savage Vancouver Energy Distribution Terminal. Such losses may, in some circumstances, be covered by general liability insurance, which Tesoro Savage Petroleum Terminal LLC and the construction contractor will carry. In addition, Tesoro Savage Petroleum Terminal LLC and/or its contracted operator(s) will obtain environmental impairment liability insurance to the extent such coverage is available on a commercially viable basis. This insurance will cover the acts of Tesoro Savage Petroleum Terminal LLC and its operator(s) at the site, consistent with or in excess of then-prevailing industry standards for such insurance in the petroleum transportation industry. Commercial viability will be determined by reference to the norm of the industry.

1.3.5.2 Financial Responsibility under Revised Code of Washington (RCW 88.40.025)

RCW 88.40 defines and prescribes financial responsibility requirements for facilities that store, handle, or transfer oil (including crude oil) in bulk near the navigable waters of the state. The Facility will be subject to these requirements because the structures, equipment, and devices comprising the Facility will be located near the navigable waters of the state and will transfer oil in bulk to vessels having an oil-carrying capacity of over 250 barrels which will transport the oil in bulk. In accordance with RCW 88.40.025, the Applicant will demonstrate financial responsibility in an amount determined by the Washington State Energy Facility Site Evaluation Council (EFSEC) as necessary to compensate the state and affected local governments for damages that might occur during a reasonable worst-case spill of oil from the Facility into the navigable waters of the state. The amount of financial responsibility will consider such matters as the amount of oil that could be spilled into the navigable waters from the Facility, the cost of cleaning up the spilled oil, the frequency of operations at the Facility, the damages that could result from the spill, and the commercial availability and affordability of financial responsibility. In accordance with RCW 88.40 030, the financial responsibility required may be established by any one of, or a combination of, the following methods acceptable to EFSEC: (1) evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility.

1.3.6 Site Closure Bond (Ch. 463-72 WAC)

No set-aside from operating funds is anticipated for site abandonment, but Tesoro Savage Petroleum Terminal LLC will obtain a site closure bond in an amount to be determined by EFSEC upon approval of an initial site restoration plan. To the extent site facilities are not otherwise removed, recycled, or salvaged, Tesoro Savage Petroleum Terminal LLC will pursue a modification of the Site Certification Agreement to reflect equipment that is removed or maintained on the site for future use.