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	CASE NO. 15-001 PREFILED DIRECT TESTIMONY OF DAVID L. WECHNER, M.S. AICP, ON BEHALF OF COLUMBIA RIVERKEEPER, *et al*.

I. INTRODUCTION

1. My name is David L. Wechner. I am a professional land use planner with more than 25 years of experience in the fields of environmental and land use planning. I hold a master's degree in environmental studies from the University of Oregon, Eugene, and I have been certified through the American Institute for Certified Planners since 2001. During my career, I have served as the director of planning and community development for Island County, Washington; the planning director for Josephine County, Oregon; the planning and building director for the City of Sherwood, Oregon; a principal planner for the City of Vancouver, Washington; and a senior planner for Clark County, Washington. Currently, I am the principal at Wechner Consulting, a private land use consulting firm in Coupeville, Washington.

2. My areas of expertise include land use planning with an emphasis on reviewing and designing projects for minimal environmental impact; reviewing and preparing environmental checklists and components of Environmental Impact Statements under Washington's State Environmental Policy Act ("SEPA"), ch. 43.21C RCW; permit review and master program development under the Shoreline Management Act ("SMA"), ch. 90.58 RCW; and administration of

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local flood plain codes. I also have experience in developing local zoning ordinances. I have overseen nearly all aspects of community development and environmental review in the cities and counties mentioned above, including compliance with SEPA and the SMA. A copy of my curriculum vitae is submitted herewith as Ex5901-000002-CRK.

3. I have reviewed the sections and appendices of the Tesoro Savage Vancouver Energy Distribution Terminal Draft Environmental Impact Statement ("DEIS"; Ex0051-000000-PCE) and the sections and appendices of the amended application for site certification dated February, 2014 (Ex0003-000000-PCE), that pertain to land use impacts. I have also reviewed the documents referenced in my testimony below.

4. The purpose of my testimony is to identify on- and off-site land use impacts that are likely to arise from the Vancouver Energy oil terminal, and to evaluate whether those impacts conflict with the land use goals, policies, and regulations adopted by the City of Vancouver and Clark County. As discussed below, the terminal's land use impacts will conflict with many of the policies, goals, and regulations that are codified in the city and county comprehensive plans, subarea plans, development code, regional trail and bikeway plan, and shoreline management program. Overall, the area is ill-suited to this type of development and the tremendously increased rail traffic that is sure to follow.

5. Ultimately, the purpose of my evaluation is to help the EFSEC Council in its effort to balance the broad interests of the public — reflected, in part, in the policies, goals, and regulations discussed below — against Tesoro Savage's desire for this particular oil terminal. To that end, the Council may wish to review my comments on the Tesoro Savage Vancouver Energy Distribution Terminal DEIS, submitted herewith as Ex5902-000054-CRK. The Council should also review the

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land use consistency comments filed by Friends of the Columbia Gorge, *et al*., submitted to the Council on May 28, 2014.[1]

II. OVERVIEW OF LAND USE PLANNING IN WASHINGTON

6. Before discussing the terminal's impacts, and how those impacts relate to Vancouver's various planning documents and land use regulations, it is helpful to understand the goals and mechanisms of land use planning in Washington generally, and Vancouver specifically.

7. Generally speaking, land use planning is a discipline concerned with avoiding conflicts between different uses of land. Land use planning is also concerned with planning for future development so that it proceeds in an orderly, predictable, and well-thought-out manner so that potential conflicts can be identified and avoided before they arise. In Washington, the primary planning document is the comprehensive plan, which many Washington cities and counties—including Vancouver—are required to adopt under Washington's Growth Management Act ("GMA"), ch. 36.70A RCW. The legislature passed the GMA in 1990 in response to rapid population growth, urban sprawl, and environmental degradation. To curb the effects of those negative impacts and patterns in a transparent, coordinated manner, the GMA reiterated the primacy of the comprehensive plan as the starting point for any planning process and as the cornerstone of local decision-making on all land use matters (first acknowledged in the Planning Enabling Act of 1973). The GMA makes the comprehensive plan binding on state agencies. *See* RCW 36.70A.103. The Act also mandates that all development regulations be consistent with the plan. *See* RCW 36.70A.040(3).

[1] The land use comments submitted by Friends of the Columbia Gorge may be viewed at http://www.efsec.wa.gov/Tesoro%20Savage/Land%20Use/Land%20Use.shtml (last accessed May 10, 2016).

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8. In essence, the comprehensive plan represents a city's or county's effort to shape its future by planning for future growth and development. Among other things, the comprehensive plan also represents a city's or county's effort to coordinate growth with needed environmental protection and other societal goods. *See generally* RCW 36.70A.020, -.070. If the Council wants to consider how the Vancouver Energy oil terminal will interact or interfere with the future growth of Vancouver—and evaluate whether it will hinder or hamper the city's vision for its future—it must begin with the comprehensive plan.

9. In turn, comprehensive plans may contain subarea plans—*i.e.*, smaller planning documents for neighborhoods or other areas. In this regard, Vancouver is unique in Washington. The city recognizes 64 neighborhood associations, which encompass more than 90 percent of the city's population, and places great emphasis on compatibility of land uses with established neighborhoods. *See* Ex5903-000156-CRK at 1-1. Neighborhoods are encouraged to develop action plans and, in some cases, those efforts broaden into a subarea plan containing more specific policies for growth, open space, development, and other factors. Subarea plans may include multiple neighborhoods or portions thereof. They are adopted by the city as part of the comprehensive plan. *See* Ex5903-000156-CRK at 1-7 (adopting subarea plans by reference). Below is a map of Vancouver's neighborhoods as depicted in the comprehensive plan.

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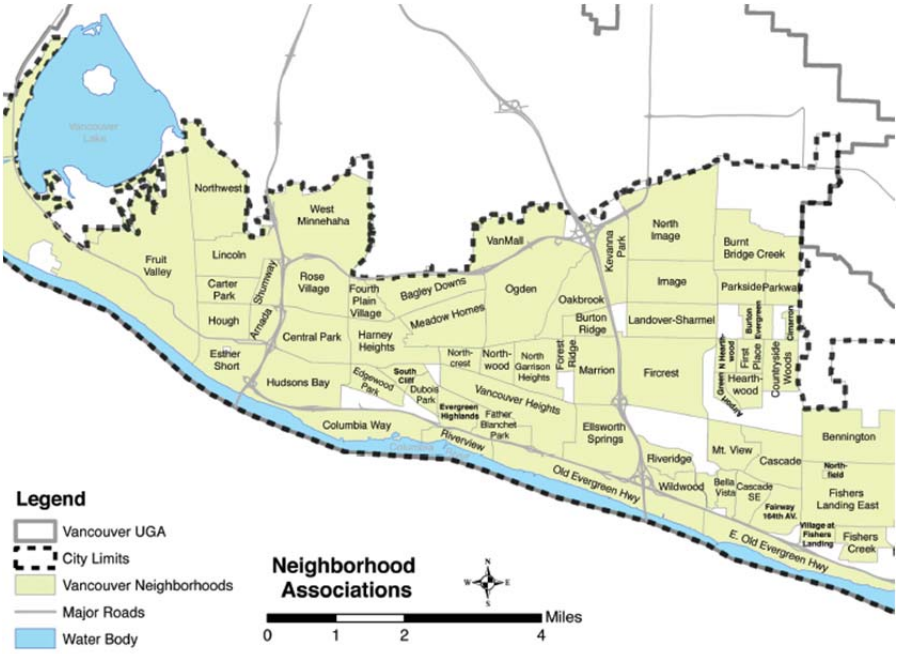

(Source: Ex5903-000156-CRK at 1-4)

10. In this case, the terminal and associated rail traffic will conflict with three subarea plans. They are the Fruit Valley Subarea Plan, the Riverview Gateway Subarea Plan, and the City Center Vision & Subarea Plan (respectively, Ex5904-000071-CRK, Ex5905-000055-CRK, and Ex5906-000024-CRK hereto). The oil terminal will also affect several recreational resources managed under the Regional Trail & Bikeway Systems Plan (Ex5907-000229-CRK hereto), a joint plan by the City of Vancouver and Clark County. Like the city's comprehensive plan generally, the Council must view the terminal through the lens of these planning documents to consider how the terminal will impact the neighborhoods and resources that will bear the brunt of many of the terminal's negative land use impacts.

11. Finally, cities and counties planning under the GMA are authorized to adopt moratoria on development proposals, such as Vancouver's recent moratorium on oil terminals. *See* Ex5908-000020-CRK (copies of Vancouver's moratorium and extensions). *See also* RCW

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36.70A.390. While the city's moratorium may not control the Council's inquiry, it underscores the terminals' inconsistency with the city's existing plans and policies, which did not envision this type and scale of development. The moratorium also reflects an important aspect of the public interest surrounding the terminal, which may inform the Council's ultimate balancing task under chapter 80.50 RCW.

III. OVERVIEW OF THE PROJECT

12. According to the Application for Site Certification, the Vancouver Energy oil terminal is proposed to be built on 45 acres of land leased from the Port of Vancouver. *See* Ex0003-000000-PCE at 2-71. The terminal would receive an average of 360,000 barrels of crude oil by rail per day; keep it in six on-site storage tanks; and then transfer the crude oil to ocean-going freighters. *See id*. at 2-88, 2-108, 4-455; Ex0051-000000-PCE at 1-1. The terminal would accept an average of four trains per day (composed of 100 to120 units each, inclusive of tank cars, locomotives, and buffers) on BNSF rail lines running east and west along the Columbia River Gorge. *See* Ex0051-000000-PCE at 1-1; Ex0004-000000-PCE at 2-12. This represents a nearly threefold increase above the highest annual rail-car count ever recorded at the Port of Vancouver: 160,600 cars annually compared to 57,000 in 2007. *See* Ex0051-000000-PCE at 3.14-22 and 3.14-18 (fig. 3.14-6). With each train estimated to be up to 7,800 feet (1.48 miles) in length, *see id.* at 3.9-9, the terminal will generate nearly six miles of additional train cars each day through the city of Vancouver.

13. On their way to the terminal, the trains would travel through small towns and portions of Klickitat, Skamania, and Clark counties; Steigerwald National Wildlife Refuge; and the City of Vancouver. *See, e.g.,* Ex0051-000000-PCE at 3.10-10. The trains would then leave the facility each day, traveling eastward through downtown Vancouver to an intersecting track, where most will pass through downtown a second and third time in order to switch tracks before heading

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north through Vancouver's Fruit Valley neighborhood. *See id*., at 3.14-17 (fig. 3.14-5). *See also* Ex5902-000054-CRK at 11 (explaining routes).

14. Northbound trains enter unincorporated Clark County again along the eastern shores of Vancouver Lake and Lake River, and continue on to cross the Ridgefield National Wildlife Refuge and the Lewis River. *Id*. at 3.14-11 (fig. 3.14-7), 3.14-30 (fig. 3.14-9). The return trip for empty oil trains takes them to the Tacoma-Seattle area before heading on to Spokane, and then to Idaho, Montana, and North Dakota. *Id*. at 3.14-23 to 3.14-24. The DEIS documents note that some empty-car trains might also reverse the in-bound trip and leave the county through the Columbia River Gorge. *Id*., at 3.14-18.

15. Oil tankers would leave the port daily as river conditions permit, move downriver on the Columbia (passing three National Wildlife Refuges, state parks and wildlife refuges, and several cities within Clark, Cowlitz, Wahkiakum, and Pacific counties) and then cross the Columbia Bar near Cape Disappointment. Most of the land uses in non-urbanized areas of this portion of the Columbia River are agricultural, forestry, and public lands. *See* Ex0051-000000-PCE at 3.10-10 to 3.10-11.

16. Within the City of Vancouver, the BNSF rail lines run through residential, commercial, and industrial areas in an alignment roughly parallel to SR-14. *See* Ex5903-000156-CRK at 1-12 (fig. 1-6). The rail lines also pass near the Clark County Jail Work Center and recreation trailheads, cross several roads, and recognized neighborhoods including East Old Evergreen Highway, Old Evergreen Highway, Riverview, Columbia Way, Esther Short, and Fruit Valley. *See* Ex5903-000156-CRK at 1-4 (fig. 1-1). The northern return rail route identified in the DEIS passes through commercial and industrial lands closer to the proposed terminal, open space, and residential lands to the north of Fruit Valley. *See* Ex0051-000000-at 3.14-17 (fig. 3.14-5).

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17. From a land use perspective, one thing is clear: the terminal will increase rail traffic beyond anything ever seen in and around the City of Vancouver. Moreover, the trains will pass through or near many areas (including residential areas) that are sensitive to noise, vibration, traffic congestion, and potential oil spills, accidents, and explosions.

IV. VANCOUVER COMPREHENSIVE PLAN

18. As noted above, Vancouver's comprehensive plan represents the city's vision of growth over the next twenty years. *See* Ex5903-000156-CRK at i. The proposed oil terminal conflicts with several plan policies, highlighted below. In each instance, the relevant policy is quoted from the plan, followed by an analysis of the conflicts.

A. Community Development Policies

19. Community development is "the central part of the Vancouver Comprehensive Plan." Ex5903-000156-CRK at 1-1. "Ensuring that different land uses work together to form compatible and cohesive neighborhoods, business districts and subareas is essential to community livability, and to Vancouver's ability to provide efficient public services." *Id.* To further the plan's community development goals, the city has identified policies to guide future growth. *See id*. at 1-14 to 1-16. The proposed oil terminal conflicts with several of these policies, beginning with CD-4 concerning urban centers and corridors:

> **CD-4 Urban centers and corridors**
>
> *Achieve the full potential of existing and emerging urban activity centers and the corridors that connect them, by:*
>
> *(a) Promoting or reinforcing a unique identity or function for individual centers and corridors*
>
> *(b) Planning for a compact urban form with an appropriate mix of uses*
>
> *(c) Working with stakeholders to develop flexible standards to implement the vision for that center or corridor*

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(d) Encouraging innovative, attractive private development that efficiently uses available land and resources

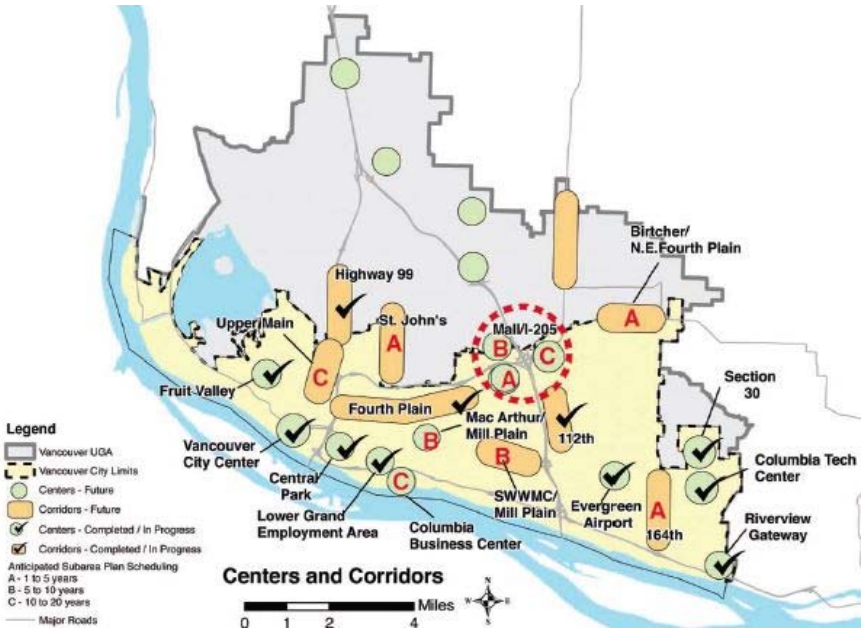
(e) Establishing connectivity within each center and to other areas to provide accessibility

(f) Providing a range of transportation options

(g) Investing in public facilities and amenities to enhance livability

Ex5903-000156-CRK at 1-14.[2]

20. Applying policy CD-4 here, the comprehensive plan's centers and corridors map shows urban centers that are near and would likely be affected by the passage of oil trains and/or by the use of the proposed terminal. *See id*. at 1-18. These are the Fruit Valley neighborhood, Vancouver City Center, Columbia Business Center, and the Riverview Gateway, depicted in the figure below.



(Source: Ex5903-000156-CRK at 1-18)

[2] Throughout my testimony, I italicize quoted policies, goals, rules, and other text from Vancouver's various planning documents. Unless otherwise noted, italics are mine.

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21. The oil terminal itself would not be built within any one of these urban centers. But it will affect them by intensifying rail traffic within or adjacent to each center. The development plans for these centers feature multi-modal transportation, pedestrian-oriented connections, public open spaces, and design characteristics that depend on a mix of uses to complement each other and create more livable, interactive urban spaces. *See* Ex5903-000156-CRK at 1-9 & 1-8 (fig. 1-2). The increased presence of heavy rail traffic in these centers— nearly six additional mile-lengths of train cars each day—will detract from their character. The oil trains will also decrease these centers' long-term viability because the impacts due to noise, air quality, aesthetics, traffic, and the heightened risk of accidents will discourage investors, tenants, and visitors to public open spaces.[3]

22. The proposal would also substantially frustrate the City's commitments to encourage innovative, attractive private development in downtown Vancouver and surrounding areas because potential developers and investors will be much less likely to pursue sites threatened by the oil terminal and its associated oil train traffic. In a study prepared by Johnson Economics for Columbia Waterfront LLC and submitted with Columbia Waterfront's SEPA scoping comments, Johnson estimates that the Tesoro project would have devastating impacts on the downtown Vancouver study area, including a "$98.3 million reduction in new construction investment," a "341,000 square feet reduction in commercial space," and "[a] net change of $138.1 million reduction in Real Market

[3] The terminal's conflict with CD-4 would likely be especially damaging as applied to The Waterfront at Vancouver, Washington, USA ("Waterfront Development Project"), an infill project that would develop 35 acres of riverfront land along the Columbia River and reconnect this land to the city's historic core. The $1.3 billion Waterfront Development Project would include up to 3,300 residential units, approximately one million square feet of office space, and retail space for restaurants, specialty shops, and services. *See* Ex5924-000002-CRK. The oil terminal would result in multiple unit trains of crude by rail per day traversing the site proposed for the Waterfront Development Project. The proposed oil terminal, the resulting oil train traffic, and their impacts on safety and livability would compromise the economic viability of the waterfront project, devastating the City's plans to promote a unique identity, promote a compact and efficient urban form with an appropriate mix of uses, and reconnect the City's urban core with the waterfront.

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Value." *See* Ex5909-000014-CRK at 2. In doing so, the terminal and its increased rail traffic will conflict with policy CD-4 by preventing these existing and emerging activity centers from achieving their full potential as envisioned by Vancouver's comprehensive plan.

23. The comprehensive plan also contains several policies that focus on creating livable spaces and interaction within the community. These policies also focus on facilitating development that minimizes off-site impacts, especially impacts on surrounding neighborhoods:

> **CD-6 Neighborhood livability**
>
> *Maintain and facilitate development of stable, multi-use neighborhoods that contain a compatible mix of housing, jobs, stores, and open and public spaces in a well-planned, safe pedestrian environment.*
>
> **CD-7 Human scale, accessible development, and interaction**
>
> *Facilitate development that is human scale and encourages pedestrian use and human interaction.*
>
> **CD-8 Design**
>
> *Facilitate development and create standards to achieve the following:*
>
> *(a) Increased streetfront use, visual interest, and integration with adjacent buildings*
>
> *(b) Improved pedestrian connections and proximity of uses within developments*
>
> *(c) Enhanced sense of identity in neighborhoods and subareas*
>
> *(d) Publicly and/or privately owned gathering spaces facilitating interaction*
>
> **CD-9 Compatible uses**
>
> *Facilitate development that minimizes adverse impacts to adjacent areas, particularly neighborhoods.*

Ex5903-000156-CRK at 1-14.

24. Applying CD-6, -7, -8, and -9 here, the location of the proposed oil terminal is designated for industrial use. But the terminal will also generate an average of eight oil train trips per

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day—four inbound and four outbound—which will travel near many non-industrial properties in the Fruit Valley, Esther Short, Columbia Way, Riverview Gateway, Old Evergreen Highway, and East Old Evergreen Highway neighborhoods. The potential for spills, accidents, and day-to-day direct impacts is incompatible with these non-industrial, largely residential areas. In turn, the rail lines to and from the terminal also run through the city center. With each oil train traveling through downtown at least twice each day (and a third time when the northern rail alignment is used for return trips), *see* Ex-0051-000000-CRK at 3.14-17 (fig. 3.14-5), this raises significant concerns about safety and the continuing livability of nearby neighborhoods. None of this is compatible with creating livable neighborhoods and fostering community interactions.

25. Among the terminal's day-to-day impacts, the increased rail traffic can hardly be overstated. As noted above, the terminal is expected to increase the highest level of rail traffic historically seen at the Port nearly threefold, with much longer trains impeding access across the tracks for longer periods of time. *See* Ex-0051-000000-CRK at 3.14-18 (fig. 3-14.6). This will have especially severe impacts on the Fruit Valley neighborhood (where residences are as close as 1,100 feet from the inbound route, and 240 from the outbound route); Esther Short (where residences are close as 250 feet from the tracks), Columbia Way (with residences close as 120 feet from the tracks); and the Riverview and Old Evergreen Highway neighborhoods (where some residences are only 60 feet from the tracks in denser clusters, and where multiple at-grade crossings exist along the rail line). *See* Ex5910-000004-CRK (aerial maps from Google Earth depicting neighborhoods). The East Old Evergreen Highway neighborhood also contains several at-grade crossings that provide residential and emergency access to approximately 200 homes. *See id*. at 3; Ex-0051-000000-CRK at 3.14-10 (fig. 3.14-4). Finally, the terminal will intensify rail traffic near one of Vancouver's largest planned urban revitalization projects — the Waterfront Development Project (*see supra*, note

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3). In these areas, impacts from increased rail traffic will not facilitate development of stable, multi-use neighborhoods, and intensified industrial use is likely to discourage further investment or rehabilitation of properties.[4]

26. In addition to increased rail traffic, the terminal will also lead to increased noise in the areas and neighborhoods listed above. In this case, Tesoro Savage has chosen to represent noise levels from rail traffic as the Day-night Average Sound Level (Ldn), with the level of noise expressed as a 24-hour average at the proposed terminal. *See* Ex0003-000000-PCE at 4-349. But calculating by this method masks the disruptive character of short, intensive noise events. Considering the length of oil unit trains, increased noise levels within neighborhoods abutting the tracks for the duration of each train's passage will likely be significant, even if interstate rail traffic is exempt from the WAC noise limits (WAC 173-60-050).

27. By its very nature, industrial use is not "human scale" (CD-7). For that reason, heavy industries are typically located at the fringe of urban areas, or separated entirely by space or other uses that act as a buffer between residential and heavy industrial uses. Far from minimizing impacts on adjacent neighborhoods (CD-9), the heavy industrial oil terminal will be brought to the doorstep of residential neighborhoods via the intensified rail traffic it produces. The terminal is not compatible with CD-6, -7, -8, or -9.

28. The terminal will also conflict with CD-10, which calls for complementary uses—not conflicting uses — to be located near each other:

[4] In turn, longer gate downtimes will increase response times for emergency service providers in portions of neighborhoods with at-grade rail crossings. The City of Camas cited similar concerns about the impact from coal unit-trains to emergency services. *See* Ex5925-000002-CRK (City of Camas, Resolution No. 1235 (March 6, 2012)).

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CD-10 Complementary uses

Locate complementary land uses near one another to maximize opportunities for people to work or shop nearer to where they live.

Ex. 5903-000156-CRK at 1-14 to 1-15.

29. Here, industrial-scale rail traffic is not "complementary" to the residential uses and neighborhoods discussed above — indeed, the two are polar opposites. Moreover, additional rail traffic will likely interfere with opportunities for people to work and shop near their homes. The terminal's increased rail traffic will cause additional traffic congestion, which will, in turn, reduce community access to businesses separated by at-grade crossings. In this way, the proposal is inconsistent with policy CD-10.

30. The terminal will conflict with CD-12 and -14, which call for cohesive, integrated planning:

CD-12 Integrated area planning

Promote cohesive, integrated planning of areas and sites through use of subarea planning, master planning, and planned developments, or other methods.

CD-14 Connected and integrated communities

Facilitate the development of complete neighborhoods and subareas containing stores, restaurants, parks and public facilities, and other amenities used by local residents.

Ex5903-000156-CRK at 1-15.

31. As discussed more fully below, the city has undertaken a programmatic effort to revitalize the downtown area—as that area is defined in the Vancouver City Center Vision & Subarea Plan (Ex5906-000024-CRK)—which, as discussed more fully below, emphasizes intensifying residential development, public access, recreation, cultural, hospitality, entertainment, and limited commercial uses in downtown Vancouver. *See infra*, Section V.B. There are no policies in the City Center Plan that call for intensifying heavy industrial uses such as the proposed oil

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terminal project. The terminal would increase rail traffic and the possibility of spills, accidents, and other potential impacts in and near downtown Vancouver well beyond those envisioned when the plan was created. Thus, the additional rail traffic and crude-by-rail operations would conflict with the plan and do not support revitalization of the downtown area. The impact of a heavy industrial use intensifying in downtown Vancouver is contrary to the city's vision and is inconsistent with the city's investments to make that vision a reality. The terminal is inconsistent with policy CD-14.

32. Public health issues arising from the proposed oil terminal are especially inconsistent with CD-15:

> **CD-15 Public Health and the built environment**
>
> *Promote improved public health through measures including but not limited to the following:*
>
> *(a) Develop integrated land use and street patterns, sidewalk and recreational facilities that encourage walking or biking*
>
> * * *
>
> *(d) Coordinate with Clark County Public Health to better integrate health impacts and land use and public facilities and service planning.*

Ex5903-000156-CRK at 1-15.

33. In the past several years, there have been many oil spills and accidents involving oil trains. The note below compiles a representative list, with incidents marked with an asterisk denoting events that resulted in human exposure to toxic chemicals, smoke, and water pollution, injury, and even death.[5] The risk of yet more spills associated with the proposed oil terminal poses a potentially

[5] *Waterton, WI (Nov. 2015); *Alma, WI (Nov. 2015); *Culbertson, MT (July 2015); *Heimdal, ND (May 2015); *Galena, IL (March 2015); *Gogama, ON (March 2015); *Mount Carbon, WV (Feb. 2015); Frank, AB (Feb. 2015); Buhl, AL (June 2014); Winnipeg, MB (June 2014); McKeesport, PA (June 2014); *LaSalle, CO (May 2014); Estevan, SK (May 2014); Albany, NY (May 2014); *Lynchburg, VA (April 2014); Albany, NY (April 2014); *Red Wing and Winona, MN (Feb. 2014); Philadelphia, PA (Jan. 2014); *Plaster Rock, NB (Jan. 2014); *New Augusta, MS (Jan. 2014); *Casselton, ND (Dec. 2013); Cheektowaga,

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significant health risk for anyone living or working near the rail lines, especially in the downtown area and nearby residential neighborhoods and facilities. This is especially so for the Fruit Valley neighborhood, the Clark County Jail Work Center (which includes on-site housing[6]), other nearby neighborhoods along the railroad tracks, and several hundred residences throughout Vancouver.

34. Higher-risk populations must also be considered when assessing impacts to public health. As depicted below, the area surrounding the proposed oil terminal has a high percentage of seniors (11.3 to 14.8% of residents are 65 years of age or older), and most communities along the tracks have an even higher percentage of seniors (14.9% to 53.9%). Senior-age populations are generally considered to be a higher-risk population for health impacts. Thus, impacts to these communities are likely to be especially severe in the event of a derailment, spill, or explosion. Due to the increased potential for impacts to human health associated with the proposed terminal, the project is not consistent with CD-15.

NY (Dec. 2013); West Nyack, NY (Dec. 2013); *Aliceville, AL (Nov. 2013); *Gainford, AB (Oct. 2013); *Lac Magantic, QC (July 2013); *Calgary, AB (June 2013); *Jansen, SK (May 2013); *White River, ON (April 2013); *Parkers Prairie, MN (March 2013); *Tilley, AB (Jan. 2013); *Paynton, SK (Jan. 2013). Source: Map/database of major oil-train accidents, Earth Justice website: http://earthjustice.org/features/map-crude-by-rail (last accessed May 9, 2016). Some of these events are also discussed in the city's moratoria ordinances. *See* Ex5908-000020-CRK (Ordinance 4-4090 at 3–4).

[6] The Clark County Jail Work Center, including housing facilities, is located immediately adjacent to the proposed terminal site. *See, e.g.,* Ex0051-000000-CRK at 3.10-4 (fig. 3.10-1).

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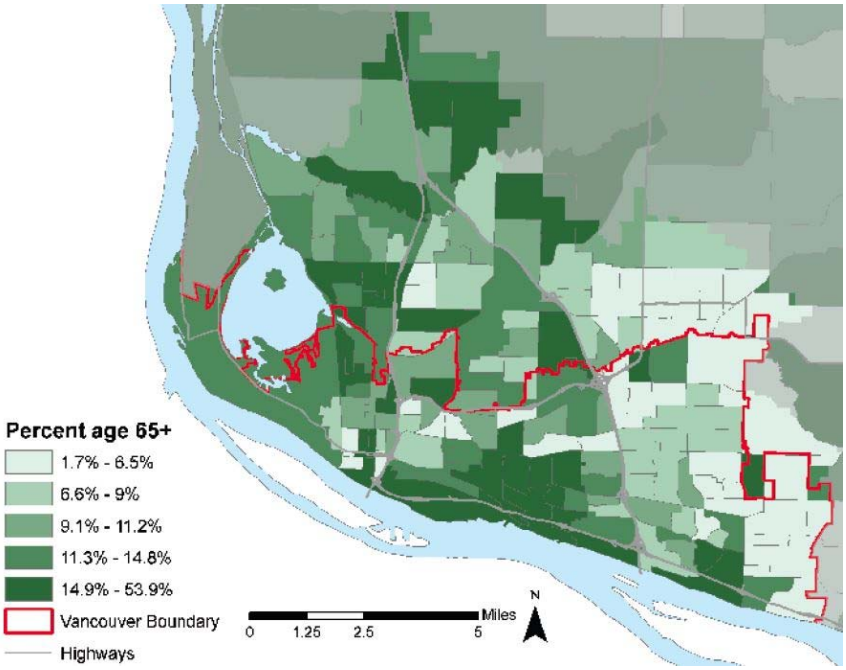

(Source: Ex5903-000156-CRK at 1-11)

35. In addition to conflicting with the city's comprehensive plan policies for human health, the terminal will also conflict with CD-16, which calls for sustainable land uses:

> **CD-16 Sustainability**
>
> *Facilitate sustainable land use development though measures including but not limited to the following:*
>
> *(a) Develop integrated land use patterns and transportation networks that foster reduced vehicle miles traveled and associated greenhouse gas emissions*
>
> *(b) Develop individual buildings that minimize energy and resource consumption. Encourage home based efficiencies such as insulation retrofits, efficient water and air heating systems, and use of solar panels or other forms of energy capture.*
>
> *(c) Implement recommendations of the Vancouver-Clark County Sustainable Affordable Residential Development Report*

Ex5903-000156-CRK at 1-15. *See also id*. at 1-10 ("*Sustainability, generally defined as meeting today's needs without compromising the ability of future generations to meet their's* [*sic*], *is one of the City's core strategic commitments*").

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36. Here, Vancouver's comprehensive plan recognizes that the city and the region will continue to grow over the 20-year planning period. Changes due to growth will occur throughout Vancouver, but most new development will be focused in identified urban centers and corridors rather than spread uniformly throughout the city. Ex5903-000156-CRK at 1-7. This direction for new growth is consistent with the tenets of sustainability: utilizing efficient growth strategies to enhance the environment, minimize cost, and improve the social condition of residents and visitors. The location of investments in efficient development will be primarily in downtown, Fruit Valley, Riverview Gateway, and future subarea planning for the Columbia Business Center. *See id.* But these areas are also most likely to experience adverse impacts as a result of the oil terminal and the heavy rail traffic that it will produce. By inhibiting investment in sustainable industries and businesses in these areas, the terminal is inconsistent with CD-16.

37. Moreover, reliance on heavy crude oil as an energy source is unsustainable. Oil is non-renewable and its use accelerates global climate change, a burden on future generations. The trains and ships associated with the terminal are also sources of greenhouse gases. The trains would increase conflicts with automobiles at crossings, causing congestion, increased vehicle emissions, and increased petroleum consumption. Because the primary purpose of the terminal is to facilitate the use of an unsustainable, environmentally damaging energy source, the terminal further conflicts with CD-16.

B. Environmental Policies

38. Environmental protection and conservation are important goals of Vancouver's comprehensive plan. To that end, the plan contains several policies designed to protect and enhance the environment "while contributing to a growing economy and a livable city." Ex5903-000156-

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CRK at 4-1. Several of these policies are quoted below, all of which are in conflict with the proposed oil terminal:

> **EN-3 Energy Conservation**
>
> *Promote and facilitate energy conservation and alternative energy sources and generation.*

Ex5903-000156-CRK at 4-10.

39. The proposed oil terminal does not promote or facilitate energy conservation and alternative energy sources. Instead, the project promotes the use of fossil fuels drawn from mid-continent, which are non-renewable, environmentally damaging, and require more energy to export. Facilitating the continued reliance on fossil fuels is inconsistent with EN-3.

40. On protecting threatened and endangered species, the plan provides:

> **Habitats and species**
>
> *Vancouver will protect priority habitats, locally important habitats, and priority species. Vancouver will protect salmon and work with others in the region to develop and implement recovery plans for threatened salmon species.*
>
> **Endangered Species Act**
>
> *Vancouver will avoid harming ESA-listed species and their habitat. The City will work with others in the region to plan and implement actions in order for listed species to recover again.*

Ex5903-000156-CRK 4-10 to 4-9.

> **EN-7 Endangered species**
>
> *Protect habitat for salmonids and other listed species and facilitate recovery. Encourage and support actions that protect other species from becoming listed.*

Ex5903-000156-CRK at 4-10.

41. The proposal would be inconsistent with the City's policies requiring the protection of priority habitats, locally important habitats, priority species, and threatened and endangered

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species, including EN-7. The Applicant acknowledges that salmonids listed under the federal Endangered Species Act "use portions of the site and the surrounding areas." *See* Ex0003-000000-PCE at 4-396; *id*. at 3-299 to 3-301 (table 3.4-2). Other priority species in the Vancouver area include the bald eagle, western gray squirrel, great blue heron, peregrine falcon, purple martin, and leopard dace. *See* Ex5903-000156-CRK at 4-4. A crude oil spill could be devastating to fish and wildlife at the site and the surrounding area.

42. Crude oil is extremely toxic to fish and wildlife. Past oil spills have caused documented harm to aquatic fish, shellfish, and wildlife. Oil spills release polycyclic aromatic hydrocarbons ("PAHs") and other pollutants that are toxic to aquatic organisms. *See, e.g.*, Ex0051-000000-PCE at 4-34. Oil can harm fish and wildlife through ingestion and chemical burns, and by causing fur and fathers to become matted, resulting in hypothermia and death. *See* Ex5911-000002-CRK. Approving the proposal would create a serious risk of harming sensitive and protected fish and wildlife, and would be inconsistent with the City's plan policies requiring the protection of habitats and species, including EN-7.

C. Economic Development Policies

43. Finally, Vancouver's comprehensive plan contains policies for economic development, "one of the cornerstones of the [plan] because it is a central factor in a community's ability to sustain itself." Ex5903-000156-CRK at 2-1. One of these policies is EC-6, which calls for efficient use of employment land:

> **EC-6 Efficient use of employment land**
>
> *Maximize utilization of land designated for employment through more intensive new building construction and redevelopment and intensification of existing sites.*

Ex5903-000156-CRK at 2-7.

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44. Here, the proposed oil terminal would be sited at the Port of Vancouver, an area designated for industrial development and currently used for industrial purposes. However, the proposed terminal poses a potential disincentive to other proposed development or redevelopment, particularly in the downtown and Fruit Valley areas and within the Waterfront Development mixed-use project. Investors shy away from committing resources to projects that present obvious conflicts with surrounding land uses. They are not likely to invest in high quality mixed-use or commercial development given the terminal's significant increase in heavy rail traffic. Even light industrial development may be similarly affected, particularly for types of businesses sensitive to noise, vibration, and/or risk of accidents. Because the proposal would discourage the maximum utilization of land designated for employment, it is inconsistent with EC-6.[7]

45. An additional economic development policy concerns the role Vancouver plays in the regional economy:

> **EC-7 Regional focus**
>
> *Work with the larger Portland-Vancouver region to leverage opportunities, unique site availability, and marketing to promote the region nationally and globally to attract new business.*

Ex5903-000156-CRK at 2-7. Here, the city and its partners have promoted the waterfront nationally and globally to attract a particular suite of new businesses, including retail stores, restaurants, and a new hotel (*see supra*, note 3). The terminal's potential threat to safety, human health, property values, sustainability, and livability could deter the very businesses that the city desires for the downtown core. By deterring those businesses, the terminal is inconsistent with EC-7.

---

[7] According to Johnson Economics, the proposed oil terminal would also result in 2,100 fewer waterfront construction jobs and 613 fewer permanent jobs just at the Waterfront Development project site, and Johnson also cautions that it is "important to remember that the Vancouver Waterfront development represents only a portion of the impact area that should be evaluated." *See* Ex5913-000014-CRK at 2, 11. This economic impact, too, is inconsistent with EC-6.

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46. In all, the proposal is inconsistent with the policies identified in the Vancouver Comprehensive Plan. The overall emphasis of the plan focuses on creating interactive and livable neighborhoods, promoting multi-modal transportation, emphasizing recreation and human presence along the waterfront, and capitalizing on investments in public open space. In contrast, the proposal would increase rail traffic dramatically, with associated increases in noise, air pollution and congestion at railroad crossings, as well as decreased emergency response times. By conflicting with the comprehensive plan, the terminal will also interfere with the city's vision of growth over the next twenty years. This represents a significant conflict with the public interest component of the Council's balancing mandate.

V. VANCOUVER SUBAREA PLANS

47. In addition to its conflict with general provisions within Vancouver's comprehensive plan, the Vancouver Energy oil terminal would also conflict with several subarea plans that represent the community's vision of development for the Fruit Valley neighborhood, the City Center, and the Riverview Gateway. As above, the Council should consider these conflicts when it balances the public interest against the interest of Tesoro Savage.

A. Fruit Valley Subarea Plan

48. Due to its unique elements and needs, the Vancouver Planning Commission has identified the Fruit Valley neighborhood as a planning priority. To that end, the neighborhood's subarea plan (Ex5904-000071-CRK) aims to enhance the livability, wellness, and economy of the Fruit Valley area. The subarea plan's policies, recommendations, and implementation measures were adopted as part of a neighborhood planning effort and represent the community's desire to shape and control its future. Critically, the subarea plan acknowledges that development within the Port of Vancouver will impact the Fruit Valley neighborhood. *See* Ex5904-000071-CRK at 4. But the

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Vancouver Energy oil terminal was not envisioned when the subarea plan was created, leading to many conflicts between the subarea plan and the terminal.

49. The Fruit Valley planning area is 614 acres in size, from Mill Plain Boulevard on the south to Vancouver Lake on the north. North of the area is the Regional Burnt Bridge Creek Trailhead and single-family housing near the eastern shore of Vancouver Lake. The eastern boundary of the area is defined by the BNSF tracks and a prominent ridge above the tracks. The Vancouver Lake Lowlands, made up of sensitive wetlands and wildlife habitat with some agriculture and recreation uses, surround the area to the west and northwest. The Port of Vancouver and other industrial uses make up the southern boundary of the subarea. *See id*. at 3. Below is a map of the Fruit Valley planning area, as depicted in the subarea plan.

(Source: Ex5904-000071-CRK at 1)

50. The Fruit Valley neighborhood is unique in many ways. While the area does contain light industrial uses (including warehousing, packaging, and some generally small manufacturing and food processing uses, *see id*. at 4), the majority of these uses are small in scale. They are also

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situated on parcels that are smaller than most industrial uses would require, ensuring those uses will remain relatively small in years to come. In juxtaposition, agriculture is still a part of the Fruit Valley neighborhood and adjacent lands, as are large tracts of open space and greenway. There are two public parks in the neighborhood (Liberty Park and Fruit Valley Park) and community gathering places include the Fruit Valley Elementary School and the Community Center (located within Fruit Valley Park). Fruit Valley's neighborhood center is clearly defined by these key features in addition to community gardens, a church, two gas stations/mini-marts (one with a sit-down restaurant), and a proposed Boys and Girls Club with a small retail space. Close to this center is the subarea's major concentration of single- and multi-family homes. The cohesive design and availability of the community center, park, and community gardens are assets. With the recent development of these parks, the community center, and nearby open space and trail systems, more residents of other areas of Vancouver visit Fruit Valley for recreation and events than in years past.[8]

51. As the westernmost neighborhood in Vancouver, Fruit Valley acts as the City's gateway to the regionally significant Vancouver Lake and Lowlands natural area. This area provides an abundance of open spaces with regionally significant wildlife habitat, recreation, opportunities for historical interpretation of both natural and Native American histories, and access to the proposed future extension of the Lake-to-Lake Regional Trail. Protecting and enhancing this natural area is a high priority for the Fruit Valley neighborhood.

---

[8] Fruit Valley's racial and ethnic makeup is another characteristic that separates this neighborhood from others in the Vancouver area. The area has a higher percentage of Hispanic, Asian, and Native American persons than overall Vancouver. Unfortunately, the area also has the second highest poverty rate in the City of Vancouver. with 35% of the people living in poverty — triple Vancouver's overall poverty rate of 12%. *See* Ex5904-000071-CRK at 6.

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52. Throughout the subarea planning effort, businesses and residents were positive about the relationship between them. It was stated clearly that they saw "no reason [they] can't have thriving businesses and a healthy neighborhood." Ex5904-000071-CRK at 8. The neighborhood association and businesses showed enthusiasm about working together in the future. Nonetheless, freight traffic near the school has been documented as a potentially dangerous aspect of the interface between business and residential uses. *Id.* Ultimately, like the city's comprehensive plan itself, policies were established to guide development and future land uses within the Fruit Valley neighborhood. Those most pertinent to the proposed oil terminal and associated rail traffic are quoted and discussed below:

> **Business and Services**
>
> **FV-1** *Encourage new industry and business to locate in Fruit Valley.*
>
> **FV-2** *Support existing industry and business prosperity by maintaining and improving road access to Interstate 5; making safety improvements to the bridge on Fruit Valley Road and NW Whitney Road; maintaining the area's industrial zoning; and streamlining the permitting process for expansions and new construction.*
>
> **FV-4** *Build on the historic as well as current strength of the area in food production. Encourage diversity in scale and type of agriculture businesses including but not limited to:*
>
> - *large scale commercial agriculture and food manufacturing;*
> - *community supported agriculture;*
> - *small market gardens, farmer's markets, community gardens, food stands, home gardens; and*
> - *community commercial kitchens for incubator food businesses, to all prosper in Fruit Valley.*
>
> **FV-5** *Continue leasing the Vancouver Lake Greenway District properties for both large and small scale food production.*

Ex5904-000071-CRK at 19.

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Neighborhood Character

FV-14 *Preserve the livability and aesthetic character of Fruit Valley residential neighborhoods.*

FV-18 *Preserve and enhance the significant historic street and neighborhood patterns of the historic WWII Fruit Valley Homes Subdivision (FVHS) and encourage upgrading and remodeling existing residential structures rather than demolition and new construction.*

Ex5904-000071-CRK at 20.

53. All of the policies listed above call for more investment, redevelopment, and enhancement of key neighborhood attributes in Fruit Valley. The proposed oil terminal poses a potential disincentive to such investments. As discussed above, investors and landowners generally do not commit resources to redevelopment projects that present obvious conflicts with surrounding land uses. In this case they are not likely to invest in high-quality ventures within Fruit Valley, given the tremendous increase in rail traffic anticipated to flow from the proposed oil terminal. The terminal is, therefore, inconsistent with policies FV-1, -2, -4, -5, -14, and -18.

54. In addition to the above policies relating to investment and neighborhood character, the Fruit Valley Subarea Plan also contains policies relating to access and circulation, pedestrian connections, and transportation, all of which are critical elements of the Fruit Valley neighborhood:

Access and Circulation

FV-20 *Make the pedestrian environment safe, convenient, attractive and accessible for all users through planning and developing a network of continuous sidewalks, pathways, and crossing improvements.*

Ex5904-000071-CRK at 20.

Pedestrian Connections

FV-22 *Improve pedestrian circulation both within and to and from the plan area, especially connecting to nearby destinations.*

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FV-23 *Sustain the existing respectful relationship between residents and industry by providing a safe and efficient circulation network for pedestrians, automobiles and trucks.*

FV-26 *Complete missing sidewalk links to ensure pedestrian safety and encourage pedestrian mobility.*

FV-27 *Evaluate and improve the pedestrian environment and crossing safety at the Fourth Plain Blvd and Fruit Valley Road intersection. Specifically, evaluate a crossing on the intersection's east leg.*

FV-28 *Create bike and pedestrian connections to the open space areas surrounding Vancouver Lake and to Vancouver Lake Park and Frenchman's Bar Park.*

FV-29 *Establish a foot and bike pathway that connects residential and industrial areas with the Vancouver Lake natural area.*

Ex5904-000071-CRK at 20–21.

Transportation and Access

Street Character of Fruit Valley Road

FV-30 *In the future, if the proposed 26th street is extended north to meet Fruit Valley Road, the city should reconsider Fruit Valley Road's purpose within the larger Fruit Valley circulation network, and consider making Fruit Valley Road in the vicinity of the park and school more of a neighborhood roadway.*

La Frambois Street

FV-31 *Develop and maintain a small scale pedestrian character for La Frambois Street extending from Fruit Valley Road to the western edge of the residential neighborhood. Any new street trees planted on the pedestrian portion of La Frambois should be large canopy to support a comfortable enclosed pedestrian environment.*

FV-32 *Create a gateway feature at the intersection of La Frambois and Fruit Valley Road as a pedestrian/bike entrance to the Vancouver Lake Lowlands natural area. Gateway features should include but not be limited to, special signage, way-finding, landscaping, street trees, paving and/or structures.*

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FV-34 *Create a gateway feature at the west end of the Fruit Valley neighborhood on La Frambois that may include a traffic "choker" to cut down the use of La Frambois for through traffic. The proposed 26th Avenue will become the main public entrance to the Vancouver Lake recreation area.*

Ex5904-000071-CRK at 21.

55. Collectively, these policies demonstrate that pedestrian access and safety are a top priority for Fruit Valley; the goal is to promote neighborhood access, livability, and a pedestrian-friendly environment. While the neighborhood's proximity to industrial development presents an inherent potential for land use conflict, Fruit Valley has received investment and public support through parks, a community center, transportation, and safety measures that support residential development and livable neighborhoods. The proposed project concentrates more heavy industrial use adjacent to and within the neighborhood, contrary to the overall direction of these subarea policies and public investments.

56. The terminal would also conflict with the Fruit Valley Subarea Plan's policies for parks, open space, and regional trails:

Parks, Open Space and Regional Trails

FV-37 *Locate and develop a Trailhead facility along the proposed Lake to Lake Regional Trail alignment that supports Fruit Valley residents' trail use and connections.*

FV-38 *Trail connection opportunities, such as the "Old Dike" between recreational and open space sites should preserve public access.*

FV-39 *Continue to protect the Vancouver Lake Lowland's wildlife and natural areas by establishing native plantings and removing invasive species.*

FV-40 *Develop a master development and management plan for the Vancouver Lake Lowlands that will guide future*

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improvements for public access as well as habitat restoration and land management activities.

Ex5904-000071-CRK at 21.

57. Trails and access points have been identified and designed to link residents and visitors to the neighborhoods, historical sites, and natural features throughout the greater Vancouver area. Large public/private investments in the trail system and wildlife areas is consistent with these policies regarding the Vancouver Lake Lowlands area. Conversely, siting a large oil terminal, and the near-constant industrial activity required to off-load six miles of oil trains each day, is not consistent with wildlife protection, passive recreation inherent in previous planning efforts, nor public/private investments on nearby lands. The planned recreational uses of the lowlands rely upon aesthetic, open space, and wildlife habitat values. In contrast, the terminal produces intensive industrial noise, pollution, and visual impacts. There are few buffers separating these conflicting uses. The terminal conflicts with these provisions of the Fruit Valley Subarea Plan.

58. Finally, the Fruit Valley Subarea Plan contains policies for sustainable siting and design:

Sustainable Site and Development Design

FV-41 *Promote sustainable practices minimizing the use of energy, water, and other natural resources and providing a healthy productive environment.*

FV-42 *Invite and consider new innovative sustainable design practices in all Fruit Valley development.*

FV-43 *Incorporate sustainable building practices or techniques into development design such as LEED, and to the extent possible, reduces its energy consumption or that generates its own energy with renewable resources, that captures and treats all of its water on site, and uses resources efficiently and for maximum beauty.*

Ex5904-000071-CRK at 22.

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59. Like Vancouver's comprehensive plan, the provisions of the Fruit Valley Subarea Plan emphasize reducing energy and resource consumption, lowering greenhouse gas emissions, promoting sustainable practices, and renewable resources. The proposed oil terminal and its increased rail traffic further none of these policies, but instead frustrate them by increasing energy consumption, higher greenhouse emissions, unsustainable practices, and the use of fossil fuels.

B. Vancouver City Center Vision & Subarea Plan

60. In the late 1980s and 90s, Vancouver experienced a severe decline in its downtown core. In response, it adopted the Vancouver City Center Vision & Subarea Plan (Ex5906-000024-CRK) as an element of the city's comprehensive plan. With the formation of land use policies, re-zoning, and public investment in infrastructure, the city demonstrated its commitment to revitalizing the downtown and waterfront areas. The City's planning efforts span the railroad tracks with mixed-use zoning and provisions contemplating the development of the Waterfront Development Project. Below is a map of the area as depicted in the City Center Vision & Subarea Plan. The rail lines leading to and from the proposed oil terminal would cut through the southern portion of the Columbia West Renaissance District, bordering the Fruit Valley subarea to the immediate west.

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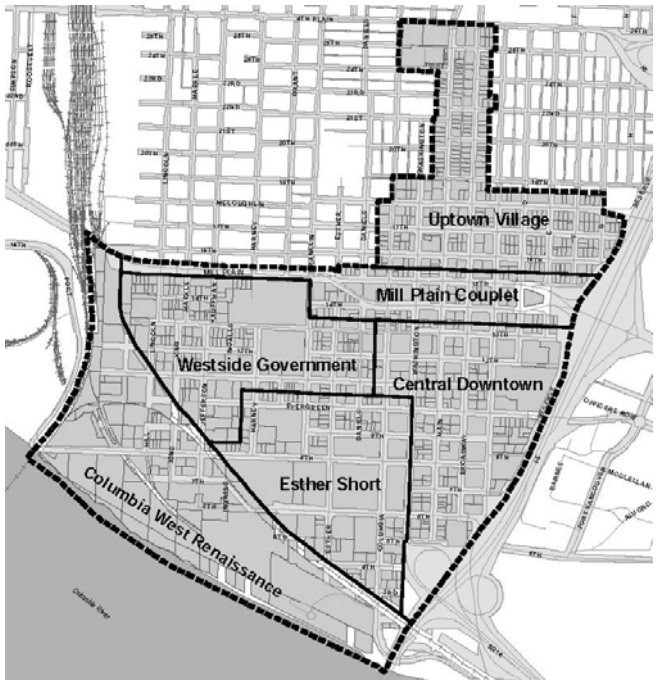

(Source: Ex5906-000024-CRK at 2)

61. The City Center Vision & Subarea Plan contains mechanisms for guiding future development and land uses within the subarea, including land use policies (Ex5906-000024-CRK at 3),[9] new zoning designations (*id*. at 6), changes to the city's Shoreline Management Program and Critical Areas Ordinance (*id.*), and recommendations to enhance the day-to-day living experience of downtown Vancouver (*id*. at 14). In turn, the subarea plan lists several land uses as priorities for future development, including condominium housing, an upscale hotel, other overnight accommodations, office and retail spaces, and light industry. *See id*. at 16–22. The table below

[9] Among the subarea plan's goals are to "[p]romote residential development including affordable housing as key to a vital and attractive city center" and to "[c]reate and support 'messy vitality', a dynamic and rich mix of residential, cultural, civic, retail and entertainment places that will attract growth, jobs and round-the-clock activity in the VCCV area." The City Center Vision & Subarea Plan sets forth a number of relevant policies, including policies to "[e]ncourage residential development," "[r]evitalize downtown uses," "[f]ocus waterfront redevelopment on residential uses supported by significant public access, recreation, cultural, hospitality, entertainment and limited commercial uses," "[e]ncourage key support services, such as a full-service grocery store and lifestyle retail center," and "[e]ncourage development within the west subarea of the VCCV primarily for government services complemented by residential, entertainment and cultural uses." Ex5906-000024-CRK at 3.

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shows targeted land uses specific to the Columbia West Renaissance (Waterfront) District, which includes the Waterfront redevelopment area south of the BNSF rail line.

Columbia West Renaissance (Waterfront) District		
Land Use	*Description*	*Quantities*
Housing	Mid-rise condos	**3,014 units**
Hotel	Upscale hotel Hotel other space	**200 rooms** **10,000 SF**
Office	Mid-rise office including waterfront and Northwestern office/light-industrial area	**450,000 SF**
Retail	Convenience and service retail	**125,000 SF**
Light Industrial	Northwestern office/light industrial area	**100,000 SF**
Shoreline Priority Uses	200' landward of the floodway	

(Source: Ex5906-000024-CRK at 22)

62. Finally, the City Center Vision & Subarea Plan calls for public access to and along the river's shoreline area within the Columbia West Renaissance District. Ex5906-000024-CRK at 3, 8, 22. The shoreline area of the waterfront is planned for development with one or more of the shoreline priority uses (*i.e.*, uses that are water-dependent, water-related, or geared toward environmental protection). *Id.*

63. With these policies, the City is moving away from a development pattern that centralizes heavy industry in the downtown core. In turn, good urban planning dictates that incompatible uses should be buffered from each other. The significant increase in train traffic associated with the proposed oil terminal, however, will increase the impacts of heavy industrial use in the downtown core, contrary to the direction of the subarea plan and the city's vision for future development. In an area of compact urban form and increased human-scale activity, the opportunity

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does not exist to increase buffers from industrial uses that produce significant increases in heavy rail. The proposed oil terminal is inconsistent with the City Center Vision & Subarea Plan.[10]

C. Riverview Gateway Subarea Plan

64. The Riverview Gateway Subarea Plan (Ex5905-000055-CRK) covers an area defined by the SE 192nd Avenue/State Route 14 interchange, which serves as the eastern gateway to the City of Vancouver and surrounding areas. North of the interchange is a 186-acre mining site containing the Fisher and WSDOT quarries. This site has sweeping views of the Columbia River and presents unique opportunities for urban development as the quarries are phased out of use. South of the interchange is a wooded area along the Columbia River including large riverfront properties,

[10] Notably, the city has codified many aspects of the City Center Vision & Subarea Plan at Section 20.630.080 of the Vancouver Municipal Code ("VMC"). *See* Ex5919-000006-CRK. That section of the code implements the subarea plan through additional provisions for development and enhancement of the downtown district. Like the City Center Vision & Subarea Plan itself, these implementing regulations envision a pedestrian-friendly, residential use-oriented waterfront with retail, entertainment, and cultural amenities. *See id*. at 1 (VMC § 20.630.080(a)(1)). The regulations also aim to "overcome the barrier-like feeling of the railroad and berm between downtown and the waterfront"; "[s]trengthen the primary street connections to the waterfront"; provide visual and physical access to the Columbia River; "provide pedestrian connections and specific design elements to connect the varied open spaces into a cohesive open space system"; and to "extend the Columbia River Renaissance Trail [discussed *infra* at Section VI] from east to west." *Id*. at (VMC § 20.630.080(A)(1)(d–e), (D)(7). The terminal would inhibit this vision with a dominant presence of heavy rail traffic—an impediment to anyone wishing to travel between the waterfront and downtown or along the city's trails. And rather than "overcome" the barrier-like feeling of the railroad tracks, the terminal would add to it. Not only is the terminal inconsistent with the City Center Vision & Subarea Plan, it is inconsistent with the development regulations that implement that plan.

Similarly, the terminal would conflict with VMC chapter 20.620 governing the Columbia River Shoreline Plan District. *See* Ex5912-000003-CRK. The city's Shoreline Plan District covers a broad swath of land between the BNSF rail lines and the Columbia River, from the downtown waterfront to the Riverview neighborhood to the east. *See id*. at 2 (fig. 20.620-1). Goals for this plan district include conservation and enhancement of the community appearance along the shoreline, fostering reasonable and appropriate uses, and securing public shoreline access. *See id*. at 1 (VMC § 20.620.010(1–3)). The presence of multiple oil trains per day—each up to 118 railcars in length—fails to conserve and enhance the community appearance along the city's shoreline. Rail traffic would impede reasonable and appropriate uses of the shoreline. And the increase in dangerous rail traffic would impede public access to the shoreline area in the eastern portion of the district. Moreover, the rail traffic and its attendant risks would deter private and public developers from investing in waterfront parks, trails, esplanades, bikeways, and viewpoints within the district. For all of these reasons, the terminal would conflict with the goals of the city's Columbia River Shoreline Plan District.

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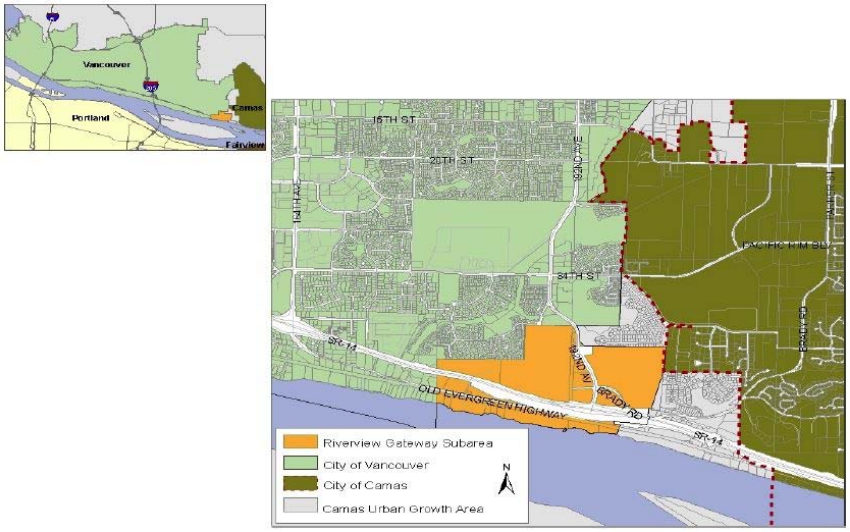
the Columbia Vista Mill, Old Evergreen Highway, and the BNSF track. A map of the subarea is provided below.



(Source: Ex5905-000055-CRK at 10)

65. The city's plan for eventual development of the existing quarries highlights an urban mix of residential, commercial, office, and employment uses linked by a network of parks, trails, and open spaces with connections to surrounding neighborhoods. Riverfront lands south of SR-14 are intended to remain generally as they are, with opportunities for habitat conservation and trail access where feasible. The area was originally designated as one of several urban centers identified in the Vancouver Comprehensive Plan for focused planning. *See* Ex5903-000156-CRK at 1-7 (fig. 1-2); Ex5905-000055-CRK at 3. The images below contrast the existing condition of the subarea with the city's vision for its future:

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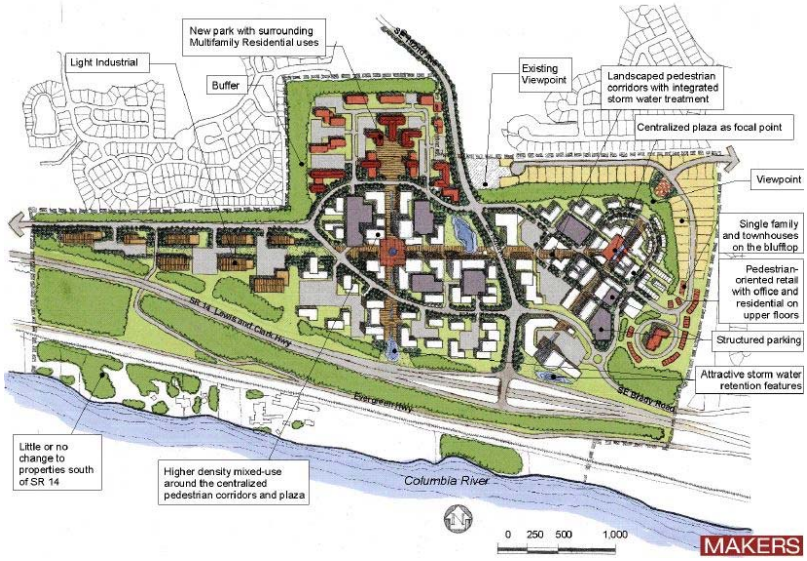
Existing Conditions
(Source: Ex5905-000055-CRK at 8)



Future Vision
(Source: Ex5905-000055-CRK at 2)

66. To achieve this vision, the subarea plan emphasizes several major concepts, including providing for a dynamic mix of urban uses; building on river views and quarry topography; connecting a network of attractive parks, open spaces, and trails; providing for efficient multi-modal circulation and transportation; and protecting the Columbia River shoreline. *See*

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Ex5905-000055-CRK at 4–5. The subarea plan also contains several land use goals and policies in furtherance of these concepts:

> **LU-1** *Promote the orderly transition from mining to a mix of uses on the quarry sites.*
>
> **LU-2** *Promote water-dependent or water-related uses along the riverfront and other uses south of SR-14 that protect the area's sensitive natural resources and can be accommodated by the area's limited infrastructure.*
>
> - *Encourage water related or dependent uses along the riverfront, consistent with Vancouver's Shoreline Management Master Plan.*
> - *Protect existing industrial uses along the riverfront until and unless property owners choose to change.*
> - *Maintain existing low intensity residential uses along the riverfront.*
> - *Protect sensitive environmental conditions south of SR-14, particularly steep slopes, springs, creeks and riparian areas.*
>
> **LU-3** *Create a unique "sense of place" reflected in site design, building and landscape forms, and the public realm within the quarry sites and establish the area as an attractive eastern gateway to the city.*
>
> **LU-4** *Promote quality development that serves as a model for sustainable development for the city and the region.*
>
> **LU-5** *Develop a regulatory program that balances predictability with flexibility, is fair to all, and promotes desired development.*
>
> * * *
>
> - *Design standards and guidelines should be established to direct new development in a way that is consistent with the Riverview Gateway Plan vision.*

Ex5905-000055-CRK at 26–29.

67. The Riverview Gateway Subarea Plan echoes themes similar to the two subarea plans discussed above: transforming blighted areas; enhancing recreation and access to the shoreline

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of the Columbia River; and increasing the value of residential, commercial, and industrial properties through thoughtful planning and design. While the subarea is miles from the proposed oil terminal site, the impacts of the terminal would be felt there because the rail route bisects the subarea near the Columbia River. As discussed above, the terminal is also expected to increase the level of overall rail traffic nearly threefold.

68. Expected land use impacts in this part of Vancouver are due to train noise, vibration, and exhaust from trains, in addition to the potential hazards associated with spills and accidents. Users of the Columbia River Mill must cross the rail line to connect with the old Evergreen Highway, the only vehicular access. For the mill and residential uses, the presence of several lengthy oil trains each day poses an obstacle for emergency services to these properties, as well as an obstacle to normal residential ingress and egress. For example, the DEIS states that "[an] additional four unit trains per day associated with the proposed Facility would increase gate downtime by between 15 and 26 percent along the Columbia River Alignment. While emergency service providers currently have the potential to be delayed by existing train traffic, an increase in delays could constitute a major impact to public services." Ex0051-000000-PCE at 34.

69. The subarea plan does not identify specific public access points between the Riverview Gateway area and the riverfront in the immediate future, but water access is identified as desirable. *See* Ex5905-000057-CRK at 5. The proposed oil terminal would produce a significant amount of train traffic that is likely to discourage access to the riverfront or force an above-grade crossing of the track, at considerable expense, thus frustrating this goal of the subarea plan. The subarea plan also notes that the Columbia River and trees along its shoreline are important visual resources, that they are important to the ecological function of the river, and that protection of these natural resources is an important component of the plan. *See id*. The introduction of six miles of train

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cars daily will likely detract from the visual aesthetic of the riverfront area, and result in a negative impact to its ecological function as wildlife will be discouraged from using the area.

70. For the reasons stated above, the terminal and its increased rail traffic conflict with the Fruit Valley, City Center Vision, and Riverview Gateway subarea plans. The Council should consider this conflict when balancing the competing interests surrounding the proposed terminal and the significant level of rail traffic it will produce.

VI. REGIONAL TRAIL & BIKEWAY SYSTEMS PLAN

71. The Vancouver and Clark County Regional Trail & Bikeway Systems Plan (Ex5907-000229-CRK) envisions a network of nearly 240 miles of regional trails and bikeways in Vancouver and Clark County. According to the City of Vancouver, "[t]hese trails are regional because they connect people with and to the places they want to go—from residential areas to employment and commercial areas, as well as to the rural areas and open spaces we want to enjoy." Ex5907-000229-CRK at 2-2. These trails are designed to link residents and visitors to the diverse neighborhoods, historical sites, and natural features of the greater Vancouver area. In turn, a large public/private investment in the trail systems has resulted in a paradigm-shift away from regarding the automobile as the only way to explore the area. In the figure below, it is evident that the Vancouver Lake Lowlands area (adjacent to the proposed terminal) plays a significant role in tying many of the plan's components together.

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(Source: Ex5907-000229-CRK at 2-6)

72. In this case, the proposed oil terminal would be constructed adjacent to the very first trail addressed in the Trails & Bikeway Systems Plan: the Lewis & Clark Discovery Greenway Trail, a 46.1-mile trail that retraces the path of the Lewis and Clark expedition 200 years ago. *See* Ex5907-000229-CRK at 2-8. More than 9.5 miles of the Lewis & Clark Discovery Greenway Trail have already been built, a new segment was built in 2013 immediately adjacent to the terminal's proposed

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oil tanker storage site, and new segments were slotted for development in 2014.[11] This trail corridor is a multi-modal facility for walkers and bicyclists, but horses are also allowed on some sections. The trail will eventually reach the Ridgefield National Wildlife Refuge in northwest Clark County.

73. The portion of the Lewis & Clark Discovery Greenway Trail closest to the proposed terminal, also known as the Lower River Road Trail, is a critical segment— not only because of the significance of the Lewis & Clark Trail itself, but also because this particular segment will connect several other trails with each other, including the Frenchman's Bar Trail, the Vancouver Lake Trail, the Lake-to-Lake Regional Trail, the Waterfront Renaissance Trail, and the Discovery Historic Loop. *See* Ex5907-000229-CRK at 2-6 to 2-7. This segment of trail "will connect [the] Fruit Valley [neighborhood]," as well as the downtown and Columbia waterfront areas, "to pedestrian/bicycle access to Vancouver Lake and Frenchman's Bar Regional Parks." Ex5904-000071-CRK at 17. It will also provide a connection for a safe five-mile bicycle ride from Esther Short Park to the Frenchman's Bar Trail. *See* Ex5916-000002-CRK.

74. The City of Vancouver and Clark County have been planning for this trail since at least 1992. *See* Ex5907-000229-CRK at 2-56. The Applicant's proposal to site a massive industrial oil terminal immediately adjacent to a recreational greenway trail is inherently incompatible with the use of this trail for recreational, human health, and greenway purposes. The terminal is thus inconsistent with the Regional Trail & Bikeway Systems Plan. As these trail systems are primarily designed to provide historical interpretation and access to natural features such as the Shilapoo

[11] *See* Ex5907-000229-CRK at 2-9 (depicting proposed and existing portions of the trail as of 2006); Ex5914-000001-CRK (discussing work in 2013); Ex5915-000003-CRK (discussing work approved by the Port of Vancouver in 2014).

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Wildlife area, the presence of intensive industrial traffic will likely discourage use by Vancouver residents and visitors seeking a passive-recreational experience.[12]

75. The proposal would also conflict with other existing trails recognized in the city's and county's formal trail planning documents. For example:

a. The portion of the terminal associated with unloading hundreds of thousands of barrels of oil every day is located approximately one mile from the Frenchman's Bar Trail. *See* Ex5917-000001-CRK at 1 (map of Frenchman's Bar Trail). The noise, air and light pollution, odors, dust, chemical exposure, and impacts to wildlife caused by the constant unloading of several oil trains every day is inherently incompatible with recreational use of this trail.

b. The proposed marine loading site for this project is located immediately adjacent to the Lower Columbia River Water Trail. *See* Ex5907-000229 at 2-54 to 2-55. The use of this site for loading barges with hundreds of thousands of barrels of oil along the Columbia each day will present safety risks and interfere with the semi-primitive use of the Water Trail for recreational solitude and the viewing of fish and wildlife in their natural habitat.

c. The Lake-to-Lake Regional Trail corridor highlights the remaining preserved open spaces within the urban area in the Burnt Bridge Creek and the LaCamas Creek watersheds. It starts at the Port of Vancouver and traverses lowlands along the eastern edge of Vancouver Lake up to the mouth of Burnt Bridge Creek at Vancouver Lake, following the

[12] Similarly, the oil terminal and increased rail traffic are likely to discourage future investment in the trail system (or worse, discourage use of the existing system), negating years of effort and public support to establish the connections the system needs to be attractive and viable.

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creek up to Leverich Park, then traversing the base of the north slope of Vancouver's "Heights" area. This trail displays habitat reclamation projects that are designed to restore wildlife habitat to its historic state before the agricultural uses of the 20th century. The trail goes further east to Meadow Creek Marsh, extending to the joint headwaters of Burnt Bridge Creek and LaCamas Creek watersheds, and ultimately connects to the 600-acre LaCamas Lake park system. *See* Ex5907-000229 at 2-14. The initial trailhead has not been established, but the plan shows it on the north side of SR-501, close to the site of the terminal's oil storage tanks. The significant increase in rail traffic caused by the project will pose aesthetic, noise, and visual impacts to recreational opportunities along the rail line, including the Lake-to-Lake Regional Trail.

d. Finally, one of the most popular trails in Vancouver—the Columbia Renaissance Trail shown in part on the Regional trails map above, and in detail at Ex5918-000008-CRK at 1—parallels the BNSF rail line for much of its length along the waterfront. This trail connects downtown Vancouver with parks along the waterfront and, in a survey conducted in 2010, use that year was estimated to be 986,645—an increase from the preceding two years. Between 2007 and 2010, the Columbia River Renaissance Trail reported the highest usage of all the trails that were counted. *See id*. at 16. Safety, cleanliness, and the conditions of natural features and the area were ranked as highly favored elements of this trail. Users may be put at increased risk by the terminal's intensified rail traffic and potential for accidents and spills.

76. For the reasons above, the Vancouver Energy oil terminal would conflict with many elements of the city's and county's Regional Trail & Bikeway Systems Plan, and with the public's use and enjoyment of these important recreational resources.

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VII. VANCOUVER SHORELINE MASTER PROGRAM

77. In addition to the comprehensive plan, subarea plans, and recreation plans discussed above, it is also critical for the Council to consider the proposed oil terminal's conflicts with Vancouver's Shoreline Master Program ("SMP"), submitted herewith as Ex5920-000226-CRK. The city's SMP is a comprehensive land use plan for the City of Vancouver under the Shoreline Management Act ("SMA"), ch. 90.58 RCW, the overarching goal of which is to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." RCW 90.58.020. The policies, regulations, maps, and text of the SMP were developed in accordance with the SMA. They are also incorporated by reference into the city's development code—Title 20 of the Vancouver Municipal Code ("VMC")—and are binding on all projects within the city's shoreline jurisdiction. *See* VMC §§ 20.760.030, 20.760.040 (submitted herewith as Ex5921-000002-CRK).

78. Like the SMA itself, the purpose of Vancouver's Shoreline Master Program is to further the public's strong interest in preserving the waters and shorelines of our state. *See* Ex5920-000226-CRK at 1-1 to 1-2. Nowhere is this interest stronger than in designated "shorelines of statewide significance," including the Columbia River adjacent to the proposed terminal. *See* RCW 90.58.030(f)(iv, v); Ex Ex5920-000226-CRK at 3-1.

A. Shorelines of Statewide Significance

79. The Columbia River is a shoreline of statewide significance. *See id*. In turn, shorelines of statewide significance are of value to the entire state, not simply the City of Vancouver or, in this case, Tesoro Savage. *See* RCW 90.58.020 ("The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance"). In accordance with RCW 90.58.020, the city's SMP requires shorelines of statewide significance to be managed, in part, in accordance with the following tenets:

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1. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:

a. Recognize and protect the statewide interest over local interest;

b. Preserve the natural character of the shoreline;

c. Result in long term over short term benefit;

d. Protect the resources and ecological function of the shoreline;

e. Increase public access to publicly-owned areas of the shorelines;

f. Increase recreational opportunities for the public in the shoreline; and

g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

2. Uses that are not consistent with these policies should not be permitted on [shorelines of statewide significance].

3. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected.

Ex5920-000226-CRK at 3-1.

80. Here, the proposed oil terminal will not further many of the preferences identified in the city's SMP—*i.e.*, it will not preserve the natural character, resources, or ecological function of the immediate shoreline, nor will it increase public access or recreation (*see, e.g., supra*, Section VI).

81. In turn, the terminal is unlikely to promote statewide interests over local interests, or long-term over short-term benefits, in conflict with the first and second preferences listed above. For example, Washington has a strong interest in curbing emissions of greenhouse gases, which are having, and will continue to have, a significant adverse impact on the state's natural resources. By furthering an unsustainable and environmentally damaging energy source, the terminal is inconsistent with this clear priority for Washington, its citizens, and the environment. By furthering climate change, the terminal also would promote short-term gains over clear long-term losses.

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82. Relatedly, while the terminal may lead to some job creation in the greater Vancouver area, the positive effect of the facility on statewide employment is marginal. Trains will simply roll through the state, unload at Vancouver, and then pass through again. In turn, even at a local level there is considerable doubt about the economic benefits of the project. *See* Ex5913-000014-CRK (discussing the terminal's negative economic impacts, including its conflict with the Waterfront Redevelopment Project). Any local benefits would likely be outweighed by the terminal's numerous impacts and conflicts with local land use plans, policies, and regulations. *See supra*, Sections IV, V, & VI. And while any positive economic benefits would be felt primarily in Vancouver, the potential costs of the project—such as the costs of spill clean-up, impacts to transportation infrastructure, emergency-services training and equipment, and adverse impacts to other land uses and natural resources (*e.g.*, fisheries)—would be borne across a broader portion of the state. In these ways, the terminal would elevate local interests above state interests.

83. The potential off-site impacts from oil spills also conflict with the city's third preference for shorelines of statewide significance: the protection of shorelines containing unique, scarce, and/or sensitive resources. *See* Ex5920-000226-CRK at 3-1. In 2004, the National Oceanic and Atmospheric Administration compiled an atlas of the riverine environments downstream from the proposed terminal. *See* Ex5922-000061-CRK. This atlas depicts a number of downstream environments, habitats, and species that could be decimated by an oil spill. The image below depicts some of these environments immediately downstream from the terminal. By putting them at risk, the terminal conflicts with the city's SMP.[13]

[13] By threatening downstream environments, many of which are in Clark County, the terminal would also conflict with the county's shoreline master program. *See* Ex5926-000011-CRK.

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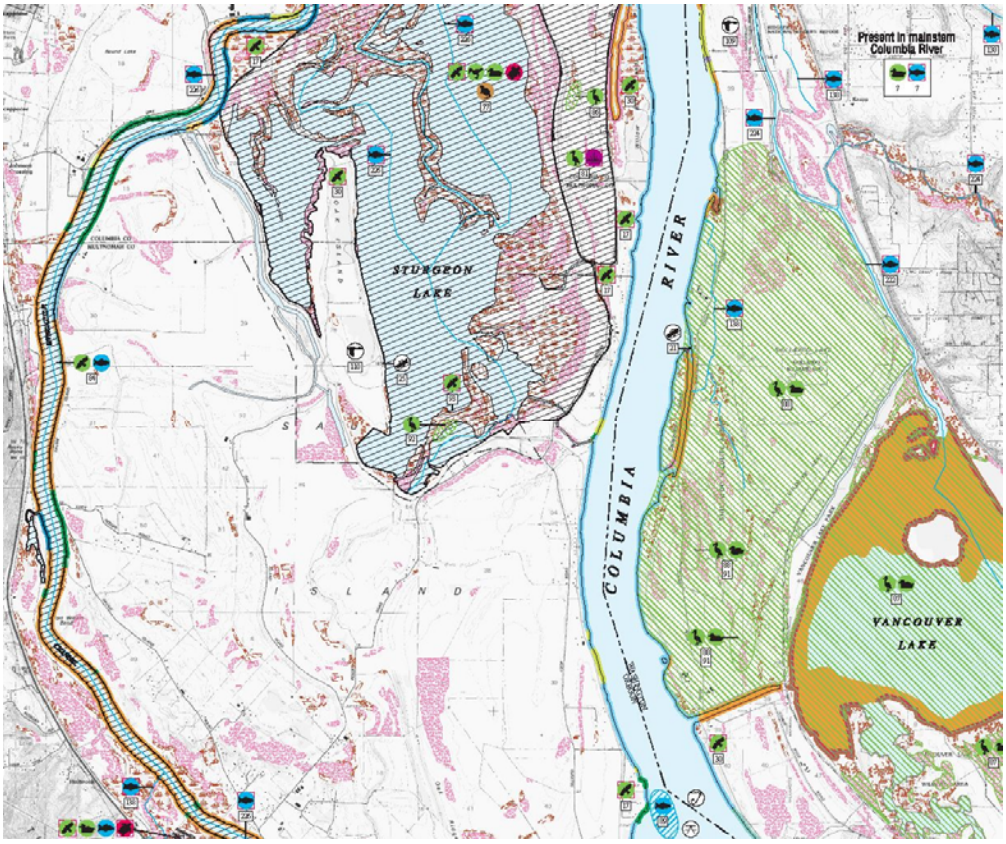

(Source: Ex5922-000061-CRK at 2)

84. Finally, shorelines of statewide significance require a long-term view when considering their value for development and use. Ex5920-000226-CRK at 3-1. In this case, the DEIS identifies potential adverse impacts to the shoreline environment for the 20-year life of the terminal. *See* Ex0051-000000-PCE at ES-23 to ES-42 (table ES-2). Considering the scope and difficulty of containing a catastrophic oil spill in the Columbia River, the potential impacts could exceed that time span. As the Mobil Oil accident in the Columbia River near Ridgefield in 1984 demonstrated, impacts could affect marine environments many miles from the spill. *See* Ex5923-000004-CRK at 138–40.

85. For the reasons above, the terminal is inconsistent with the city's shoreline policies as they apply to the Columbia River, a shoreline of statewide significance.

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B. General Shoreline Use and Development Regulations

86. In addition to the special policies listed above for shorelines of statewide significance, the city's SMP also contains general use and development regulations that apply to all projects within the city's shoreline jurisdiction. *See* Ex5920-000226-CRK at 5-1 (explaining that "[a]ll uses and development activities in shoreline jurisdiction shall be subject to the following general regulations"). The proposed oil terminal would conflict with several of these policies. As above, the relevant policies are quoted from the SMP and then applied to the proposed oil terminal.

87. The first general policy requires avoidance and minimization of negative shoreline impacts:

> *The applicant shall demonstrate all reasonable efforts have been taken to avoid and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:*
>
> *a. Avoiding the impact altogether by not taking a certain action or parts of an action. This may necessitate a redesign of the proposal.*
>
> *b. Minimizing unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The applicant shall seek to minimize fragmentation of the resource to the greatest extent possible.*
>
> *c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;*
>
> *d. Reducing or eliminating the impact over time by preservation and maintenance operations;*
>
> *e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. The compensatory mitigation shall be designed to achieve the functions as soon as practicable.*
>
> *f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.*

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Ex5920-000226-CRK at 5-1 (regulation no. 2). Applied here, Tesoro Savage has not demonstrated all reasonable efforts have been taken to avoid, minimize, or mitigate impacts of the proposed terminal. Notably, both the DEIS and Application for Site Certification dismiss all alternatives except the proposed action (and the no-action alternative required by SEPA). *See* Ex0051-000000-PCE at ES-5; Ex0003-000000-PCE at 2-211 to 2-212. In doing so, the proposal gives short shrift to the possibility of siting the project elsewhere, such as existing refineries with rail line access. Other locations are mentioned in the DEIS but little rationale is given for not considering them as alternatives to the proposal. *See* Ex0051-000000-PCE at 2-82. The Application and related materials are inconsistent with the above-quoted policies.

88. The SMP goes on to provide:

> *In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through voluntary restoration efforts.*
>
> *Shoreline uses and developments shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties.*

Ex5920-000226-CRK at 5-1 (regulation nos. 3 & 4). Here, no voluntary restoration efforts to restore the shoreline were identified in either the DEIS or the Application. Section 2.5 of the DEIS states, "The initial site restoration plan *would* be prepared in sufficient detail to identify, evaluate, and resolve identified environmental, public health, and safety issues." Ex0051-000000-PCE at 2-64 (emphasis added). Merely stating that a restoration and/or remediation plan might be prepared in the future does not allow for complete review of what that plan might entail.[14]

[14] Earlier in the same chapter, the applicant identifies "pre-booming" as a preventive measure for reducing the impacts of spilled oil in the waters around tanker ships. But in the same section, the applicant discounts that mitigation measure for much of the year due to river currents. *See* Ex0051-000000-PCE at 2-52.

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89. In addition:

> *Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals including a statement of exemption for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.*

Ex5920-000226-CRK at 5-2 (regulation no. 6). Ground improvements beneath the pipeline areas (landward of the OHWM) would include a combination of stone columns, deep soil mixing, and jet grouting to address the liquefaction potential of soils under the pipeline adjacent to the shoreline. Ex0051-000000-PCE at 3.1-20 to 3.1-23. These modifications are intended to mitigate one problem (liquefaction of the ground by earthquakes) but result in another problem under the SMP (intensive armoring of the shoreline). The city's SMP requires an applicant to demonstrate no net loss of ecological functions. The application and DEIS provide insufficient information to conclude that the terminal will meet that standard.

90. With respect to fish and wildlife passage, the SMP provides:

> *On navigable waters or their beds, all uses and developments should be located and designed to:*
>
> * * *
>
> *c. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.*

Ex5920-000226-CRK at 5-2 (regulation no. 9). The Columbia River provides habitat for special-status species of salmon, steelhead, and bull trout, Pacific eulachon, and green sturgeon. *See* Ex.0003-000000-PCE at 3-299 (table 3.4-2); Ex0051-000000-PCE at 3.6-9 to 3.6-11 (table 3.6-2). The DEIS concludes that the terminal and its increased vessel traffic will cause moderate to major long-term impacts on these species and their aquatic habitats in the lower 33 miles of the Columbia. These impacts flow from decreased vegetation, wake stranding, and entrainment of juvenile fish. *See*

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Ex0051-000000-PCE at 3.6-52 to 3.6-53; *id*. at 3.6-57 to 3.6-58. Given these impacts, the proposal appears to be inconsistent with this provision of the city's SMP—even before considering the potential for incidental and catastrophic oil spills.

91. Regarding hazardous materials, the SMP provides:

> *Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.*

Ex5920-000226-CRK at 5-2 (regulation no. 10). Hazardous materials are the product of this proposal. If incidental spills can be captured by containment systems designed to protect the ecological integrity of the upland shoreline area, the proposal will comply. But if the release of crude oil takes place within the aquatic environment in large quantities (as seen in previous riverine, freshwater spills), then the proposal will likely not comply, because the ecological integrity of the shoreline will be impacted by an oil spill as a result of introduced toxicity, lowered oxygen levels, and direct impacts to invertebrate, vertebrate and benthic organisms (including stress and death due to contact with oil).

92. Regarding development in the Aquatic shoreline designation, the SMP provides:

> *Developments permitted in the Aquatic Shoreline Designation along the Columbia River shall be sited waterward of -15 feet CRD [Columbia River Datum] unless shallow water habitat will be created as mitigation.*

Ex5920-000226-CRK at 5-3 (regulation no. 15). This development in the Aquatic shoreline of the Columbia River does require work landward of -15 feet CRD. *See* Ex0003-000000-PCE at 2-106 to 2-107. But the applicant does not propose to create shallow water habitat as mitigation. Instead, it proposes to perform in-water work within a window to be prescribed by EFSEC. By failing to create shallow water habitat, the terminal conflicts with this aspect of the SMP.

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93. Because the Applicant has not demonstrated compliance with the city's general shoreline regulations, the terminal is not consistent with the city's Shoreline Master Program.

VIII. SUMMARY

94. Based on the analysis above, the Vancouver Energy oil terminal would conflict with the city's comprehensive plan, subarea plans, and shoreline management program, as well as the city's and county's joint recreation plans. Specifically:

a. The terminal and its nearly threefold increase in rail traffic is inconsistent with the city's community development policies, which emphasize multi-modal transportation, pedestrian-oriented connections, and complementary uses;

b. The terminal is inconsistent with the city's commitment to redeveloping the downtown core to encourage innovative, attractive private development that will revitalize the waterfront;

c. The terminal is inconsistent with the city's commitment to development that minimizes adverse impacts to adjacent areas, particularly neighborhoods, and that promotes public health;

d. The terminal is inconsistent with the city's environmental policies and commitment to protect sensitive environmental resources;

e. The terminal is inconsistent with the city's subarea plans for the Fruit Valley neighborhood, the City Center, and the Riverview Gateway;

f. The terminal is inconsistent with the city's and county's Regional Trail & Bikeway Systems Plan, and the substantial efforts taken to establish a significant network of recreational trails throughout the Vancouver area; and

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g. The terminal, its rail traffic, and its tremendous increase in deep-draft vessel traffic is inconsistent with the city's Shoreline Master Program, including general requirements applicable to all development and special requirements for the Columbia River, a shoreline of statewide significance.

95. The city's planning documents represent a definite vision in the city's development priorities for its downtown core and recognize the importance of neighborhood viability and principles of sustainability. The proposed heavy industrial oil terminal is inconsistent with the city's and county's planning documents because it will discourage redevelopment plans, interfere with existing uses and recreation opportunities, and dominate the downtown core and other neighborhoods adjacent to the rail lines.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true to the best of my knowledge and belief.

Dated this 13th day of May, 2016, at Coupeville, Washington.

s/ David L. Wechner
David L. Wechner

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