

1  
2  
3  
4 **BEFORE THE STATE OF WASHINGTON**  
5 **ENERGY FACILITY SITE EVALUATION COUNCIL**

6 In the Matter of:  
7 Application No. 2013-01

8 TESORO SAVAGE, LLC

9 VANCOUVER ENERGY  
10 DISTRIBUTION TERMINAL

CASE NO. 15-001

PORT OF VANCOUVER, USA'S  
PRELIMINARY STATEMENT OF  
ADJUDICATION ISSUES, WITNESSES  
AND PROPOSED EXHIBITS

11 Pursuant to the May 5, 2015 Pre-Hearing Order Establishing Procedures and Setting  
12 Deadlines for Submittals, the Port of Vancouver, USA ("Port") submits this Preliminary  
13 Statement of Adjudication Issues, Witnesses, and Proposed Exhibits. This information may  
14 be supplemented or amended.

15 **A. Preliminary Adjudication Issues**

16 1. The site at the Port of Vancouver, USA is suitable for the proposed  
17 Project.

18 2. EFSEC's authority to impose conditions in the Site Certification  
19 Agreement that have the effect of impacting railroad operations is preempted by the  
20 Interstate Commerce Commission Termination Act, which vests in the Surface  
21 Transportation Board exclusive jurisdiction over transportation by rail carriers and  
22 the construction and operation of rail facilities.

23 3. EFSEC's authority to impose conditions on Columbia River vessel  
24 traffic in the Site Certification Agreement that interfere with or discriminate against  
25  
26

1 interstate commerce is preempted under the Commerce Clause of the United States  
 2 Constitution.

3 **B. Preliminary Identification of Witnesses**

Name	Contact Information	Summary of Testimony
<b>Fact Witnesses</b>		
7 Todd Coleman 8 Executive Director, 9 Chief Executive 10 Officer, Port of 11 Vancouver, USA	c/o Schwabe, Williamson & Wyatt 1211 SW 5 <sup>th</sup> Ave., Suite 1900 Portland, OR 97204 503-796-2907	Mr. Coleman is expected to testify regarding the Port's mission and its strategic capital investments in the development of new maritime, industrial and transportation facilities.
12 Alastair Smith 13 Chief of Marketing 14 and Sales Officer, 15 Port of Vancouver, USA	c/o Schwabe, Williamson & Wyatt 1211 SW 5 <sup>th</sup> Ave., Suite 1900 Portland, OR 97204 503-796-2907	Mr. Smith is expected to testify the Port's efforts to market to new business and tenants, regarding the proposed Project, and regarding how it will further the Port's goals.
<b>Expert Witnesses</b>		
16 Lisa Bendixen 17 Vice President, 18 ICF International	9300 Lee Highway Fairfax, VA 22031 (703) 934-3000	Ms. Bendixen has more than 30 years of experience in risk assessment, risk management, emergency management, and providing security for industry clients and government agencies at the national, state, and local levels. She has developed and evaluated risk assessment and ranking methodologies for various natural and manmade hazards and has extensive experience in the chemical, transportation, manufacturing, telecommunications, energy, and pharmaceutical industries.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Name	Contact Information	Summary of Testimony
		Ms. Bendixen is expected to provide expert testimony regarding the assessment of risks associated with the proposed Project.
Chris Earle, Ph.D. Technical Specialist, ICF International	711 Capitol Way S # 504, Olympia, WA 98501 (360) 357-4400	Dr. Earle is a senior ecologist specializing in Endangered Species Act (ESA) issues, watershed analysis, and terrestrial and aquatic ecosystem evaluation and restoration. His 19 years of experience includes analyses of major project effects on threatened and endangered species, designing and implementing environmental monitoring programs, and designing projects to perform in an environmentally friendly manner. Dr. Earle also has expertise in preparing and negotiating an array of U.S. federal and state environmental permits; managing watershed-level studies of forestry, grazing, and agricultural impacts to stream channels and riparian ecosystems; and developing programmatic solutions to minimize such impacts. He has provided environmental permitting support for a wide array of development projects, including transportation systems, pipelines, power lines, fiber optic systems, and port developments, and helped to develop regulatory program elements such as regional

Name	Contact Information	Summary of Testimony
		<p>general permits and critical areas ordinances.</p> <p>Dr. Earle is expected to provide expert testimony regarding the evaluation of wake damage in the Columbia River system.</p>
<p>David A. Sawicki President, The Sawicki Group LLC</p>	<p>8090 Niska Road Blaine, Washington 98230 (360) 739-3975</p>	<p>Mr. Sawicki is an expert emergency and crisis program management consultant, with 21 years of experience in managing, reviewing, developing, implementing and maintaining emergency and crisis management programs.</p> <p>Mr. Sawicki is expected to provide expert testimony regarding the safety and suitability of the Port site for the proposed Project.</p>
<p>A witness yet-to-be-identified who will provide testimony regarding the role and value of public ports in development and communities.</p>		
<p>A witness yet-to-be-identified who will provide testimony regarding the Columbia River marine transportation system.</p>		

1 The Port reserves the right to identify additional witnesses, or expand the scope of the  
 2 testimony for witnesses identified here, as warranted by continued review of the DEIS or the  
 3 disclosures of other parties. The Port also reserves the right to call as its own witness any  
 4 witness identified by any other party, and to call witnesses not identified here for rebuttal  
 5 purposes.  
 6

7 **C. Preliminary Identification of Proposed Exhibits**

Exhibit #	Description
POV1	Draft Environmental Impact Statement, with appendices (Cardno, Inc., 11/24/2015)
POV2	Assessment of Vancouver Energy Socioeconomic Impacts: Primary Economic Impacts (Analysis Group, Inc., 7/28/2014)
POV3	The Local and Regional Economic Impacts of the Port of Vancouver Marine Terminals and Non-Maritime Real Estate Tenants, 2014 (Martin Associates, 11/10/2015)
POV4	Economic Impacts of Port of Vancouver Non-Maritime Real Estate Tenants (Martin Associates, 11/10/2015)
POV5	The Local and Regional Economic Impacts of the Port of Vancouver Marine Terminals (Martin Associates, 11/10/2015)
POV6	Grant Application for Transportation Investment Generating Economic Recovery for the Port of Vancouver USA West Vancouver Freight Access Rail Project (Port of Vancouver USA, 8/23/2010)
POV7	Port of Vancouver Waterfront Project Master Plan (11/13/2015)
POV8	Port of Vancouver USA Strategic Plan 2016-2025 (Revised 12/2015)
POV9	NOAA Columbia River Navigation Charts (Charts # 18521, 18523, 18524, and 18525)

20 The Port reserves the right to identify additional exhibits as warranted by the  
 21 disclosures of other parties. The Port also reserves the right to offer at the adjudication  
 22 exhibits not identified here, for demonstrative purposes or in rebuttal.

23 Finally, the Port reserves the right to supplement or amend this Preliminary Statement  
 24 of Issues for Adjudication, Witnesses, and Proposed Exhibits.  
 25  
 26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Dated this 8<sup>th</sup> day of January, 2016.

SCHWABE, WILLIAMSON & WYATT, P.C.

By: 

David F. Bartz, Jr., WSBA #33226  
Email: [dbartz@schwabe.com](mailto:dbartz@schwabe.com)  
Telephone: 503.796.2907

Alicia L. ("Lisa") Lowe, WSBA #15562  
Email: [alowe@schwabe.com](mailto:alowe@schwabe.com)  
Telephone: 360.905.1427

1211 SW Fifth Avenue, Suite 1900  
Portland, OR 97204-3795

Connie Sue Martin, WSBA #26525  
Email: [csmartin@schwabe.com](mailto:csmartin@schwabe.com)  
Telephone: 206-407-1556

*Attorneys for Port of Vancouver, USA*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 8th day of January, 2016, I served the following PORT  
3 OF VANCOUVER, USA'S PRELIMINARY STATEMENT OF ADJUDICATION  
4 ISSUES, WITNESSES AND EXHIBITS on:

5 *Applicant*

6 Kelly J. Flint  
7 TESORO SAVAGE PETROLEUM TERMINAL, LLC  
8 110 Columbia Boulevard, Suite 108 & 110  
9 Vancouver, WA 98660

10 Telephone: 801-944-6600  
11 E-Mail: [kellyf@savageservices.com](mailto:kellyf@savageservices.com)

*Counsel for the Environment*

Matthew Kernutt,  
Assistant Attorney General  
OFFICE OF ATTORNEY GENERAL  
1125 Washington Street, SE  
P.O. Box 40100  
Olympia, WA 98504-0100

Telephone: 360-586-0740  
E-Mail: [mattk1@atg.wa.gov](mailto:mattk1@atg.wa.gov)

11 *Attorneys for Applicant*

12 Jay P. Derr  
13 Dale N. Johnson  
14 Tadas A. Kisielius  
15 VAN NESS FELDMAN, LLP  
16 719 Second Ave., Suite 1150  
17 Seattle, WA 98104

18 Telephone: 206-623-9372  
19 E-Mail: [jpd@vnf.com](mailto:jpd@vnf.com)  
20 [dnj@vnf.com](mailto:dnj@vnf.com)  
21 [tak@vnf.com](mailto:tak@vnf.com)

*Clark County*

Taylor Hallvik, Deputy Prosecuting Attorney  
Christopher Horne, Chief Civil Deputy  
CLARK COUNTY PROSECUTORS OFFICE  
Civil Division  
1300 Franklin Street  
P.O. Box 5000  
Vancouver, WA 98666-5000

Telephone: 360-397-2478  
E-Mail: [taylor.hallvik@clark.wa.gov](mailto:taylor.hallvik@clark.wa.gov)

1 *City of Vancouver*

2 E. Bronson Potter, City Attorney  
3 CITY OF VANCOUVER  
4 P.O. Box 1995  
5 Vancouver, WA 98668-1995

6 Telephone: 360-487-8600  
7 E-Mail: [bronson.potter@cityofvancouver.us](mailto:bronson.potter@cityofvancouver.us)

8 Susan Drummond  
9 Counsel for the City of Vancouver  
10 LAW OFFICE OF SUSAN ELIZABETH  
11 DRUMMOND  
12 5400 Carillon Pt. Bldg. 5000  
13 Kirkland, WA 98033-7357

14 Telephone: 206-682-0767  
15 E-Mail: [susan@susandrummond.com](mailto:susan@susandrummond.com)

16 *Columbia Riverkeeper, Climate Solutions,*  
17 *ForestEthics, Friends of the Columbia Gorge,*  
18 *Fruit Valley Neighborhood Association,*  
19 *Sierra Club, Spokane Riverkeeper and*  
20 *Washington Environmental Council*

21 Kristen L. Boyles  
22 Janette K. Brimmer  
23 Matthew R. Baca  
24 EARTHJUSTICE  
25 705 Second Avenue, Suite 203  
26 Seattle, WA 98104

Telephone: 206-343-7340  
Email: [kboyles@earthjustice.org](mailto:kboyles@earthjustice.org)  
[jbrimmer@earthjustice.org](mailto:jbrimmer@earthjustice.org)  
[mbaca@earthjustice.org](mailto:mbaca@earthjustice.org)

David Bricklin  
Bryan Telegin  
BRICKLIN & NEWMAN, LLP  
1001 Fourth Avenue, Suite 3303  
Seattle, WA 98154

Telephone: 206-264-8600  
Email: [bricklin@bnd-law.com](mailto:bricklin@bnd-law.com)  
[telegin@bnd-law.com](mailto:telegin@bnd-law.com)

*Department of Natural Resources*

Robert W. Ferguson, Attorney General  
Terence A. Pruitt, Assistant Attorney General  
ATTORNEY GENERAL OF WASHINGTON  
Natural Resources Division  
1125 Washington Street, SE  
P.O. Box 40100  
Olympia, WA 98504-0100

Telephone: 360-586-0642  
E-Mail: [terryp@atg.wa.gov](mailto:terryp@atg.wa.gov);  
[RESOLyEF@atg.wa.gov](mailto:RESOLyEF@atg.wa.gov)

*Columbia Waterfront LLC*

Linda R. Larson  
MARTEN LAW, PLLC  
1191 Second Avenue, Suite 2200  
Seattle, WA 98101

Telephone: 206-292-2600  
Email [llarson@martenlaw.com](mailto:llarson@martenlaw.com)

Daniel Timmons  
MARTEN LAW, PLLC  
1001 SW Fifth Avenue, Suite 1500  
Portland, OR 97217

Telephone: 503-243-2200  
Email: [dtimmons@martenlaw.com](mailto:dtimmons@martenlaw.com)

*CRITFC*

Julie A. Carter  
Robert C. Lothrop  
COLUMBIA RIVER INTER-TRIBAL FISH  
COMMISSION (CRITFC)  
700 NE Multnomah Street, Suite 1200  
Portland, OR 97213

Telephone: 503-238-0667  
Email: [carj@critfc.org](mailto:carj@critfc.org)  
[lotr@critfc.org](mailto:lotr@critfc.org)



1 *International Longshore Warehouse*  
2 *Union Local 4*  
3 Cager Clabaugh  
4 Jared Smith  
5 INTERNATIONAL LONGSHORE WAREHOUSE  
6 UNION LOCAL 4  
7 1205 Ingalls Road  
8 Vancouver, WA 98660

9 Telephone: 360-903-7678 (Clabaugh)  
10 Email: [cagerclabaugh@aol.com](mailto:cagerclabaugh@aol.com)

11 Telephone: 360-241-0314 (Smith)  
12 Email [mithared@yahoo.com](mailto:mithared@yahoo.com)

13 *Confederated Tribes of the*  
14 *Umatilla Indian Reservation*

15 Brent H. Hall  
16 CONFEDERATED TRIBES OF THE UMATILLA  
17 INDIAN RESERVATION  
18 Office of Legal Counsel  
19 46411 Timine Way  
20 Pendleton, OR 97801

21 Telephone: 541-429-7407  
22 Email: [brenthall@ctuir.org](mailto:brenthall@ctuir.org)

23 *City of Washougal*

24 Donald L. English  
25 Scott Russon  
26 City Attorney, City of Washougal  
ENGLISH & MARSHALL, PLLC  
12204 SE Mill Plain, Suite 200  
Vancouver, WA 98684

Telephone: 360-449-6100  
Email [english@elmbstv.com](mailto:english@elmbstv.com)  
[russon@elmbstv.com](mailto:russon@elmbstv.com)

*City of Spokane*

Nancy Isserlis, City Attorney  
Michael J. Piccolo, Assistant City Attorney  
OFFICE OF THE CITY ATTORNEY  
5<sup>th</sup> Floor Municipal Building  
W. 808 Spokane Falls Blvd.  
Spokane, WA 99201

Telephone: 509-625-6225  
Email [nisserlis@spokanecity.org](mailto:nisserlis@spokanecity.org)  
[mpiccolo@spokanecity.org](mailto:mpiccolo@spokanecity.org)

*Confederated Tribes and Bands of the*  
*Yakima Nation*

Joe Sexton  
Amber Penn-Roco  
GALANDA BROADMAN, PLLC  
8606 – 35<sup>th</sup> Ave., NE, Suite L1  
P.O. Box 15146  
Seattle, WA 98115

Telephone: 206-557-7509  
Email [joe@galandabroadman.com](mailto:joe@galandabroadman.com)  
[amber@galandabroadman.com](mailto:amber@galandabroadman.com)

*Department of Commerce*

Brian Bonlender, Director  
DEPARTMENT OF COMMERCE  
1011 Plum Street, SE  
Olympia, WA 98504-2525

Telephone: 360-725-4021  
E-Mail: [brian.bonlender@commerce.wa.gov](mailto:brian.bonlender@commerce.wa.gov)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

*Department of Ecology*

Maia D. Bellon, Director  
DEPARTMENT OF ECOLOGY  
300 Desmond Drive  
P.O. Box 47600  
Olympia, WA 98504-7600

Telephone: 360-902-1004  
E-Mail: [maia.bellon@ecy.wa.gov](mailto:maia.bellon@ecy.wa.gov)

*Utilities and Transportation Commission*

David Danner, Chairman  
UTILITIES AND TRANSPORTATION  
COMMISSION  
1300 S. Evergreen Park Dr., SW  
P.O. Box 47250  
Olympia, WA 98504-7250

Telephone: 360-664-1208  
E-Mail: [ddanner@utc.wa.gov](mailto:ddanner@utc.wa.gov)

*Department of Fish and Wildlife*

Jim Unsworth, Director  
DEPARTMENT OF FISH AND WILDLIFE  
600 Capitol Way, N.  
Olympia, WA 98501-1091

Telephone: 360-902-2225  
E-Mail: [director@dfw.wa.gov](mailto:director@dfw.wa.gov)

*Department of Transportation*

Lynn Peterson  
Secretary of Transportation  
DEPARTMENT OF TRANSPORTATION  
310 Maple Park Ave., SE  
P.O. Box 47300  
Olympia, WA 98504-7300

Telephone: 360-705-7000  
E-Mail: [lynnp@wsdot.wa.gov](mailto:lynnp@wsdot.wa.gov)

by e-mailing a true and correct copy thereof to each party's/attorney's e-mail address.

  
\_\_\_\_\_  
Barbara Bratton