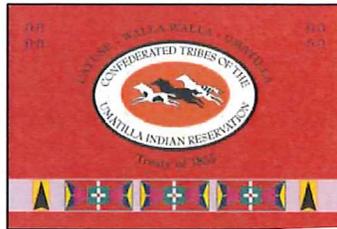


Confederated Tribes of the
Umatilla Indian Reservation
Department of Natural Resources
Administration



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December 18, 2013

Tesoro Savage CBR
Agency Scoping Comment
#019

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ENERGY FACILITY SITE
EVALUATION COUNCIL

Stephen Posner, Interim EFSEC Manager
Energy Facility Site Evaluation Council
P.O. Box 43172
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-3172

Transmitted via U.S. Mail and electronically to: efsec@utc.wa.gov

Subject: Scoping Comments on Proposed Tesoro-Savage Vancouver Energy Distribution Terminal; Application No. 2013-01, Docket No. EF-131590

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources (DNR) appreciates the opportunity to comment on the above-referenced project. The Tesoro-Savage facility would be a major undertaking that could have serious, profound, far-reaching and long-lasting effects on the resources, rights and interests of the CTUIR and its members; therefore it should be examined and analyzed in a thorough and comprehensive manner. Specifically, the evaluation should include adequate information to make an informed assessment as to the potential impacts to tribal rights under the Treaty of 1855 (12 Stat. 945), traditional use areas and the near- and long-term health and sustainability of tribal First Foods.

Our region is currently in the midst of an onslaught of proposals to vastly increase the transport of various fossil fuel products (oil, coal and natural gas) via expanded or entirely new means and mechanisms. Based on the limited information available so far on this and other proposals, we have many substantial questions and concerns regarding this and other projects. The Tesoro-Savage facility could have multiple potential detrimental impacts to tribal First Foods and the exercise of our Treaty Rights based on them. It could directly and indirectly affect the environmental conditions necessary to sustain our First Foods and other natural and cultural resources. It raises issues crucial to tribal sovereignty and co-management authority, as well as the overall public interest.

The terminal will be located on the Columbia River, the migration corridor for the downstream and upstream passage of salmon, lamprey and other fish species in which we and other tribes have rights reserved in treaties with the United States. Rail traffic will also increase along the Columbia River corridor, passing through Zone 6 where tribal members continue to actively fish pursuant to the treaties and federal court orders interpreting them.

Our treaty-secured "right of taking fish" extends to all "usual and accustomed stations" along the Columbia River and its tributaries. In order for this right to have any meaning, there must be fish to take, they must be healthy and sustainable, and access must be available. The project will potentially negatively impact these sites and the fish that migrate past them. Additional trains may also adversely affect the ability of tribal members to access tribal fishing sites due to the increased obstruction at crossings. There are numerous tribal fishing sites along the Columbia

CTUIR DNR Letter to Washington Energy Facility Site Evaluation Council
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River and tributaries some with signaled railroad crossings and many without. The additional rail traffic, and cumulative rail traffic from various energy development projects, should be examined to determine the potential impacts and measures to avoid or mitigate for those impacts.

The Lower Columbia Estuary is particularly important to salmon life history and development. The tribes and many federal and state agencies have spent enormous time and resources over many decades in efforts to protect and restore salmon in the Pacific Northwest. A healthy estuary has been identified as key to successful recovery. The Tesoro-Savage project and others like it could undermine much of the progress and improvements we have made. The river, its water and its fish would be subject to significant risks from construction and operation of the facility and the entire range of activities associated with it. Construction and operation degrade the immediate environment (for example, from increased emissions) and could exacerbate broader climate change effects, which are already occurring and to which First Foods and tribal communities maybe particularly vulnerable.

A broad examination of this and other regional fossil fuel transport proposals is appropriate and necessary. Tesoro-Savage should not be analyzed in isolation, but in conjunction with the other proposed projects. Both individually and collectively, they raise issues related to the environment, economics, aesthetics, air quality, wetlands, historic and cultural properties, fish, wildlife, plants, water quality, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, energy needs and production, public safety, food production, and property use and ownership, for both Indian and non-Indian communities.

Recent efforts to drill in the Alberta Tar Sands have raised specific concerns regarding the nature of the oils being transported. Diluted bitumen, or dilbit, represents a form of fossil fuel unlike normal crude oil and can exhibit unique characteristics when immersed in water. For instance, dilbit can sink when spilled in a water body. The oil might not sink immediately, but when the dilution agents combined with the dense tar sands oil evaporate off, the denser material sinks. This makes recovery in a spill operation very difficult and can jeopardize entire river ecosystems. There must be analysis of the exact type, nature and characteristics of the oil shipped in order to fully evaluate the potential risks and any the development of any potential limitations on those oils that may be shipped. For coverage of a spill of similar material please see National Transportation Safety Board Accident Report NTSB/PAR-12/01, PB2012-916501, Notation 8423, Adopted July 10, 2012.

EFSEC should address oil spill risks and impacts along the rail route, at the terminal, in the Columbia River, and in the Pacific Ocean; increased rail and ship traffic; impacts to streams, wetlands, fish and fishing areas; air quality and respiratory impacts; rail tank car safety; impacts of the terminal on local businesses (including tribal); types of oil shipped (including their health risks, spill clean-up plans and contingencies; climate change impacts; impacts on historic and cultural resources and properties; and effects on the Columbia River Gorge National Scenic Area.

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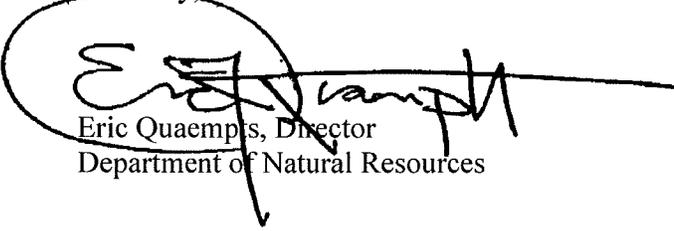
In addition, rail transit and operations associated with the project will affect traditional cultural properties, ancestral human remains, archaeological resources, historic properties of religious and cultural significance to the CTUIR; sites protected and governed by the National Historic Preservation Act, Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act and other laws. The transit corridor will pass through or otherwise affect tribal trust lands and traditional use areas. Information pertaining to changes in rail usage is needed to assess the effects the proposed undertaking will have on those properties. An evaluation of impacts from rail and transportation impacts to these cultural resources and historic properties must be conducted through the entire route of the oil from its source.

Some specific, immediate questions and information that might help inform the assessments include:

1. How many trains, and of what length, will convey the oil to the facility per day, week, and month?
2. Is there a maximum or upper limit on the amount of oil and/or the number of trains and/or ships that will be used?
3. What route(s) will the trains take?
4. What type of auxiliary in-water services will be required (e.g., tugboats)?
5. Will any dredging, or increased/altered maintenance dredging, be required? If so, how often?
6. What are the capabilities of the U.S. Coast Guard in the event of an oil spill at the facility? In the estuary? Along the Columbia River upstream, in the event of an accident or spill or that reaches the River?
7. What are the characteristics of the oil that may be spilled that are different from other crude oil spills (i.e. diluted bitumen)?

Thank you for your attention to our comments and concerns. EFSEC's assessment should include and incorporate all the necessary information to enable us and the region to make an informed decision regarding the merits and drawbacks of this proposal and all the other projects that will have similar and related effects. Pursuant to the Centennial Accord, we believe it would be beneficial to consult with you on a government-to-government basis regarding the project. If you have any questions or would like to discuss this matter further, please contact Audie Huber, Inter-Governmental Affairs Manager, at audiehuber@ctuir.org or (541) 429-7228.

Sincerely,



Eric Quaempts, Director
Department of Natural Resources