

# **EXHIBIT 13**



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March 19<sup>th</sup>, 2013

Mr. Stephen Posner  
Compliance Manager  
Energy Facility Site Evaluation Council  
1300 S. Evergreen Park Drive SW  
PO Box 43172  
Olympia WA 98504-3172

Re: SEPA Lead Agency Determination for Imperium Renewables' Grays Harbor Fuel Storage Facility Expansion

Dear Mr. Posner:

Thank you for your interest in Imperium's proposed expansion of its fuel storage facility at the Port of Grays Harbor in Hoquiam, Washington. Imperium has been working with the Department of Ecology and the City of Hoquiam since we submitted our SEPA checklist on February 1, 2013. As we discussed, Ecology and Hoquiam have completed a SEPA lead agency agreement and are in the process of reviewing our SEPA checklist.

We understand that a question has been raised regarding jurisdictional overlap between Ecology and EFSEC for this project, based in particular upon the issues of "expansion" vs "new facility" and "capacity to receive". Imperium believes that our project clearly does not meet the criteria requiring EFSEC to take the lead in permitting our facility expansion based on either of these two criteria.

The following overview of Imperium's current operations and proposed expansion is provided to support a determination that Ecology and Hoquiam maintain SEPA lead agency designation for our expansion.

#### Expansion

Since 2007, Imperium has operated one of the largest biodiesel facilities in the US. The plant is located in the Port of Grays Harbor and has an annual biodiesel production capacity of 100 million gallons. Imperium produces the world's highest quality B100 biodiesel, refined from a variety of oils such as canola, soy, and other commercially available vegetable oils. The facility includes 400,000 barrels of fuel storage, all of which is permitted for the storage of vegetable oil, biodiesel, petroleum diesel and other petroleum products. The Department of Ecology acted as the lead agency for the SEPA process when Imperium Grays Harbor was permitted for construction in 2006.

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We are proposing to expand our current operation footprint by constructing up to 720,000 barrels of storage on 10.907 acres directly adjacent to our existing biodiesel production facility and its related storage tanks. The expansion of these additional storage tanks are to allow for operational flexibility to store biofuels such as ethanol and additional feedstocks for biofuel production such as vegetable oil, used cooking oil/waste vegetable oil and animal fat; also to include petroleum products including naphtha, jet fuel, no. 6 fuel and kerosene; crude oil; and advanced renewable fuels such as renewable diesel and renewable jet fuel. These tanks will be in addition to the existing tanks that are already permitted for vegetable oil, biodiesel, methanol, diesel, and petroleum products.

Our permit applications for this expansion were submitted in February to Ecology and the City of Hoquiam based on our initial permitting experience at our site and Ecology's indication that it should again act as lead agency per WAC 197-11-938 (9). However, Ecology also indicated that they felt SEPA is an environmental review tool that is most appropriately handled at the local level and, therefore, first seeks a local entity to act as lead agency. That led to Ecology and Hoquiam sharing the lead agency responsibilities under the SEPA provision for such agreements per WAC 197-11-944.

### Capacity to Receive

As you know, per RCW 80.50.020 (12) (d), EFSEC certifies fuel storage facilities that have the "capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum ... which has been or will be transported over marine waters ...", but in the case of facility expansions, such as Imperium's, EFSEC jurisdiction is triggered only if the expansion would itself add more than fifty thousand barrels per day receiving capacity. "Energy plant," as defined by the EFSEC statute, provides that "the [EFSEC statute] shall not apply to storage facilities unless occasioned by such new facility construction." RCW 80.50.020(12) (d). The statute's general jurisdictional provision then confirms that in the case of enlargement of existing facilities, jurisdiction depends on the "net *increase* in physical capacity . . . resulting from such . . . enlargement" rather than the aggregate capacity after the enlargement is completed. RCW 80.50.060(1) (*italics added*). Ecology and Hoquiam have proceeded in the SEPA lead agency role because our expansion would be less than 50,000 bpd net *increase* in receiving capacity.

As described in our SEPA checklist, the design basis for the expansion is to increase the combined facility's rail unload capacity up to a unit train per day. A unit train typically has 105 tank cars, each of which can carry up to 743 barrels for a total of 78,000 barrels per unit train. Currently we have 64 spots for unloading rail cars, yielding a capacity to receive 47,500 barrels per day. The expansion would add capacity to unload up to an additional 41 rail cars per day (i.e., an entire unit train of 105 cars), thus adding an incremental capacity to receive approximately 30,500 barrels daily. These figures are daily maximums, but the average capacity to receive (the statutory term) would be less after accounting for normal operating practices.

### Other Considerations

In addition to the information presented above, EFSEC did not serve as lead agency in permitting for other recent fuel storage facility expansions. An example would be Tesoro's

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Crude Oil Unit Train Unloading Facility in Anacortes whose SEPA checklist defines that their receiving capacity has an ability to unload a 100 car unit trains in 18 hours. In our view, the permitting path for this project and possibly others, establishes that the EFSEC should not be the designated SEPA lead agency for our expansion project.

Thank you in advance for your consideration and please contact me if you need any more information or clarification on our current operations or our proposed expansion.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Plaza', written in a cursive style.

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