

Verbatim Transcript of Special Meeting

Tesoro/Savage Vancouver Energy Distribution Terminal - Stormwater General Permit

October 26, 2016



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WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
Richard Hemstad Building
1300 South Evergreen Park Drive Southwest
Conference Room 206
Olympia, Washington
Wednesday, October 26, 2016
1:31 p.m.

SPECIAL COUNCIL MEETING REGARDING
TESORO SAVAGE VANCOUVER ENERGY DISTRIBUTION
TERMINAL - STORMWATER GENERAL PERMIT
Verbatim Transcript of Proceedings

REPORTED BY: TAYLER RUSSELL, CCR# 3358

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A P P E A R A N C E S

CHAIRMAN:

BILL LYNCH

NATURAL RESOURCES:

DAN SIEMANN (via phone)

DEPARTMENT OF TRANSPORTATION:

KEN STONE

CITY OF VANCOUVER:

BRYAN SNODGRASS (via phone)

CLARK COUNTY:

GREG SHAFER (via phone)

PORT OF VANCOUVER:

LARRY PAULSON

ATTORNEY GENERAL'S OFFICE:

PHYLLIS BARNEY

DEPARTMENT OF ECOLOGY:

AMY MOON
SHEILA PENDLETON-ORME

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A P P E A R A N C E S (Cont.)

EFSEC STAFF:

STEPHEN POSNER
TAMMY MASTRO
SONIA BUMPUS
JOAN AITKEN
AMI KIDDER

1 OLYMPIA, WASHINGTON; OCTOBER 26, 2016

2 1:31 P.M.

3 --o0o--

4
5 CHAIRMAN LYNCH: Good afternoon. Today is
6 Wednesday, October 26th, a little bit after 1:30 p.m.,
7 and this is a special meeting for the purpose of the
8 Council to make a tentative determination on the
9 Tesoro/Savage Vancouver Energy Distribution Terminal
10 Draft NPDES Construction Stormwater General Permit. And
11 what we're -- the point of this would be to have the
12 Council discuss the permit today, answer any questions
13 about the draft permit, then by voting to make a
14 tentative determination. We would then be sending it
15 out to public comment, the Staff would be getting the
16 public comment back, summarizing those comments for the
17 Council, responding to comments, and then the Council
18 would decide whether to issue the permit later.

19 But just so -- the action today is not
20 approval of the permit, and even if the Council were to
21 approve the permit later, that does not necessarily mean
22 that the Council will recommend approval for the entire
23 project. The permits are -- don't become effective
24 until the governor would actually approve of the
25 proposed project.

1 And with that, we will have the clerk please
2 call the roll.

3 MS. MASTRO: Department of Commerce.

4 CHAIRMAN LYNCH: Councilmember Rossman is
5 excused.

6 MS. MASTRO: Department of Ecology.

7 CHAIRMAN LYNCH: Councilmember Stephenson's
8 excused.

9 MS. MASTRO: Fish and Wildlife.

10 CHAIRMAN LYNCH: Council member Stohr is
11 excused.

12 MS. MASTRO: Natural Resources.

13 MR. SIEMANN: Dan Siemann is on the phone.

14 MS. MASTRO: Utilities and Transportation
15 Commission.

16 CHAIRMAN LYNCH: Council member Moss is
17 excused.

18 MS. MASTRO: Local Government and Optional
19 State Agencies for the Tesoro Project Department of
20 Transportation.

21 MR. STONE: Ken Stone is here.

22 MS. MASTRO: City of Vancouver.

23 MR. SNODGRASS: Bryan Snodgrass is on the
24 phone.

25 MS. MASTRO: Clark County.

1 MR. SHAFER: Greg Shafer on the phone.

2 MS. MASTRO: Port of Vancouver.

3 MR. PAULSON: Larry Paulson is here.

4 MS. MASTRO: Chair, there is a quorum for
5 the Tesoro Project Council.

6 CHAIRMAN LYNCH: Thank you.

7 So at this point in time, I will just turn
8 this over to our Staff person, Sonia Bumpus. I will
9 note that we do have some Staff people here who are
10 available to answer questions, our Assistant Attorney
11 General for Ecology, Phyllis Barney, and two other Staff
12 people with Ecology.

13 So, Sonia, please go ahead.

14 MS. BUMPUS: Thank you.

15 Good afternoon, Chair Lynch and
16 Councilmembers. So the action before the Council today
17 concerns the application for the National Pollutant
18 Discharge Elimination System Construction Stormwater
19 General Permit. The NPDES Construction Stormwater
20 General Permit regulates the stormwater and dewatering
21 activities proposed for the Vancouver Energy
22 Distribution Terminal Project that's before the Council.
23 And pursuant to WAC 463-76-033, Staff was requesting
24 that the Council provide a tentative determination to
25 approve the draft permit so that Staff can proceed with

1 public comment on the permits for a period of 30 days.

2 And as Chair Lynch already mentioned, we
3 have Amy Moon from the Department of Ecology and Sheila
4 Pendleton-Orme also from the Department of Ecology here
5 to help answer any questions on the Construction
6 Stormwater General Permit, I should stay draft
7 Construction Stormwater General Permit document that
8 you've reviewed or fact sheet.

9 CHAIRMAN LYNCH: And, Ms. Bumpus, can you
10 remind the Council what the comment period would be?

11 MS. BUMPUS: The comment period is for a
12 duration of 30 days. We plan to begin public comment on
13 October 31st and end public comment on November 29th.
14 And we also plan to have a public meeting in Vancouver
15 at the Clark College Geyser Center on November 29 to
16 receive public comment on the draft NPDES permit and
17 fact sheet.

18 CHAIRMAN LYNCH: Thank you.

19 At this point in time, I think I would like
20 to ask Ms. Barney, our assistant attorney general --
21 excuse me -- the Council, you know, is aware that not
22 only do we have -- in terms of materials in front of us,
23 we have the addendum to the fact -- the fact sheet was
24 prepared for the Ecology's Construction Stormwater
25 General Permit, so this addendum is just for the

1 coverage of this particular facility under the EFSEC
2 process; is that correct?

3 MS. BARNEY: Yes, Chair Lynch, that is
4 correct.

5 CHAIRMAN LYNCH: And then the presence of
6 the administrative order, if you could -- which is my
7 understanding doesn't actually go out for public comment
8 but informs the Council in making its tentative
9 determination, could you please describe that a little
10 bit, please?

11 MS. BARNEY: Yes, Chair Lynch and Council,
12 the administrative order is issued to -- under EFSEC's
13 authority to run -- to basically run and manage NPDES
14 permit system as -- and specifically as it relates to
15 this Tesoro permit. The administrative order adds
16 additional conditions. Right now, it's in its draft
17 form because the public comment has not yet been
18 received on the draft permit and the coverage letter
19 that will be going out for public comment.

20 This -- what has been drafted so far in the
21 administrative order are the provisions that Staff,
22 together with Ecology Staff, feel are necessary for the
23 permit coverage at this specific site. And it is not in
24 final form yet even -- even at this point because
25 additional comments have yet to be received. So it does

1 inform the Council. It leaves some of the initial
2 decisions that have been made by Staff with regard to
3 what might be necessary here, but it is still open for
4 further revision later and ultimately will be finally
5 adopted by the Council at a later point in time.

6 So for now, it supplements. It provides
7 some background information, it provides documentation
8 of some of the additional testing and monitoring that
9 would -- that EFSEC would be requiring of the facility
10 under its construction permit coverage, but it's not a
11 final document yet in the same way that the draft permit
12 and the draft coverage letter are final documents at
13 this point ready to go out for public comment.

14 CHAIRMAN LYNCH: And the -- the reason we're
15 seeing this administrative order is largely due to the
16 fact that there's some contaminated soil on site that's
17 been capped; is that correct?

18 MS. BUMPUS: That's correct.

19 CHAIRMAN LYNCH: And I'll -- I guess I will
20 just throw it open to the Ecology Staff people who are
21 here to talk a little bit about -- like I see that the
22 administrative order, for example, requires monitoring
23 of certain constituents, and could you just talk a
24 little bit about how those were selected and just walk
25 us through this?

1 MS. MOON: Okay. This is Amy Moon with the
2 Department of Ecology. So the additional constituents
3 that are selected for monitoring are not final as we are
4 still evaluating the lab reports for both soil and
5 groundwater. And -- but the ones that were selected
6 thus far were to the best of our knowledge the
7 contaminants that remain on site in both soil and
8 groundwater. So we would like those to be monitored to
9 make sure that no pollutants are being discharged in
10 levels that could cause violations of water quality
11 standards.

12 Should I go through what the constituents
13 are?

14 CHAIRMAN LYNCH: No, you don't need to do
15 that. They are listed here and the Councilmembers have
16 the list. So you're saying that the list is not final
17 because there are some areas of contaminated soils that
18 you're not sure just what's there at the moment. And is
19 that's something you would expect the Port to come up
20 with or the applicant to come up with in terms of
21 helping to further define that?

22 MS. MOON: So it would be the applicant is
23 responsible for coming up with that. I am sure they are
24 going to be consulting the Port, but the applicant -- in
25 their application, they listed, for example, PAHs, but

1 did not provide the back-up documentation for which PAHs
2 were actually present or are capped at this point.

3 CHAIRMAN LYNCH: Mm-hmm.

4 MS. MOON: So we have to look at that, and
5 same with VOCs, we have some questions on which VOCs.
6 But we'd ultimately like to get the information from the
7 applicant.

8 CHAIRMAN LYNCH: And under the
9 administrative order, if there is some sampling that
10 discloses that there are discharges above the -- the
11 limit that's been established, the threshold limit, then
12 how does the permit treat that situation?

13 MS. MOON: So the Construction Stormwater
14 General Permit that's prepared that is proposed for
15 public comment, that doesn't allow for a discharge of
16 pollutants other than turbidity. And so the additional
17 monitoring in the administrative order would cover a
18 means to monitor to ensure that additional pollutants
19 were not discharged, and -- and if pollutants are
20 detected prior to discharge, then those would not be
21 allowed to be discharged.

22 CHAIRMAN LYNCH: So basically they'd be
23 ceasing operations at that point.

24 MS. MOON: It would be ceasing Construction
25 Stormwater and the watering discharge. Not necessarily

1 operations.

2 CHAIRMAN LYNCH: And then my understanding
3 is that there could be some -- part of the reason for
4 the potential contamination is the ground improvements
5 that they intend to do on the site, and if there is soil
6 that's removed from the ground or disturbed, how does
7 the -- and it's now on the surface as a result of these
8 ground improvements, how does the administrative order
9 handle those?

10 MS. MOON: So the administrative order,
11 again, is for monitoring of Stormwater and co-mingled
12 dewatering water or dewatering water on its own. And so
13 the -- with the monitoring results, then you would --
14 the permittee would know and EFSEC would know and
15 Ecology would know what level of pollutants were
16 discharged, which the order would be specifying that
17 it's supposed to be below a certain indicator level to
18 be considered not causing or contributing to water
19 quality standard violations. And so if -- if the
20 sampling came back that the water that was proposed for
21 discharge would cause water quality standard violations,
22 then that water couldn't be discharged. It would have
23 to either be handled some other way or retreated.

24 CHAIRMAN LYNCH: Actually, what I was
25 looking at in particular, I probably inartfully asked my

1 question, was I am seeing that on page 2 of the
2 administrative order, there's a number of bullets that
3 contain -- excuse me -- actions that need to be taken to
4 remain in compliance with the permit, and the fourth
5 bullet down says, (as read) Contaminated soils excavated
6 during construction will be immediately hauled off site
7 without stockpiling.

8 MS. MOON: Okay. So that particular bullet
9 point, that may not be what ends up in the
10 administrative order because we need to know more about
11 the project from the contractors if this went through,
12 this project went through. At this point, we don't know
13 exactly how soil is going to be managed.

14 CHAIRMAN LYNCH: Mm-hmm.

15 MS. MOON: So that's sort of a placeholder
16 that's been seen often in other contaminated sites where
17 there was a direct load so that contaminated soil wasn't
18 left exposed to stormwater.

19 CHAIRMAN LYNCH: I see.

20 MS. BARNEY: And if I may, Chair Lynch, this
21 is Phyllis Barney. The administrative order does play
22 together with the Construction General Stormwater Permit
23 itself, which requires stormwater pollution prevention
24 management plan and best management practices. So it
25 doesn't stand on its own as a protection here, it

1 interplays with the general permit itself. So best
2 management practices and those other pieces are in the
3 general permit.

4 CHAIRMAN LYNCH: Right. That's a good
5 reminder, thank you. I also note that Ms. Bumpus
6 reminded me that as part of the EIS, there's the section
7 called the Vancouver Energy Contaminated Media
8 Management Plan, which also discusses how potential
9 contaminated soils can be addressed.

10 Are there any other questions for either
11 Staff or our guests today? And I will ask first because
12 I can see them, Mr. Stone and Mr. Paulson?

13 MR. PAULSON: None from me.

14 MR. STONE: No.

15 CHAIRMAN LYNCH: And then our Councilmembers
16 on the phone?

17 MR. SHAFER: No questions at this time.

18 MR. SIEMANN: None for me either. This is
19 Dan.

20 CHAIRMAN LYNCH: I guess at this point,
21 then, if there is no further questions, I will call the
22 question, all those in favor of the Council making a
23 tentative determination to issue the Draft NPDES
24 Construction Stormwater General Permit for the proposed
25 Tesoro/Savage Vancouver Energy Distribution Terminal say

1 "aye."

2 COUNCILMEMBERS: Aye.

3 CHAIRMAN LYNCH: Opposed?

4 Motion carries.

5 And with that, seeing no further business in
6 front of the Council, I thank everyone for making
7 themselves available today, especially those who drove
8 here up in the rain. With that, we're adjourned.

9 (Proceeding adjourned at 1:47 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Russell, a Certified Shorthand Reporter
in and for the State of Washington, do hereby certify
that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

Tayler Russell, CCR