

STAFF REPORT NO. 057-14

TO: Mayor and City Council
FROM: Eric Holmes, City Manager



DATE: 6/2/2014

Subject: Adoption of resolution to intervene in EFSEC proceeding

Key Points:

- Tesoro Savage filed an application with the Energy Facility Site Evaluation Council to develop an oil terminal at the Port of Vancouver.
- EFSEC will conduct a hearing on the proposal and make a recommendation to the Governor.
- The City needs to file a motion to intervene (join as a party) in the EFSEC proceeding in order to present evidence, make motions and arguments or be able to appeal a decision.

Objective: Adoption of the resolution will allow the City to file a motion to intervene in the EFSEC proceeding as a party. Only parties can call witnesses, introduce exhibits, take positions, make arguments and appeal a decision.

Present Situation: The Tesoro Savage application is pending with EFSEC. EFSEC will commence the adjudicative proceeding on the application in the near future. The City can move to intervene in that proceeding so that it can participate as a party.

Advantage(s):

1. If the motion to intervene is granted, and it is highly likely that it will be, the City will be an active participant in the EFSEC proceeding.
2. The City can only be assured that its interests will be addressed in the EFSEC proceeding if it participates as a party. If the resolution is adopted, the City will file a motion to intervene once the proceedings begin.

Disadvantage(s):

1. There will need to be a dedication of a significant amount of staff time.
2. There will also be a cost in associating outside legal counsel who has expertise in EFSEC matters.

Budget Impact: None. Sufficient funds have been included in the 2013-2014 City of Vancouver Operating Budget.

Prior Council Review: Workshops were held on November 4, 2013, and February 10, 2014 on the EFSEC process and the possibility of intervening.

Action Requested: Following a public hearing, adopt the resolution authorizing the City Attorney to intervene in the EFSEC proceeding related to the Tesoro Savage oil terminal.

Attachment(s): Resolution



To request other formats, please contact:
City Manager's Office
(360) 487-8600 | WA Relay: 711
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06/02/14

RESOLUTION NO. M-[Resolution Number]

A RESOLUTION authorizing the City Attorney's Office to seek the permission of the Energy Facility Site Evaluation Council ("EFSEC") to intervene in the proceedings related to the permitting of the Tesoro Savage Oil Terminal Project ("Project").

WHEREAS, Tesoro Savage Petroleum Terminal LLC has entered into a lease with the Port of Vancouver and has applied to EFSEC to construct and operate a crude-by-rail oil terminal that would receive up to 380,000 barrels of Bakken crude oil per day; and

WHEREAS, the process for permitting such a facility is established by chapter 80.50 RCW, which calls for the application to be reviewed by EFSEC with a recommendation to be submitted by EFSEC to the Governor; and

WHEREAS, the Governor makes the decision whether to permit the facility considering the recommendation of EFSEC; and

WHEREAS, persons or entities with an interest in a proposal are permitted to petition to intervene in the EFSEC proceeding; and

WHEREAS, EFSEC issued a Determination of Significance (DS) in recognition of the fact that this crude-by-rail terminal project "is likely to have a significant adverse impact on the environment"; and

WHEREAS, the Project at full operation will result in eight to twelve unit trains traveling through the City per day with each unit train being approximately one-and-a-half miles long; and

WHEREAS, the City of Vancouver submitted SEPA scoping comments to EFSEC requesting that the entire range of probable significant adverse environmental impacts associated, not only with the proposed terminal site, but also with transportation of the oil to the port by rail and the shipping by ocean-going tankers on the Columbia River be considered; and

WHEREAS, the City has a paramount interest in the health, safety and welfare of its citizens; and

WHEREAS, by intervening in the EFSEC proceedings, the City will be able address issues of concern to it by calling and examining witnesses, introducing evidence, and making arguments which it could not do if it did not intervene; and

WHEREAS, it is the responsibility of the City to see that the interests of its citizens are represented in the EFSEC proceedings;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. The City Attorney's Office is hereby directed to file a petition in the EFSEC proceeding related to the Tesoro Savage Oil Terminal Project at such time as may be appropriate.

ADOPTED at a Regular Session of the Vancouver City Council this _____, of _____, 2014.

Timothy D. Leavitt, Mayor

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Attest:

R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

Ted H. Gathe, City Attorney