

Safe Energy Leadership Alliance

January 22, 2016

Sonia Bumpus
Energy Facility Site Evaluation Council (EFSEC)
P.O. Box 43172
Olympia, WA 98504

Dear Ms. Bumpus:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the proposed Tesoro-Savage Petroleum Terminal Application No. 2013-01.

We are members of members of the Safe Energy Leadership Alliance (SELA), a coalition of more than 165 local, state, and tribal leaders from across the Pacific Northwest, Montana, Idaho, and Canada with a shared mission to protect the health, safety, economy, and environment of our communities.

The proposed Tesoro-Savage Petroleum Terminal would receive, store, and transfer an average of 360,000 barrels of crude oil a day, transforming the Columbia into one of the nation's highest volume corridors for crude oil transport. Oil would travel via rail through Spokane, along the Columbia River shoreline, to Vancouver, Washington, and then by barge or tanker out the Columbia River and along our ocean coast.

With historical development patterns along rail lines and rivers, these oil trains pass through densely populated city centers, business districts, and recreation areas. Additional rail and vessel traffic comes with increased risks of oil leaks, spills, and catastrophic explosions like those that have occurred in West Virginia or Lac Megantic. Potential oil spills into the Columbia threaten to undo the hundreds of millions of dollars invested in salmon recovery in the Columbia Basin and damage treaty resource areas. While the EFSEC review process focuses on impacts in Washington State, waterways and rail lines carry risks to communities in Oregon as well.

Our July 31, 2015 comments on the environmental review process requested a broader geographic and functional scope to encompass rail lines serving the terminal and the entirety of the Columbia River downstream of the site and marine habitat off of the coasts of Washington, Oregon, and California. We appreciate that the DEIS includes additional analysis of impacts and risks along rail and shipping corridors serving the proposed facility and an assessment of the capacity of local emergency management agencies and first responders at the project site and along rail corridors. However, even with this broader scope, the DEIS leaves too much uncertainty about the magnitude of risk, who is responsible planning and funding efforts to prepare for and respond to a worst case scenario of a catastrophic spill or explosion, and the cost and responsibility to mitigate for traffic impacts.

We are also concerned that the DEIS downplays the assessment of harm to treaty fishing rights, with respect to both access to fishing grounds and damage to habitat. We request that the final EIS address inadequacies in the following areas:

Risk of Spill, Explosion, and Fire

The DEIS risk assessment along rail and barge transportation corridors is vague at many points in the document, focusing on relative risk rather than detailed risk assessment, and leaves an unacceptable level of uncertainty. For example, the DEIS states that “[d]epending on the location and duration of the spill events, impacts from a small to medium spill would likely be minor to moderate; impacts from a large to very large spill could be major.” (ES-43) The DEIS notes that “[b]ecause the frequency and severity of an actual spill, explosion, or fire in the future cannot be predicted, such analysis includes an unavoidable degree of uncertainty.” (ES-20)

Despite this uncertainty, there are still findings in the DEIS that generate significant concern about the frequency, scope, duration, and cost of recovery for potential spills, explosions, and fires. The DEIS projects that “a unit train . . . might derail once every 2 years somewhere along the mainline within Washington state” (DEIS, 4-28). “Major, long-term impacts to population and housing could result from a large to very large crude oil spill that required a prolonged response effort. A large to very large crude oil spill along the rail corridor could produce major impacts to recreation- and tourism-related employment and income.” (ES-52) With a spill on the Columbia River, “impacts to surface water quality along the Columbia River could extend up to 2 river miles for a small to medium vessel spill event and to or beyond the mouth of the Columbia River for a large to very large vessel spill event.” (ES-43)

While outlining these potentially significant impacts, the DEIS fails to fully describe what is at stake in our communities. For example, the DEIS notes that “[i]mpacts to land and shoreline use from a large fire and/or explosion along the rail corridor could be moderate to major depending on the location of the event, extent of the fire, and the size of the explosion.” (ES-48) The EIS terms “land and shoreline use” represent homes, businesses, parks, and schools occupied by people in our communities.

The Final EIS should reduce uncertainty and more fully characterize risk to communities by outlining specific scenarios for a derailment, spill, fire, or explosion for large and small illustrative communities along the rail corridor.

Capacity of Local Emergency Management Agencies and First Responders

We appreciate that the DEIS included some assessment of capacity for local emergency management agencies and first responders. The findings underscore concerns from SELA members, particularly rural counties and cities, that they do not have the resources to plan for and respond to a major oil train derailment, spill, fire or explosion. The DEIS finds that “[o]f responding jurisdictions [12 of 34 fire departments/fire protection districts identified along the rail corridor in Washington], the majority are volunteer agencies, where at least 75 percent of the agency’s firefighters are unpaid members of the community. Only 1 out of 12 fire agencies reported that its firefighters are trained and equipped to respond to a train

derailment with resulting oil spill and fire . . . only a quarter of responding jurisdictions reported having access to oil spill containment equipment.” (ES-15) “All responding agencies indicated the need for additional resource to respond to one or more spill event scenarios, particularly the larger spill and associated fire and/or explosion scenarios.” (ES-15) While acknowledging these shortcomings, the DEIS leaves a great deal of uncertainty about how they will be addressed, recommending further study “to identify an appropriate level of financial responsibility for the potential costs for response and cleanup of oil spills, natural resource damages, and costs to state and affected counties and cities for their response actions to reduce the risks and impacts from an oil spill.” (ES-17)

The burden for new preparedness and response actions resulting from major expansion of oil transport by rail and barge should not become an unfunded mandate for local governments. We concur with the recommendation on page ES-18 that EFSEC “determine the appropriate level of financial responsibility and require the Applicant to demonstrate their financial responsibility to the satisfaction of EFSEC.” The DEIS and final recommendation from EFSEC should make recommendations to mitigate this increased risk through requirements for the applicant and shippers to pay the cost of strengthening local emergency planning, preparedness, and response capabilities, and demonstrate adequate insurance to cover clean-up and damages from a worst case scenario spill, fire, or explosion.

Traffic

The DEIS estimates that the proposal would generate 2,920 one-way train trips per year (ES-2) and finds that the proposal would result in major cumulative impacts to transportation, would have major impacts to emergency responders at at-grade crossings, and would increase rail congestion. “Rail transportation associated with the proposed Facility would result in incremental additional delay caused by gate downtime at 200 roadway-railroad at-grade crossings along the 445-mile Columbia River Alignment. . . .” (ES 39-40) “The additional four unit trains per day associated with the proposed Facility would increase gate downtime by between 15% and 26% along the Columbia River Alignment. This increase in vehicle delays at at-grade crossings would cause a major impact to emergency and public services.” (ES-40) “Cumulative increases in rail traffic would also likely increase gate downtimes and associated vehicular delays. Increases in gate downtimes would be worse during peak commuting times, particularly urban areas, resulting in major cumulative impacts to transportation.” (ES-10) Further, the increased rail traffic “may cause some rail segments to approach or exceed capacity, particularly in areas of high freight movements.” (ES-40) The DEIS notes further that “[i]f adequate operations and/or physical improvements to minimize congestion are not implemented, the increase in rail transportation from trains associated with the Proposed Action in combination with existing and future foreseeable train traffic could have a moderate to major cumulative impact to rail transportation in the future. Impacts include increased rail congestion, which could impact other users of the rail system, such as grain farmers, resulting in delays in moving their good to market.” (ES 9-10)

Rather than recommend specific mitigation to address these identified impacts on traffic, emergency access, and freight mobility, the DEIS recommends further study with uncertain funding to “investigate the need for and feasibility of construction new grade-separated

railroad crossings in cities along the proposed rail route to reduce impacts to emergency response times from increased train traffic and excess gate downtimes. Such studies could be funded in part by BNSF. . .” (ES-40)

The burden for costly infrastructure improvements such as grade separation to mitigate impacts triggered by this project should not fall to local governments. The Final EIS and EFSEC recommendations should include specific proposals, cost estimates, and entities responsible for to mitigate for impacts on traffic, emergency vehicle access, and freight mobility.

Treaty Rights

The DEIS acknowledges impacts of terminal operations and associated vessel traffic on Tribal access to usual and accustomed fishing grounds, but appears to place the burden for accommodating this impact on Tribal fishers rather than the project proponent. For example, the DEIS notes that “[a]n increase in vessel traffic associated with the Proposed Action, existing vessel traffic, and future foreseeable vessel traffic would likely require tribal fishing vessels to give way more often to larger cargo vessels, which may temporarily impede access to usual and accustomed (U&A) areas.” (ES-11) The DEIS also notes that this vessel traffic could “result in a moderate to major long-term effect on nearshore fish including listed salmonids . . . in the lower 33-mile portion of the Columbia River.” (ES-32) We are concerned that the DEIS characterizes some impacts on access and habitat as “minor,” stating that “[m]inor impacts include a temporary halt to fishing by tribal members in the vicinity when vessels are moving through the area, which could lead to a minor reduction in the day’s catch volume.” (ES-37) “Vessel traffic could reduce access to nearshore marine fisheries because tribal fishers may not be able to cross the bar at the time of a vessel moving into or out of the navigation channel, resulting in minor impacts.” (ES-38)

Protection of treaty rights is a core guiding principle for SELA. A consultation with affected Treaty Tribes should take place to determine whether they concur that the impact is “minor.” If the proposal, including associated barge traffic, results in impairment of treaty rights that cannot be mitigated, the proposal should be denied.

Implications of End of Oil Export Ban

Congress recently lifted the ban on oil export, which is likely to increase markets for oil to be shipped through the proposed terminal. It is not clear from the DEIS whether the proposal to “receive, store, and transfer an average of 360,000 barrels of crude oil a day” is being evaluated as a projected or a maximum average that would be treated as an upper limit on the capacity for the facility. *The maximum capacity for the proposal should be clarified in the Final EIS.*

Washington State Law directs EFSEC to (1) to assure Washington state citizens that operational safeguards are technically sufficient for their welfare and protection and (2) to preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.

We urge EFSEC to prepare a Final EIS with specific recommendations for mitigation of impacts and risks to public health and safety, traffic, environment, and treaty rights, including information on cost and responsibility for mitigation. The burden of mitigation should remain with the project proponent, and not fall on local governments, tribes, and the general public. If the EFSEC cannot assure protection of the welfare of Washington State's citizens, and the preservation and protection of the quality of our environment, then EFSEC should recommend denial of the project.

Thank you for considering our comments.

Signed,



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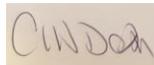
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