



Third Commissioner District  
Brian H. Wolfe, Commissioner

Mayor Tim Leavitt  
City Council, City of Vancouver

**Re: Resolution regarding Oil Terminal at Port of Vancouver**

Dear Mayor and City Council:

This is addressed to my elected colleagues on the Vancouver City Council. My sincere hope is that you will read it before making your final vote on the proposed resolution. I regret that I cannot attend your meetings on June 2 and 16, but my contractual responsibilities as legal counsel for the city of Battle Ground requires that I be at their meetings, which are scheduled at the same time as yours.

Please know that I have the upmost respect for each of you. You are thoughtful and have done good things for the city of Vancouver. Yet, as a group, I cannot understand why you are discussing the proposed resolution in its present form. The resolution asks the Port Commissioners to terminate a lease with TSJV while the project is undergoing an extensive and thorough permitting process through the state Energy Facility Site Evaluation Council (EFSEC).

Why would you ask us to break a lease or breach a contract? I am quite certain that your city attorney would not advise you do that, especially when there is a permitting process underway. I'm sure you understand that breaching a contract leads to litigation with significant attorney fees and potential damages. Plus it would have a serious adverse impact on the Port's reputation as a trade partner within the global market.

When I first received a copy of your resolution on May 16, I felt overwhelming disappointment. The resolution claims that you want a continuing good relationship with the Port of Vancouver and are "committed to maintaining this partnership." If you vote on this resolution, it can only hurt our relationship. "Partners" don't do this to each other. Partners work together first to build a better community, and secondly to find common resolution to troublesome problems. That's not what this resolution does.

I have to ask: What are you afraid of in this EFSEC process? Why are you, the Columbian Editorial Board, and the fossil fuel environmentalists afraid of this process? We were told by the former Chairman of EFSEC, now under contract with Columbia Waterfront, LLC, that the port had to approve the lease *before* TSJV could start its permitting process. We were also told that the EFSEC investigation and analysis of safety and environmental matters is the most thorough and intense of any energy siting process known. So what has become the "problem" with this process?

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You state that the city has spent \$45 million dollars on the Columbia Waterfront project. The port has spent over \$16 million dollars, plus it has negotiated with BNSF to have it remove its spur line that cut into the heart of the Boise Cascade property. The Port leased 3.22 acres to the waterfront developer to align Esther Street south of the rail berm so as to provide a straight access so it wouldn't walk away from the project. We assisted in creating the new underpasses at Esther and Grant Streets, which saved the City a lot of money. The Port of Vancouver wants this community to return to the banks of the Columbia River as much as anyone. I have been in New Orleans and know the two concepts can co-exist, and do so beautifully.

Over the last several months during the community debate on the TSJV project, I have emphasized that the commitment of the Port of Vancouver is not to crude oil. Our commitment is to allow a tenant to go through a highly intensive permitting process and, if it is successful, it will welcome a new tenant. If they are not successful in demonstrating that they can site this facility safely, then the Port of Vancouver moves on to something else – but with our reputation as an organization that follows the rules and honors our commitments intact.

We share your concerns about safety. The safety of our community and the environment has always been our number one priority. Attached is a list of questions I submitted to the staff one week before our meeting of July 23, 2013. We concluded that the best way to get complete answers was to go through the EFSEC process. The best way to address this is for you to sit alongside the Port of Vancouver, at the table across from BNSF and Tesoro-Savage, and demand the best tank cars be used, that the rail lines be under technological scrutiny, and we require that every aspect of this project be state-of-the-art. Our hope is that you will assist us in finding solutions and resources for not only Vancouver first responders, but all small communities from Pasco to Astoria. Remember a provision was included in the lease that requires approval of the facility's safety and operations plan prior to operations.

Many have raised concerns about the length of the unit trains. A solution is to have two trains instead of one. Then they would come by every 10 minutes, instead of every 20 minutes. Make no mistake; trains will continue to come down the Columbia River Gorge and through Vancouver carrying many commodities: grain, potash, cars, corn, soy beans – and crude oil. They will continue to do so whether or not there is a TSJV terminal because railroads are mandated to haul such freight – the commodities that we all need to keep our economies running. A push to stop the movement of unit trains endangers the futures of the Ports of Kalama, Longview, Portland and St. Helens, and the communities they support. The number of trains created by all the crude-by-rail projects is pegged at 22. The TSJV project is only three to four (3 to 4) of those at full build out.

In addition, I know there are concerns that there is something in Bakken crude that leads to explosion and fire. But contrary to that is a report issued the week of May 19,

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2014, by Turner, Mason & Co stating that the makeup of Bakken crude is no different than other crude. All the testing from this independent firm showed that Bakken crude is within normal ranges in five criteria. Gathering information such as this is a critical part of the ongoing debate related to Bakken crude. It will help find the best ways to handle this commodity and keep communities safe throughout the U.S.

The proposed facility is a really big deal to Tesoro-Savage and to BNSF. We have a much better chance of making sure they do it right if we are at the table with them, debating with them, making them do it the right way, than if we distance ourselves from them and falsely think we can regulate railroads in the national economy. Trains are going to come down those tracks. What we need to do as a community is come together and figure out how to make them do it right.

The recitals of your resolution focus only on safety issues. Is that your real concern? If so, please, keep the parts of the resolution that demand safety and ask for tougher regulations, but I ask that you strike the rest. Let EFSEC and our Governor complete the process. If they come to the same conclusions – based on fact – that this project can't be done safely, then the project will not be permitted. The city has already petitioned to intervene, submitted an extensive scoping letter, and will participate in the adjudicatory process. Those very appropriate actions will allow the city to protect its citizens, while at the same time allow the process to move forward in a fair and reasonable manner.

Sincerely,



Brian H. Wolfe  
Commissioner, Port of Vancouver

cc: Eric Holmes, City Manager  
Todd Coleman, Executive Director

## CONCERNS REGARDING TESORO SAVAGE FACILITY

1. Will this be State of the Art construction?
  - a. Will it be fully inspected?
  - b. Does the Port of Vancouver have oversight with its own inspectors during construction?
2. The tanks apparently are 375 thousand barrels each. What is the safety if either one or all of them are ruptured?
  - a. Who is responsible for the clean-up?
  - b. What are the containment arrangements?
3. What are the respective gasses, vapors or fumes that may emanate from the crude oil?
  - a. Do those change or does the toxicity change if the type of crude changes?
  - b. What safety measures are in place regarding the fumes and gases?
  - c. Will there be any fumes or gases emanating to the surrounding neighbor or Port neighbors?
4. Does Tesoro have an Emergency Response Plan? May we see it?
5. Does Savage have an Emergency Response Plan? May we see it?
6. What can we learn from the Port of Astoria LNG lease and resulting lawsuit?
7. What are Tesoro and Savage safety record for the last 10 years?

### **BNSF Pasco and Vancouver**

1. What is the age of the Rail?
2. How often is the rail inspected? And how is it inspected?
3. Is there new or replacement construction anticipated?
4. How are the tank cars inspected?
5. Are they DOT-111 tank cars? If not, what are they?
6. How are they inspected? Where are they inspected and how often?
7. Does Burlington-Northern have an Emergency Response Plan? May we see it?
8. Is Burlington-Northern and Tesoro/Savage willing to join a consortium much like MFSA to provide clean-up and oil booms behind each dam between Vancouver and Pasco?