

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Tesoro Refining and Marketing Company, LLC
c/o Rebecca Spurling
PO Box 700
Anacortes, WA 98221

Request/File No: Shoreline Substantial Development Permit, PL13-0423

Location: 10200 West March Point Road, Anacortes. The parcel is within NE1/4 Sec. 29, T35N, R2E, W.M. Parcel #P32990.

Shoreline Designation: Urban

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS), dated October 15, 2013. No appeal.

Public Hearing: April 9, 2014. Testimony by Staff and Applicant. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision/Date: The application is approved, subject to conditions. April 30, 2014.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 5 days this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 5 days of the date of decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at [www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Tesoro Refining and Marketing Company, LLC (applicant) seeks to expand the existing product truck loading rack facility at Tesoro's Anacortes refinery.
2. The site is on March Point at 10200 West March Point Road. The property is within the NE1/4 Sec. 29, T35N, R2E. W.M. The parcel number is P32990.
3. Fidalgo Bay is to the west of the site. A portion of the site is within 200 feet of the shore. The portion within shoreline jurisdiction is located between Crandall Spit and the existing railroad tracks. March Point Road borders the site on the west, separating the project from the water's edge.
4. The immediate surrounding area consists of the Tesoro refinery. Portions of the property are open land used for grazing. The Shell refinery is located to the south.
5. The project area is about 11 acres in size. The expansion of the existing truck loading rack has three main components:
 - a) The truck terminal component, consisting of the loading racks and underground sump, covered by a canopy, providing a weather-protected environment for drivers to load gasoline and diesel products into their tanks and trailers.
 - b) The storage component, consisting of storage tanks, piping and pumps to transfer refined products from refinery storage to the truck terminal.
 - c) The ethanol facilities (receiving and storage) component, consisting of a rail spur, an underground sump, an ethanol storage tank, pumps and piping to transfer the ethanol to the truck terminal for blending into the gasoline.
6. The project will include asphalt paving of gravel roads within the truck terminal using conventional methods. A net increase of impervious surface of .59 acres within the loading area will occur. Of this .23 acres will be within the shoreline.
7. Stormwater from the project area now drains to an existing stormwater detention pond. The runoff from additional impervious surface will be routed to this pond. Water from the detention pond is pumped to the refinery's wastewater treatment plan and managed per Tesoro's NPDES Waste Discharge Permit
6. The project will disturb an already disturbed area. The water's edge will be unaffected. There is little vegetation within the project area.
7. A Fish and Wildlife Assessment, dated September 12, 2013, was performed by CH2M Hill. The assessment found that the project is not likely to adversely affect listed species in the bay or terrestrial wildlife in the vicinity. It noted a number of best management practices that will be implemented during construction and operation of the project that will function as

protective conservation measures. No adverse impacts on any nearby critical areas are anticipated.

8. The project was reviewed under the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on October 15, 2013. No comments were received. The MDNS was not appealed. The conditions of MDNS are standard requirements for compliance with existing laws and regulations.

9. The Staff Report contains a detailed description of project features. After analyzing the proposal under the County's Shoreline Master Program (SMP), the Staff concluded that the project will be consistent with the relevant shorelines policies and regulations. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

10. A Notice of Development regarding this proposal was properly published and mailed. One comment letter was received. The letter, from North Sound Baykeepers, expressed concerns about the growing quantity of oil being shipped into the region and the indirect effect of increased refining on greenhouse gas emissions. The Staff noted that the project will not authorize expanded production at the refinery.

11. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SMP 9.06.

2. The proposal is a substantial development and requires a Substantial Development Permit. RCW 90.58.140.

3. The requirements of SEPA have been met.

4. The project will comply with the County's Critical Areas Ordinance. Chapter 14.24 SCC.

5. The project is consistent with the relevant policies and regulation of the County's Shoreline Master Program. SMP 7.17, SMP 7.18.

6. The proposal is consistent with the policies of the Shoreline Management Act (RCW 90.58.020) and with shorelines regulations adopted by the Department of Ecology (Chapter 173-27 WAC).

7. The proposal, as conditioned, meets the criteria for granting a Shoreline Substantial Development Permit. SMP 9.02.

8. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain any other required approvals and shall abide by the conditions of same.
3. The applicant shall comply with the conditions of the MDNS, dated October 15, 2013.
4. The applicant shall comply with all applicable state and local regulations.
5. The applicant shall submit a copy of this decision with future permit applications affecting this site.
6. The project shall be commenced within two years of final approval of the Substantial Development Permit and completed within five years thereof.
7. If any modification of the project is contemplated, the applicant shall request a permit revision from PSD prior to the start of construction.
8. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit (PL13-0423) is approved, subject to the conditions set forth above.

DONE, this 30th day of April, 2014.



Wick Dufford, Hearing Examiner

Transmitted to Applicant April 30, 2014.

See Notice of Decision, Page 1, for appeal information.