

**From:** Tom McCormick  
**To:** [Davis, Kris](#)  
**Subject:** SEC filings reveal Oil Company's intention to cooperate with BSRE, and more  
**Date:** Tuesday, May 22, 2018 5:21:17 PM

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TO: Honorable Peter Camp, Snohomish County Hearing Examiner

During my public comments on Friday, May 18, I stated that because BSRE has been given ample time and opportunity to cure defects in its applications but has failed to do so, BSRE should not be granted an extension. I added that an extension is especially not warranted due to BSRE's behavior — a pattern of resistance to reasonable PDS requests to provide needed information, and revise its application materials to satisfy Code requirements.

I offered as one of several examples of BSRE's pattern of resistance and stonewalling, BSRE's resistance to providing information on how long it will take to clean up the Point Wells site. PDS requested that BSRE provide a cleanup plan with reliable timelines. None has been provided. So PDS does not know how long it will take to clean up the site. Without reliable cleanup timelines, PDS has no clue what the buildout date might be (BSRE's traffic study says 2035, ha ha), or what the 1st phase completion date might be (BSRE's traffic study says 2020, ha ha ha). BSRE's resistance and stonewalling causes their traffic study to be substantially defective, with the assumed buildout and 1st phase completion dates being laughable.

If it is going to take, for example, 15 - 25 years to get a cleanup plan approved by ecology and for the site to be cleaned up, that could easily push the buildout date well beyond 2060, and the 1st phase completion to 2045 or beyond, depending on how soon after cleanup is completed (perhaps by phase) that Ecology would permit construction to begin.

#### I. Information in SEC filings

BSRE says that "site remediation is the contractual obligation of an independent and wholly unaffiliated third party," and that BSRE "has limited control over the timing or handling of the remediation process." (Exhibit G-10, page 4) As I explained during my public comments and in my February 27, 2018 email to PDS (Exhibit I-219), BSRE might have more control than they are suggesting. Information in SEC filings by the Oil Company that operates the oil storage and distribution operations at Point Wells, and in SEC filings by BSRE's owner, would lead a reasonable person to think that BSRE should be able to get the Oil Company to cooperate and provide the PDS-requested cleanup plan and timeline information. The Oil Company has a big stake in BSRE's proposed development.

These three SEC filings have been posted as Exhibits:

Exhibit I-441: 2015 Annual Report (SEC Form 20-F) of Alon Blue Square Israel Ltd. (BSRE's owner)

Exhibit I-440: 2010 Annual Report (SEC Form 20-F) of Alon Blue Square Israel Ltd. (BSRE's owner)

Exhibit I-442: 2016 Annual Report (Form 10-K) of Alon USA Energy, Inc. (the Oil Company)

Here is the pertinent information from the SEC filings:

— In 2010, the Oil Company sells Point Wells land to BSRE for \$19.5 million (Exhibit I-440, PDF page 174)

— Oil Company does not sell the oil tanks, pipes, and other oil facilities; it continues to own them (*Id.*)

— Oil Company continues to operate its oil storage and distribution business, leasing the land from BSRE through June 2, 2020 (*Id.*, and Exhibit I-442, PDF page 66)

— **Oil Company retains the cleanup obligation** (Exhibit I-441, PDF pages 328, 393)

— Oil Company is "currently remediating historical soil and groundwater contamination at our Richmond Beach, Washington, asphalt terminal." (Exhibit I-442, PDF page 25)

— In 2010 Oil Company and BSRE were related parties or affiliated parties with some common ownership (Exhibit I-440, PDF pages 79, 174, 402)

— Also in 2010, Oil Company enters into a **development agreement** with BSRE (Exhibit I-440, PDF pages 89, 174; Exhibit I-441, PDF page 63; Exhibit I-442, PDF page 197)

— BSRE must try to get approval to construct at least 2,000 residential units at Point Wells (Exhibit I-441, PDF page 63)

— Oil Company pays BSRE an annual development fee of \$1,755,000 in exchange for the **right to participate in the potential profits realized by BSRE** from the sale or development of the land (Exhibit I-442, PDF page 197; Exhibit I-440, PDF page 197; Exhibit I-441, PDF page 63)

— If BSRE fails to get approval to develop Point Wells by June 2, 2020, or gets approval but for less than 2,000 residential units, then BSRE owes the Oil Company nothing (Exhibit I-440, PDF page 174; Exhibit I-441, PDF page 63)

— The agreement provides that the "Oil Company and BSRE **intend to cooperate**" in the development of Point Wells (Exhibit I-442, PDF page 197)

— BSRE intends to put Point Wells up for sale if it gets its applications approved; BSRE does not intend to develop the property (Exhibit I-441, PDF page 328)

— In 2015, Oil Company and BSRE ceased being related parties or affiliated parties with some common ownership, due to Delek US Holdings, Inc. buying a sizable chunk of Alon USA Energy, Inc. (Exhibit I-441, PDF pages 62, 328)

— In 2017, Delek US Holdings, Inc. completes its acquisition of Alon USA Energy, Inc. ("On June 30, 2017, the mergers ... by and among Delek US Holdings, Inc. ... and Alon USA Energy, Inc. [, and other entities] were completed." SEC Form 8-K12B filed by Delek US Holdings, Inc., July 3, 2017)

— Delek is the new Oil Company on the scene

— Alon USA Energy, Inc. continues to operate the oil storage and distribution operations at Point Wells, but now as a unit of Delek, at least through its last SEC 10-K filing on February 27, 2017 (Exhibit I-442, PDF page 66)

## II. Cooperation

In my comments, I stated that given the large amount of development fee payments that the Oil company is paying BSRE (\$1,755,000 annually since 2010), one would expect that it would be in the Oil Company's interest to cooperate and provide PDS the cleanup information it has requested, including cleanup timelines.

It's more than just an inference. The Oil Company itself (in its 2016 Form 10-K) has said that

the "Oil Company and BSRE intend to cooperate" in the development of Point Wells.

If they intend to cooperate, why hasn't BSRE furnished PDS the cleanup information it has requested, including cleanup timelines?

Thank you.

Tom McCormick