

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

Request to Approve Project for a Sales and Use Tax Exclusion¹

**Tesoro Refining & Marketing Company, LLC
Application No. 21-SM024**

Tuesday, March 16, 2021

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – Tesoro Refining & Marketing Company, LLC

Location – Martinez, Contra Costa County

Industry – Renewable Diesel and Propane Production

Project – New Renewable Diesel and Propane Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$127,223,954	\$10,814,036 ³

Estimated Net Benefit ⁴	Dollar Value	Points Earned ⁵
Estimated Fiscal Benefits	\$54,645,815	5,053
Estimated Environmental Benefits	\$22,217,044	2,054
Additional Benefits	N/A	45
Total	\$76,862,859	7,153
Estimated Quantifiable Net Benefit	\$66,048,823	

Competitive Criteria Score – 100

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the STE Program’s statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.5%.

³ At the first Board meeting of the calendar year, \$15 million in STE is available for Applicants wishing to exceed the \$10 million in STE cap (California Code of Regulations Title 4, Division 13, Section 10032(a)(5)(B)).

⁴ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

⁵ Dollar values and point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

Tesoro Refining & Marketing Company, LLC (the “Applicant”), is a Delaware limited liability that formed in 2012, and a wholly-owned subsidiary of Western Refining Southwest, Inc. The Applicant is headquartered in Findlay, Ohio.

The major shareholders (10.0% or greater) of Western Refining Southwest, Inc., are:
Marathon Petroleum Corporation (“MPC”)

The corporate officers of the Applicant are:

Michael J. Hennigan, Chief Executive Officer
Glenn M. Plumby, Chief Operating Officer
Maryann Mannen, Chief Financial Officer

THE PROJECT

Tesoro Refining & Marketing Company, LLC, is requesting an STE award to build a new renewable diesel and renewable propane production facility located in Martinez (the “Project”). The Applicant states it will process tallow, soybean, and distillers’ corn oil to produce its products. According to the Applicant, the Project facility previously operated as a petroleum refinery and is currently being evaluated in preparations for transitioning into a completely renewable fuel production facility. The Applicant states the Project includes undergoing major modifications to existing equipment, such as upgrading its hydrocracker, diesel hydrotreater, and gasoil hydrotreater.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Gas Plant Equipment	\$62,783,262
Fresh Feed Pump and Related Equipment	\$10,642,316
Renewable Diesel Processing Unit and Related Equipment	\$7,152,138
H ₂ S Absorbent Beds and Thermal Oxidizer	\$5,809,889
Storage	\$40,836,349
Total	<u>\$127,223,954</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff’s report are estimated costs. At the termination of the Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components of the Project over original estimates, and other reasons. In addition, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

The Applicant states construction is scheduled to start in October 2021. The Project is expected to be placed in partial service by the end of June 2022, and full service by the end of August 2023.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

Tesoro Refining & Marketing Company, LLC, is currently working with various federal, state and local agencies to obtain permits for the Project, including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California State Lands Commission, California Department of Fish and Wildlife, San Francisco Bay Regional Water Quality Control Board, Contra Costa County Department of Conservation and Development, San Francisco Bay Conservation and Development Commission, and the Bay Area Air Quality Management District (“BAAQMD”). According to the Applicant, the majority of the permits and approvals will be granted by October 2021, with the remaining permits being secured in Quarter 2 of 2022 prior to full production ramp-up.

COMPETITIVE CRITERIA SCORE

For Applicants wishing to exceed the \$10 million in STE cap, \$15 million in STE will be available to award to Applicants in addition to the \$10 million in STE cap at the first Board meeting of the calendar year. The Applications will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria.

The Applicant received 100 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points)**. The Applicant’s Project earned more than zero environmental benefits points, as calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4), and, therefore, 100 points are awarded.
2. **Unemployment (0 of 50 points)**. The Applicant’s Project is located in Contra Costa County, which has an average annual unemployment rate of 7.6%.⁶ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
3. **Job Creation (0 of 75 points)**. The Applicant anticipates the Project will support a total of 137 production-related jobs at its Facility. CAEATFA estimates that approximately 2.99 of these jobs will be attributable to a marginal increase in jobs

⁶ Unemployment rates are based on data available in October 2020.

created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.

4. **California Headquarters (0 of 15 points)**. The Applicant does not have a California Corporate Headquarters, and, therefore, zero points are awarded.
5. **Natural Disaster Relief (0 of 50 points)**. The Project is not to rebuild or relocate the Applicant's Facility/Facilities due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points)**. The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 7,153 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 2,054 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (5,053 points)**. The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales and use taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$54,645,815, resulting in a Fiscal Benefits score of 5,053.
- B. **Environmental Benefits (2,054 points)**. The Project is anticipated to result in \$22,217,044 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 2,054 points. These benefits derive from the production of renewable diesel, which offsets the need for the use of fossil diesel.
- C. **Additional Benefits (45 points)**. Applicants may earn additional points for their Total Score. The Applicant received 45 additional points.
 1. **Production Jobs (0 of 75 points)**. The Applicant anticipates the Project will support a total of 137 production-related jobs at its Facility. CAEATFA estimates that approximately 2.99 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned zero points.

2. **Construction Jobs (20 of 75 points).** The Applicant anticipates the Project will support a total of 608 construction jobs at its Facility. CAEATFA estimates that approximately 13.29 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 20 points.
3. **Unemployment (0 of 50 points).** The Applicant’s Project is located in Contra Costa County, which has an average annual unemployment rate of 7.6%.⁷ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
4. **Benefits and Fringe Benefits (25 of 25 Points).** The Applicant states it provides medical, health, dental, vision, bonuses, pension plans, retirement contributions, education reimbursement, gym subsidies, and paid leave to its employees, earning the Applicant 25 points.

LEGAL QUESTIONNAIRE

Staff has reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The Executive Director, in consultation with legal counsel, has determined that the legal issues disclosed do not affect the financial viability or legal integrity of the Applicant.

Of note, Staff identified numerous air district violations over the past 10 years related to the Applicant’s Martinez refinery, where the Project will be located, and its Los Angeles refinery. As a subsidiary of MPC, one of the largest oil corporations in the United States, Staff understands the Applicant is, and will continue to be, involved in a number of legal or regulatory actions, with many related to environmental conditions. While the Applicant did improperly dispose of waste fluid at its Martinez site, BAAQMD reported that the Applicant acknowledged the practice was unlawful and dangerous and paid a \$4 million penalty. Moreover, many of the violations were either self-reported, related to routine inspections, related to failed or inadequate equipment, or possible symptoms of an idling facility. The Applicant states it continues to work with BAAQMD and the South Coast Air Quality Management District to negotiate and conclude its outstanding violations, and Staff notes that many Notices of Violations have already been resolved.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁸ the Applicant has paid CAEATFA an Application Fee of \$10,000, and will pay CAEATFA an Administrative Fee of up to \$350,000.

⁷ Unemployment rates are based on data available in October 2020.

⁸ California Code of Regulations Title 4, Division 13, Section 10036

RECOMMENDATION

Staff recommends the approval of Resolution No. 21-SM024 for Tesoro Refining & Marketing Company LLC's purchase of qualifying tangible personal property in an amount not to exceed \$127,223,954, anticipated to result in an approximate STE value of \$10,814,036.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH TESORO REFINING & MARKETING
COMPANY, LLC**

March 16, 2021

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **Tesoro Refining & Marketing Company, LLC** (the “Applicant”), for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10030(a), with the Applicant for the Project; and

WHEREAS, the Applicant has estimated the Project has an estimated cost not to exceed \$127,223,954 over a period of three years; and

WHEREAS, the Applicant asserts that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Project pursuant to Revenue and Taxation Code Section 6010.8; and

WHEREAS, the approval of the terms of the Regulatory Agreement and authority for the Executive Director or Chair of the Authority to execute the necessary documents to effectuate the Regulatory Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The Regulatory Agreement constitutes financial assistance within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a participating party within the meaning of Public Resources Code Section 26003(a)(7).

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Section 4. The Executive Director or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Authorized Signatories deem appropriate, provided that the amount of the qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including, without limitation, the execution and delivery of any and all documents and certificates they may deem necessary or advisable to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.