

EXHIBIT 10



September 3, 2013

Svend A. Brandt-Erichsen
206.292.2611
svendbe@martenlaw.com

Via U.S. Mail and Email

Stephen Posner, Interim EFSEC Manager
Jim LaSpina, Siting Specialist
Energy Facility Site Evaluation Council
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-3172
sposner@utc.wa.gov
jlaspina@utc.wa.gov

RE: The Absence of EFSEC Jurisdiction Over Westway Crude-By-Rail Proposal In Grays Harbor

Dear Mr. Posner and Mr. LaSpina:

We represent Westway Terminal Company, LLC in connection with its planned expansion of its Grays Harbor terminal to accommodate crude oil shipments. This letter is in response to the August 28, 2013 letter you received from Kristen Boyles, who is representing the Quinault Indian Nation (the "Quinault") in an appeal of the shoreline substantial development permit issued for the Westway project, pending before the Shorelines Hearings Board.

Ms. Boyles asks once again for EFSEC to assert jurisdiction over Westway's Grays Harbor project. This time her request is based on internal Westway emails produced during the shoreline permit appeal, which show that Westway has considered adding a fifth tank to the site and has tried to find customers for an expanded Grays Harbor facility. But Ms. Boyles has failed to share with EFSEC the discovery responses that Westway gave the Quinault six weeks ago, which explain the events reflected in those emails.

Relevant portions of Westway's responses to interrogatories from the Quinault are enclosed. In them, the Quinault asked Westway (in Interrogatory 9) to explain any internal discussions that have occurred regarding expanding the Project in the future, including the physical capacity of the Project to process more crude oil. In response Westway produced these emails, among others, and explained that during its discussions with potential customers Westway did consider whether it could serve two customers using up to five storage tanks by more efficiently scheduling vessel calls and maximizing rail unloading, potentially even doubling the Project's capacity. However, Westway was unable to reach agreements with potential customers for a higher capacity facility. Indeed, Westway still does not have any contract for use of its terminal. But as there seemed to be a market for a terminal with an

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average throughput of 9.6 million barrels, Westway proceeded with permitting of a terminal with that capacity.

The emails that Ms. Boyles sent you tell the same story. For example, the March 24, 2013 email from Mr. Johnson discusses the potential to serve two customers with a five tank facility. Westway has obtained a permit for four tanks, while acknowledging there is room on the site for a fifth tank. Indeed, the potential for addition of a fifth tank is noted in the responses to Interrogatories 8 and 9. Thus, this email – and other emails discussing a larger Project or potential second phase of the Project – relate to the possibility of expansion of the facility. Ms. Boyles is simply wrong in asserting that Westway “has planned for months” to ship more than 50,000 barrels a day through the Grays Harbor facility. The company has pursued potential customers that, if they had been signed up, would have required additional capacity. And in the future, as Westway explained in response to Interrogatory 8, “[s]hould Westway find that there is sufficient interest from oil shippers to expand the capacity of the Project, then such an expansion would be permitted separately, and would require its own environmental review.” That interest has yet to materialize, and Westway is not going to permit or build capacity for which it has no customers.

Ms. Boyles argues that EFSEC should find that it has jurisdiction based on the potential for Westway to seek permits for a larger project in the future. EFSEC’s jurisdiction is based on the capacity of projects that are actually being permitted, not on speculation about how a project may expand in the future in response to developing market demand. If, in the future, Westway were to propose an increase in the Project’s capacity, that would be the time to revisit EFSEC’s possible jurisdiction. Nor can Ms. Boyles credibly claim that such an increase in the Project’s capacity could occur without further regulatory review.

Finally, Ms. Boyles suggests that EFSEC should assert jurisdiction over the Project based upon the capacity of the storage tanks permitted for the Westway site. That is not the law. EFSEC has jurisdiction over “[f]acilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude ... which has been or will be transported over marine waters,” but not storage facilities “unless occasioned by such new facility construction.” RCW 80.50.20(12)(d). The exclusion of storage facilities unless they are part of construction of “such new facility” indicates that EFSEC’s jurisdiction is based on a facility’s throughput, not its storage capacity.

EFSEC has evaluated Westway’s Grays Harbor Project several times, and has appropriately concluded that it does not have jurisdiction over the Project. The Quinault have not offered EFSEC any grounds for changing that conclusion.

Sincerely,



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cc via email only:

Thomas J. Young
Ass't Attorney General
TomY@atg.wa.gov

Allyson C. Bazan
Ass't Attorney General
AllysonB@atg.wa.gov

Steven R. Johnson
City of Hoquiam
sjohnson@cityofhoquiam.com

Kristen L. Boyles
Earthjustice
kboyles@earthjustice.org

Jay P. Derr
Van Ness Feldman Gordon Derr
jpd@vnf.com

Knoll D. Lowney
Smith & Lowney PLLC
knoll@igc.org

Ted Sturdevant
Governor's Office
ted.sturdevant@gov.wa.gov

Maia Bellon
Washington Dep't of Ecology
maia.bellon@ecy.wa.gov

Sally Toteff
Washington Dep't of Ecology
sally.toteff@ecy.wa.gov

Alan Bogner
Office of Regulatory Assistance
alan.bogner@ora.wa.gov