



December 11, 2014

Erin Herlihy
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eherlihy@martenlaw.com

Via Federal Express

Energy Facility Site Evaluation Council
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-3172

RE: In the Matter of the Petition of Quinault Indian Nation

Dear Clerk:

Enclosed for filing please find one original and two copies of the following documents:

- Westway Terminal Company LLC's Objection to Quinault Indian Nation's Petition for Declaratory Order; and
- Exhibits in Support of Westway's Objection to Quinault Indian Nation's Petition for Declaratory Order

Please contact me if you have any questions.

Sincerely,

Erin Herlihy
Legal Assistant

Enclosures

RECEIVED
DEC 12 2014
**ENERGY FACILITY SITE
EVALUATION COUNCIL**

RECEIVED
PROJECTS MANAGEMENT
2014 DEC 12 AM 9:37
STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

EFSEC Logged

ORIGINAL

**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of the Petition of)	
)	
QUINAULT INDIAN NATION)	WESTWAY TERMINAL COMPANY LLC's
)	OBJECTION TO QUINAULT INDIAN
For a Declaratory Order re: Jurisdiction Over)	NATION'S PETITION FOR
)	DECLARATORY ORDER
)	
WESTWAY TERMINAL COMPANY and)	
IMPERIUM TERMINAL SERVICES.)	
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The Quinault Indian Nation (the Quinault) has submitted a petition under authority of RCW 34.05.240(1) to the Energy Facility Site Evaluation Council (EFSEC) seeking a declaratory order that EFSEC has jurisdiction over the proposed expansion of two existing Grays Harbor terminals to accommodate crude oil shipments. Westway Terminal Company LLC (Westway) is the developer of one of those terminals. Pursuant to RCW 34.05.240(7), Westway submits this Objection to EFSEC considering and ruling upon the Quinault petition. Westway's objection is timely, in accordance with EFSEC's November 21, 2014 notice setting a schedule for consideration of such objections.

I. Introduction

RCW 34.05.240(1) authorizes "any person" to petition an agency for a determination regarding the applicability to specific circumstances of a rule, order, or statute enforceable by that agency. The same statute prohibits an agency from entering a declaratory order that rules upon the issue raised by such a petition if doing so would "substantially prejudice" the rights of a

“necessary party” and the necessary party does not consent in writing to the matter being determined by way of a declaratory order. RCW 34.05.240(7). Westway is a necessary party, its interests would be substantially prejudiced by EFSEC’s consideration of the Quinault petition, and Westway objects to the matter being determined via declaratory order. Accordingly, pursuant to RCW 34.05.240(7), EFSEC may not enter a declaratory order in response to the Quinault petition.

II. Westway is a Necessary Party

RCW 34.05.240 does not define what constitutes a “necessary party” for purposes of objections under subsection (7). Nevertheless, there can be no question that Westway meets any reasonable interpretation of the term.

Westway would be entitled to participate as a party in any EFSEC proceeding regarding its project. *See* RCW 34.05.010(12)(a), WAC 463-30-060(1). It should, therefore, be considered a “necessary party” within the meaning of this statute. The concept of a “necessary party” is well developed under the rules of civil procedures applicable to trial court proceedings. Under Washington’s civil rules for the Superior Courts, for example, a party is deemed necessary if, even if the party does not participate in a proceeding, the outcome would as a practical matter impair their ability to protect their interests in the subject matter of the proceeding. CR 19(a). Westway certainly satisfies this standard with regard to the Quinault petition. Finally, the Quinault have recognized that Westway is a necessary party to any EFSEC consideration of the petition, having served Westway’s council with the petition at the time it was filed.

III. Westway Would Be Substantially Prejudiced

Westway would be unfairly and substantially prejudiced by EFSEC ruling upon the

Quinault petition. The Quinault have failed to pursue the issue of EFSEC jurisdiction on multiple occasions in the past, when the issue could have been adjudicated with substantially less prejudice to Westway. The Quinault raised EFSEC jurisdictional arguments in April 2013 that are essentially identical to those presented by this petition, but then failed to pursue those arguments in their Shorelines Hearings Board appeal in summer of 2013, and again failed to pursue them after the Board remanded Westway's shoreline permit back to the City of Hoquiam in December 2013 for further SEPA analysis. Only now, in a move transparently timed to disrupt the City and the Department of Ecology's full-scale environmental review of the project, does the Quinault seek to adjudicate the question of EFSEC jurisdiction. The Quinault's attempted use of a the declaratory order process as a vehicle to collaterally attack the City and Ecology's ongoing and well advanced permitting process substantially prejudices Westway, which is well within its rights in objecting to EFSEC's consideration of the Quinault petition.

As exhibits to the Quinault petition demonstrate, Westway, Ecology, and the City conferred with EFSEC between December 2012 and March 2013 regarding EFSEC's possible jurisdiction over the project, resulting in the EFSEC staff's April 1, 2013 determination that EFSEC does not have jurisdiction over the project. Petition Exs. 2 & 9. The Quinault then commented to the City and Ecology on April 17, 2013, regarding the proposed Mitigated Determination of Non-Significance (MDNS) for the Westway project, advancing the same argument presented by the pending petition: that EFSEC jurisdiction is based on the capacity to receive oil, and that the number of rail unloading spots and the capacity of the proposed storage tanks put the Westway project over the EFSEC jurisdictional threshold. Westway Objection Exhibit A.

The Quinault, despite having presented the issue in comments on the MDNS, did not

raise the question of EFSEC jurisdiction in their subsequent Shorelines Hearings Board appeal of the MDNS and the associated shoreline substantial development permit. Instead, the Quinault wrote to EFSEC in August 2013, presented the same internal Westway emails regarding phasing of the terminal project that are referenced in its current petition (and which the Quinault obtained through discovery in the Shorelines appeal), and asked EFSEC to take jurisdiction. Petition Ex. 11. EFSEC declined to do so.

In October 2013, the Shorelines Board informed the parties that it would be issuing an order invalidating the MDNS and remanding the shoreline permit to the City for further SEPA proceedings. Westway Objection Ex. B. The Board's order was finally issued, following a Quinault motion for reconsideration, in December 2013. *Quinault Indian Nation v. City of Hoquiam*, SHB No. 13-012c, Order on Summary Judgment (as Amended) (Dec. 9, 2013). In January 2014, Westway (and Imperium) requested that the City and Ecology proceed with developing an EIS for the project. Westway Objection Ex. C.

Westway also responded to the Quinault concerns that the environmental review for the project should include all potential phases of development by amending its application in February 2014 to reflect full build-out of the Westway site in two phases. Petition Ex. 5 at 5. During EFSEC's first public discussion of the Quinault petition, on November 18, 2014, EFSEC staff confirmed that they had reviewed the revised application and once again concluded that EFSEC did not have jurisdiction. The City and Ecology issued a Determination of Significance, initiating the development of the EIS for Westway's project, on April 4, 2014. Westway Opposition Ex. D. As noted in Westway's amended application, Petition Ex. 5 at 5, and the Determination of Significance, Westway Opposition Ex. D at 1, the Westway project's maximum throughput at full build-out would be 17,855,000 barrels per year. That amounts to an

average of 48,918 barrels per day, below the threshold for EFSEC jurisdiction. *See* RCW 80.50.020(12)(d).

The Quinault failed to raise the question of EFSEC jurisdiction with the Shorelines Board in the summer of 2013. The Quinault took no action when the Shorelines Board remanded project permitting to the City in the fall of 2013, nor when Westway amended its application in February 2014, nor when the City and Ecology reinitiated SEPA review of the Westway project in April 2014. If the Quinault truly believed that EFSEC should have taken jurisdiction over the Westway project, then they should have pursued the issue after raising it in their comments in April 2013. The Quinault cannot be allowed to sit on their hands, only to pursue the issue when it would maximize disruption of the permitting process for Westway's project.

EFSEC has indicated that, if it were to consider the Quinault petition, it would likely issue a decision in February 2015. The City and Ecology have informed Westway that they are on track to release a Draft EIS for public comment in March 2015. There is no question that if EFSEC were to grant the Quinault petition and assert jurisdiction over the project in February 2015 that would completely disrupt the current schedule for developing an EIS. Westway has invested a substantial amount of money and another year to bring the permitting and environmental review process to this stage. Allowing the Quinault to collaterally attack that process through a declaratory order petition would be fundamentally unfair to Westway and substantially prejudice its interests.

IV. Conclusion

Westway has standing and adequate grounds to object to EFSEC considering the Quinault petition. Westway, as the developer of one of the projects that is the subject of the petition, is a necessary party. Westway would be substantially prejudiced by EFSEC ruling on

the Quinault petition because that ruling would come:

- (a) Almost two years after the Quinault first advanced the same jurisdictional arguments and had them rejected by EFSEC staff,
- (b) Eighteen months after the Quinault failed to raise the issue with the Shorelines Hearings Board;
- (c) Ten months after Ecology and the City re-initiated SEPA review and launched the development of an EIS; and
- (d) One month before the City and Ecology are schedule to release a Draft EIS for public comment.

Even if the Quinault petition had been timely, the declaratory order process should not be a vehicle for collateral attack on permitting processes being carried out by other agencies, nor a substitute for adjudicating jurisdictional questions in the forum actually provided for review of that permitting process. Westway will not use this objection to respond to the many unfounded factual allegations contained in the Quinault petition, but will simply note that the Quinault will have ample opportunity to raise their concerns during the public comment process on the Draft EIS for the Westway project.

Dated: December 11, 2014

Respectfully submitted,



Svend A. Brandt-Erichsen, WSBA No. 23923
Meline G. MacCurdy, WSBA No. 39467
Marten Law PLLC
1191 Second Avenue, Suite 2200
Seattle, WA 98101

Attorneys for Westway Terminal Company LLC

CERTIFICATE OF FILING AND SERVICE

Svend A. Brandt-Erichsen declares as follows:

1. I am a resident of the State of Washington, over the age of eighteen years, and not a party to the within action.

2. I am employed by the firm of Marten Law, 1191 Second Avenue, Suite 2200, Seattle, Washington 98101.

3. On the date indicated below, I caused a true and correct copy of the following documents:

- Westway Terminal Company LLC's Objection to Quinault Indian Nation's Petition for Declaratory Order; and
- Exhibits in Support of Westway's Objection to Quinault Indian Nation's Petition for Declaratory Order

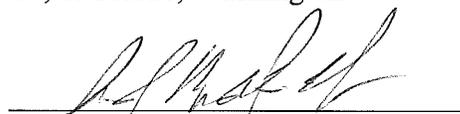
to be filed with EFSEC via overnight courier and to be served by electronic mail to the following parties:

Kristen L. Boyles
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Seattle, WA 98104
kboyles@earthjustice.org

Tadas Kisielius
Van Ness Feldman GordonDerr
719 2nd Ave, Suite 1150
Seattle, WA 98104
tak@vnf.com

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed on December 11, 2014, at Seattle, Washington.



Svend A. Brandt-Erichsen

In the Matter of the Petition of Quinault Indian Nation

**Exhibits in Support of Westway's Objection to Quinault Indian Nation's
Petition For Declaratory Order**

Exhibit	Description
A	Excerpt of letter from Kristen Boyles, Quinault Indian Nation, to Brian Shay, City of Hoquiam, and Sally Toteff, Department of Ecology, regarding Westway Terminal Tank Farm Expansion: Mitigated Determination on Non-Significance (Apr. 17, 2013).
B	Letter from Kay Brown, Administrative Appeals Judge, Environmental and Land Use Hearings Office, to all parties, regarding information on the Board's forthcoming decision (Oct. 8, 2013).
C	Letter form Gene McClain, Westway Group LLC, and Troy Williams, Imperium Renewables Inc., to Brian Shay, City of Hoquiam, and Sally Toteff, Department of Ecology, regarding initiation of scoping for EISs (January 22, 2014).
D	Determination of Significance and Request for Comments on Scope of Environmental Impact Statement for Westway Bulk Liquid Facility Project (April 2014).

Exhibit A



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

April 17, 2013

Via Federal Express and Email

Brian Shay, City Administrator
City of Hoquiam
609 - 8th Street
Hoquiam, WA 98550
bshay@cityofhoquiam.com

Sally Toteff, Southwest Regional Director
Washington Dep't of Ecology
P.O. Box 47775
Olympia, WA 98504-7775
sally.toteff@ecy.wa.gov

Re: Westway Terminal Tank Farm Expansion: Mitigated Determination of
Non-Significance

Dear Mr. Shay and Ms. Toteff:

The following comments are submitted on behalf of the Quinault Indian Nation on the proposed State Environmental Policy Act ("SEPA") Mitigated Determination of Non-Significance for the proposed Westway Terminal Tank Farm Expansion—a proposed crude-by-rail oil shipping facility. The Quinault Indian Nation is a sovereign tribal government that has federally-guaranteed treaty rights and other interests in Grays Harbor and the Chehalis River. We appreciate the opportunity to comment, and thank you for extending the deadline for submitting comments.¹

We are deeply concerned about this decision, which will effectively authorize the construction of a new oil shipping terminal in Grays Harbor and give Westway the capacity to store 800,000 barrels of crude oil at any given time. Westway predicts that it will bring through Grays Harbor, via rail and marine vessels, **at least ten million barrels of crude oil annually.**

¹ While the original threshold SEPA decision, dated March 14, 2013, stated that "comments or a written statement appealing the threshold determination" were due by a date certain, the language referring to the filing of an appeal was deleted from the April 4, 2013 threshold determination which extended the comment period. The Quinault Indian Nation views this amendment to require comments only by April 19, 2013; however, if an appeal of the threshold determination is still required, these comments should be treated as an appeal as well.

III. WESTWAY'S PROPOSAL MUST BE REVIEWED AND APPROVED BY THE WASHINGTON UTILITY TRANSPORTATION COMMISSION UNDER RCW 80.50.

The State of Washington, through the passage of RCW 80.50, assigned the selection, review, and development of energy facility sites to the Energy Facility Site Evaluation Council ("EFSEC"). The stated policy of this law is "to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life." RCW 80.50.010.

EFSEC has jurisdiction over facilities that have "the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum ... which has been or will be transported over marine waters..." RCW 80.50.020(12)(d). Westway's proposal, with an 800,000 barrel capacity, meets this definition of a covered facility.

Westway first proposed to build two, 200,000 barrel crude oil tanks with an estimated receipt of 26,300 barrels per day. A few months later, Westway expanded its proposal to four, 200,000 barrel crude oil tanks. Westway's position is that "the EFSEC rules will still not apply to the facilities receipt capabilities ... the design is to receive an average of 26,300 barrels per day, which is less than the applicability threshold of an average of 50,000 barrels per day. The change from two to four tanks is being made to provide additional storage capacity so that the terminal can continue to receive product in the event vessels/barges are delayed in arriving at the terminal." Letter from Ken Shoemake, Westway, to Sally Toteff, DOE, and Jim La Spina, EFSEC (Dec. 4, 2012).

Westway's position misreads Washington law. In order to trigger EFSEC jurisdiction, a facility must have the capacity to receive an average of 50,000 barrels of crude a day, not a lower expectation. Plans can change, yet there will be no further state review if Westway begins to receive more crude oil. Westway proposes to expand to a total of 76 loading/unloading spots, which with a low estimate of 714 barrels per tank car leads to a capacity to receive 54,264 barrels per day.²⁵ Additionally, Westway's proposed storage capacity is 16 times greater than the jurisdictional threshold set in RCW 80.50.020(12)(d); this proposal should be proceeding under the EFSEC's jurisdiction, procedures, and environmental review requirements.

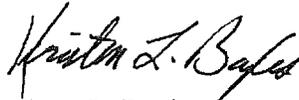
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²⁵ Imperium estimates an average of 743 barrels per tank car in its correspondence. See Letter from John Plaza, Imperium, to Stephen Posner, EFSEC (March 19, 2013).

Westway MDNS Comments
April 17, 2013
Page 20

Thank you for the opportunity to comment. We would be pleased to meet with you and discuss these comments further if such a discussion can help avoid appeals and litigation on this project's permits and SEPA review.

Sincerely,



Kristen L. Boyles
Attorney for the Quinault Indian Nation

cc: Governor Jay Inslee
Dr. Mary Alice Heuschel, Chief of Staff
Governor's Office
(via U.S. Mail)

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Exhibit B



STATE OF WASHINGTON
ENVIRONMENTAL AND LAND USE HEARINGS OFFICE

Mailing Address: PO Box 40903, Olympia, WA 98504-0903

Physical Address: 1111 Israel Rd. SW, Tumwater, WA 98501

October 8, 2013

Via e-mail and regular mail

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Re: **SHB NO. 13-012c**
QUINULT INDIAN NATION and FRIENDS OF GRAYS HARBOR, SIERRA CLUB, SURFRIDER FOUNDATION, GRAYS HARBOR AUDUBON, and CITIZENS FOR A CLEAN HARBOR v. CITY OF HOQUIAM, ECOLOGY and WESTWAY TERMINAL CO. LLC and IMPERIUM TERMINAL SERVICES LLC

Dear Parties:

Counsel for Westway Terminal Co. LLC (Westway) has requested a conference to discuss the likely timing for issuance of the Board's order on the cross motions for summary judgment. Westway explains that the basis for this request is its desire to begin planning for the Board's forthcoming order and its lack of information regarding the basis for the Board's forthcoming decision. In lieu of the requested conference, through this letter I am providing you with more information regarding the basis for the Board's forthcoming decision. **This letter, like the prior letter, does not constitute the Board's final decision on the motions, and is not an appealable order pursuant to RCW 90.58.180(3) and 34.05.542.**

Please be advised that, subject to drafting the Order and the Board's final review, the forthcoming majority order on summary judgment will grant summary judgment to the Quinault Indian Nation (QIN) on Issue A.1. A majority of the Board will conclude that the Mitigated Determination of Non-Significance (MDNS) is clearly erroneous because the City of Hoquiam (City) and the Department of Ecology (Ecology) failed to consider the cumulative impacts from the U.S. Development Group (USD) terminal along with their consideration of impacts from Westway and Imperium. The majority will conclude that the governing legal standard for this issue is whether the USD project is reasonably foreseeable, and will go on to conclude that based on the uncontroverted record on summary judgment, the USD project is reasonably foreseeable.

A majority of the Board will also conclude that the MDNS is clearly erroneous because of its failure to adequately evaluate the potential for impacts from increases to rail traffic and vessel traffic as a result of these three proposals. The record on summary judgment supports the conclusion that the City and Ecology improperly deferred consideration of these impacts to after the issuance of the MDNS and the approval of the permits. The responsible officials did not require the applicants to provide a Rail Transportation Impact Analysis (RITA) and a Vessel Traffic Impact Analysis (VITA) prior to the issuance of the SEPA MDNS.

On Issue A.3, a majority of the Board will conclude that consideration of alternatives is not required at the threshold determination stage of a State Environmental Policy Act (SEPA) review, and therefore will grant summary judgment to Respondents on this limited portion of Issue No. A.3. A majority will conclude that the second part of this issue (incorrect reliance on existing laws as mitigation) involves contested issues of material fact and therefore is not properly the subject of summary judgment. However, since the Board will be invalidating the MDNS on the basis of Issue A.1, the Board will provide additional guidance on this issue to the parties. The Board will inform the parties that while it is permissible to rely on existing laws to provide mitigation for impacts, the SEPA documents must address how an existing law will mitigate for particular potential impacts. The Board will also be concluding that consideration of the third part of Issue A.3, whether the conditions on the application were adequate, is now premature based on the invalidity of the SEPA MDNS.

The Board's decision on Issue A.1 will address parts of Issue A.6, such as the need for pre-approval analysis of shipping and train impacts. A majority of the Board concludes that the remainder of this issue involves contested issues of fact. However, since the Board will be

invalidating the MDNS on the basis of Issue A.1, the Board will go on to provide additional guidance on this issue to the parties. A majority of the Board will inform the parties that the SEPA analysis, as presented in the record on summary judgment, does not appear sufficiently robust pertaining to seismic hazards, archeological and cultural resources, and oil spill hazards.

A majority of the Board will be granting summary judgment to Respondents on Issues A.7 and B.4. The majority will conclude that it is not necessary to make a showing of financial responsibility at the point of either completion of the SEPA threshold review process or issuance of a shoreline permit.

On Issues A.8 and B.3, a majority of the Board will be granting summary judgment to Respondents. A majority will conclude that the proposals at issue do not involve an ocean use for purposes of compliance with RCW 43.143 (Ocean Resources Management Act) based on the definition of "ocean use" contained in WAC 173-26-360(3).

On Issue A.9, a majority of the Board concludes that this issue is now moot because the Board will be invalidating the MDNS on the basis of Issue A.1, and therefore the Board will not address this issue.

A majority of the Board declines to address Issues B.8 and B.9 based on the Board's decision on Issue A.1.

On issue B.10, a majority of the Board concludes that this issue is now moot and the Board will not address it because the Board will be invalidating the MDNS on the basis of Issue A.1.

I trust that this information will help you prepare in advance for the Board's forthcoming order. Please note that it will be several weeks before the Board is able to issue its order, due to the complexity of the issues raised in this case and the press of other cases. If you have questions, please do not hesitate to call the Environmental and Land Use Hearings Office at 360-664-9160.

Sincerely,



Kay M. Brown, Presiding
Administrative Appeals Judge

KMB/jb/S13-012c

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through State Consolidated Mail Services to the parties of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED 10/8/13 at Tumwater, WA

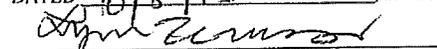


Exhibit C



568 1st Avenue South, Suite 600, Seattle, WA 98104 voice +1.206.254.0203
Innovating renewables for the future www.imperiumrenewables.com

January 22, 2014

Brian Shay
City Administrator
City of Hoquiam
609 8th St.
Hoquiam, WA 98550-3522

Sally Toteff
Southwest Regional Director
Washington Department of Ecology
PO Box 47440
Olympia, WA 98504

Re: Imperium and Westway Terminal Expansion Projects
Implementing Shorelines Hearings Board's Decision

Dear Mr. Shay and Ms. Toteff:

Westway Terminal Company LLC ("Westway") and Imperium Terminal Services LLC ("Imperium") ask the Department of Ecology and the City of Hoquiam to initiate scoping for Environmental Impact Statements ("EISs") for their respective terminal expansion projects, rather than asking the co-lead agencies to issue new SEPA threshold determinations.

In response to the Shorelines Hearings Board's Order in case number 13-012c, Westway and Imperium initially considered requesting new SEPA threshold determinations that would have been informed by additional information the companies were preparing. This new information includes comprehensive rail and marine traffic studies and consideration of the possibility of other port development such as U.S. Development in the cumulative impacts analysis. The information would have thoroughly addressed the substantive issues raised by the Shorelines Hearings Board in its Order. However, Westway and Imperium also acknowledge the interest by some members of the community in crude-by-rail operations. Both companies have conferred and agree to pursue the development of EISs to provide ample opportunities through the robust EIS process for airing and responding to any concerns regarding the Westway and Imperium terminal expansion projects.

Imperium and Westway are prepared to work with the City and Ecology to coordinate environmental review for the two projects as much as feasible. Imperium and Westway would like to work with the co-lead agencies to put the necessary agreements in place and to initiate the scoping process as soon as possible.

We look forward to discussing this matter with you at your earliest convenience.

Sincerely,


Gene McClain, CEO
Westway Group LLC

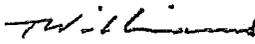

Troy Williams, CFO
Imperium Renewables Inc.

Exhibit D

**DETERMINATION OF SIGNIFICANCE
AND REQUEST FOR COMMENTS ON SCOPE OF ENVIRONMENTAL IMPACT
STATEMENT FOR WESTWAY BULK LIQUID FACILITY PROJECT**

Description of proposal: Westway Terminal Company LLC proposes to expand its existing bulk liquid storage terminal to allow for the receipt of crude oil unit trains, storage of crude oil, and shipment of crude oil by ship or barge from the Port of Grays Harbor Terminal 1. It is anticipated that the project will be built in two phases. The following information includes proposed construction and operations for both phases.

Five (5) internal floating roof storage tanks would be constructed on the site to the south of Westway's existing bulk storage tanks. The new tanks would each have a capacity of 200,000 barrels for a project total storage capacity of 1,000,000 barrels. The annual maximum throughput would be 17,855,000 barrels per year. The tanks would be surrounded by a concrete containment wall with the capacity to contain the total volume of a single tank plus an allowance for precipitation.

The existing rail facility on the site would be expanded from two (2) short spurs with a total of 18 loading/unloading spots to four (4) longer spurs with a total of 80 loading/unloading spots. The rail car containment area would have the capacity to contain the total volume of a single rail car plus an allowance for precipitation.

A new pipeline would connect the new tanks, via an existing pipeline bridge, to the Port's Terminal 1. Work performed on the terminal dock would be limited to the addition of loading arms and parts of a marine vapor combustion system. Construction of the expanded rail facility would involve demolition of an existing wood frame warehouse and construction of additional office space and support facilities.

No in-water work is proposed.

The company estimates that terminal operations would handle 458 unit trains a year (loaded and empty) or 1.25 trains a day. The company estimates that the terminal operations would handle 99 to 119 barges a year (198 to 238 entry and departure transits).

Proponent: Westway Terminal Company LLC.

Location of proposal: The project would be located on two adjacent leased properties owned by the Port of Grays Harbor. The site is located adjacent to the Chehalis River in the City of Hoquiam at Section 18, Township 17 North, Range 9 West W.M., tax parcel number 056402300000; and the second parcel in the City of Aberdeen at Section 7, Township 17, Range 9W W.M., tax parcel 029902000200.

Co-Lead Agencies: City of Hoquiam and Washington Department of Ecology. The City of Hoquiam is the nominal lead for the SEPA review process.

EIS Required. The Co-Lead Agencies have determined this proposal is likely to have a significant adverse impact on the environment. An Environmental Impact Statement (EIS) is required under RCW 43.21C.030 (2)(c) and will be prepared. The Co-Lead Agencies will make notifications related to the environmental review process, including public meetings and hearings, in accordance with adopted City and State procedures.

The Co-Lead Agencies have identified the following areas for discussion in the EIS. Additional areas of study will be identified and considered during the scoping period.

Earth

- Geology and Soils
- Seismic Events
- Tsunami Preparedness

Air

- Emissions (including Greenhouse Gases)

Water

- Water Quality
- Runoff

Plants

Animals

- Marine Life

Energy and Natural Resources

Environmental Health

- Oil Spill Prevention, Preparedness, Response
- Noise
- Risk of Fire or Explosion
- Releases or Potential Releases of Toxic or Hazardous Materials

Land and Shoreline Use

Aesthetics

Light and Glare

Recreation

Historic and Cultural Preservation

Transportation

- Vehicle Traffic
- Rail Traffic, including a rail transportation impact analysis for the rail line from Centralia to Grays Harbor
- Rail Safety
- Vessel Traffic, including vessel transportation impact analysis for vessel traffic in Grays Harbor
- Vessel Safety

Public Services

The No Action Alternative will also be evaluated.

Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS within a 47-day expanded scoping comment period beginning on April 10, 2014 and closing May 27, 2014. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required.

Scoping comments will be accepted in three ways:

Oral Comments: Oral comments will be accepted during two public scoping meetings:

1. Hoquiam: April 24, 2014 at Hoquiam High School Commons, 501 W. Emerson Avenue, Hoquiam WA. The meeting will start at 5 p.m. and end at 9 p.m. The public comment period will start at 6 p.m. and end at 9 p.m.

2. Centralia: April 29, 2014, Centralia High School Commons, 813 Eshom Road, Centralia WA. The meeting will start at 5 p.m. and end at 9 p.m. The public comment period will start at 6 p.m. and end at 9 p.m.

Electronic Written Comments: Electronic written comments will be accepted through 5 p.m. Pacific Daylight time until May 27, 2014 via a web form at <https://public.commentworks.com/cwx/westwayimperiumcommentform>.

Other Written Comments: Other written comments will be accepted through May 27, 2014 via US Mail at the following address:

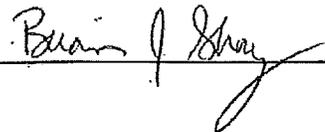
Imperium and Westway EISs
c/o ICF International,
710 Second Avenue, Suite 550
Seattle, WA 98104

Written scoping comments will also be accepted at scoping meetings listed above.

Documents Available: An environmental checklist or other materials indicating likely environmental impacts can be reviewed at the City of Hoquiam Office, 609 8th Street, Hoquiam WA, or at the Ecology website at: <http://www.ecy.wa.gov/geographic/graysharbor/westwayterminal.html>.

Responsible Officials:

Brian Shay
City Administrator, City of Hoquiam

Date: 4/4/2014 Signature: 

Sally Toteff
Southwest Regional Office Director, Washington State Department of Ecology

Date: 4/3/2014 Signature: 