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Submitted via website and hand delivery

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RE: Westway/Imperium Draft Environmental Impact Statements

Dear Mr. Shay and Ms. Toteff:

Thank you for the opportunity to comment on the Draft Environmental Impact Statements (“DEISs”) for the Westway and Imperium crude oil-by-rail terminal proposals. On August 31, 2015, the City of Hoquiam and Washington Department of Ecology issued the DEISs as prepared under the State Environmental Policy Act (“SEPA”). The following comments are on both the Imperium and Westway DEISs and are submitted on behalf of the signed organizations below.

These comments expressly incorporate the comments, including expert reports and other supporting materials, submitted by the Quinault Indian Nation on November 24, 2015. We also incorporate by reference comments by the Friends of Grays Harbor and Grays Harbor Audubon.

Fundamentally, the DEISs find significant adverse impacts that cannot be mitigated. These impacts include oil spills to ground, surface and marine waters, impacts to the aesthetics, recreation, cultural resources, tribal treaty-protected resources, and human health, and the potential for fire and explosion. The DEISs state that, “no mitigation measures can be implemented that will completely eliminate the adverse consequences of a large spill.” Although there are many concerns with the adequacy of the threats analysis described in the DEISs of the Westway and Imperium terminal proposals, it is undeniably clear, even from the limitations of the information presented, that these projects are too risky and should be denied.

Specific additional comments on the DEISs include:

- **Risks to Our Waterways:**

- *Oil tanker and barge traffic in Grays Harbor:* The DEISs find that the increased marine vessel traffic from these terminals would increase the risk of a collision and oil spill into Grays Harbor. Even a small oil spill into Grays Harbor would harm fish and wildlife, commercial, tribal, and recreational fishing, and tourism. While the DEISs indicate that the impacts of increased vessel traffic in Grays Harbor can be mitigated via tug escorts and vessel management, much of that claimed mitigation and its effectiveness is unsupported. At the same time, the DEISs indicate that there is no way to mitigate a large spill related to vessel traffic. The final EISs need to take into account and re-evaluate the risk of vessel traffic in Grays Harbor and the potential for oil spills and accidents – large, medium, and small. In particular, greater attention needs to be given to the narrowness of the shipping channels as well as the congestion associated with ships queuing at the terminals.
 - *Oil tanker and barge traffic outside Grays Harbor:* The DEISs do not address the increased tanker and barge traffic along the outer coast, into the Puget Sound, down into California, or out into the open ocean to foreign markets if Canadian crude oil is received and/or the crude oil export ban is lifted. It is critical to note that many of the ships calling on the terminals would need to bunker and that these heavy fuels would come from Puget Sound refineries. These are significant gaps in the DEISs' analysis; these gaps need to be addressed in revised DEISs or in final EISs. Increased traffic from these terminals will also directly impact the fishing industry, and harm the fish and wildlife that use these waterways for rearing and feeding during critical times along migrations. These impacts in turn effect the ecology and human use of Grays Harbor and beyond.
 - *Chehalis River and Grays Harbor:* The DEISs identify a suite of water resources throughout the Chehalis basin and Grays Harbor area – from wetlands to floodplains to groundwater to the rivers and channels of the watershed. All of these water resources are at risk of oil spills and accidents with these proposals. The DEISs state that, “no mitigation measures would completely eliminate the possibility of a large spill or explosion, nor would they completely eliminate the adverse consequences of a large spill or explosion.” In addition to the potential for a large spill or explosion, the fresh and marine water resources throughout the study area, and beyond, are at risk of spills and accidents. The DEISs fail to adequately address these risks and the level of impacts that these small and medium spills and accidents would have on water resources.
- **Preventing Oil Spills and Accidents:**

- *Analysis of the likelihood of an oil spill:* The analysis of an oil spill in terms of the transport of oil by train, the storage of oil at the project sites, and the transport of oil via vessel is inadequate and has numerous flaws.
 - *Oil spills from trains:* The analysis around a train oil spill in what could be a minor, a medium, or an extreme event is confusing and implies the risk is low. This doesn't take into account the decrepit state of the rail tracks, the fact that derailments occur with frequency along that line, the inadequate federal regulations on oil tank car safety standards, and that across North America there has been a growing trend of more oil train derailments.
 - *Oil spills at the site:* The analysis finds that while an oil spill at the terminal site was unlikely, such a spill would have significant impacts that could not be mitigated.
 - *Oil spills from vessels:* The information on oil spills from marine vessels is presented in a vague and confusing way, including the presentation of information on "risk sliders," maps with no true indication of oil spill size or extent, and spill probabilities presented separately for different kinds of spills, with no presentation of overall risks. Even using the DEISs' questionable calculations, the expected frequency of any type of oil spill of 2,100 gallons or more impacting the marine environment is one spill every 2.2 years. This is a staggering risk that is hidden by its presentation in the DEISs. The adequacy of oil spill risk mitigation measures are not substantiated.
- *Geologically unstable terrain:* The DEISs describe the geologically unstable terrain along the rail route as well as the vulnerable area where the projects themselves are located, including landslides, earthquakes, and sitting within a tsunami zone. The DEISs indicate that there would be unavoidable and significantly adverse impacts should a tsunami occur within the project's locations. There is not a mitigation tool available to prevent this type of catastrophic event and the resulting impacts to fish, wildlife, and human life caused by the resulting oil spills, potential fires, and explosions.
- **Responding to Oil spills and Accidents:** Oil spills and accidents are a major risk of the proposals – both spills on site and during transit. The DEISs speak to these risks in multiple ways but do not adequately address the level of risk nor incorporate strong preventative measures to reduce these risks. For example:
 - *Oil Spill Financial Responsibility:* The DEISs indicate that financial responsibility for potential costs of the response and clean up of oil spills, natural resource damages, and the costs to state and affected counties and cities for their response actions would be required after the projects are allowed to be built but before they can operate. This step should occur prior

to starting construction in order to ensure it is done appropriately and with enough time to address the complexities of the issue. There needs to be clarity as to when the facility or rail line has to assume the liability associated with an accident prior to any construction or other further action towards the projects.

- *Oil Train Insurance*: The DEISs lack any information on the level of insurance required to address an oil spill or accident. This omission should be remedied in the final EISs.
- *Response capacity*: The DEISs primarily rely on improving response time of an oil spill by putting the burden of response on others (e.g. the Chehalis Tribe, Quinault Indian Nation, local governments) and conducting limited training. This reliance on others to shoulder the burden of an oil spill due to the projects is inadequate and puts the entire region at risk.
- **Assumptions and Analysis of Crude Oil**: The DEISs primarily focus on the projects transporting and storing crude oil from the Bakken region. Yet both projects state that they may store and ship Alberta tar sands as well. The final EISs should incorporate a more thorough analysis of the impacts, risks, threats, and mitigation measures associated with both types of crude oil which act very differently in water and during an accident. It is important to recognize that oil from the Alberta region is not subject to the crude oil export ban and that the behavior of the various forms of dilbit has been studied using Cold Lake crude which is far lighter than that from the Athabasca region which is the primary source of crude from Alberta.
- **Export of Crude Oil**: The DEISs fail to adequately evaluate the impact of bringing in Canadian crude oil into the projects and the potential to export this crude oil. Additionally, the DEISs fail to adequately address the potential to lift the existing ban on exporting domestic crude oil, such as from the Bakken region, and the impact this would have on increasing the volume of crude oil traveling through the Grays Harbor region.
- **Rail Transportation of Oil**: The rail tracks heading from Chehalis into Grays Harbor are old and in need of various repairs. The additional burden of extremely heavy, long crude oil trains and the potential for spills, accidents, delays, and additional impacts are not adequately addressed in the DEISs.
 - *Increased delays at railroad crossings*: The DEISs find that these projects would block car traffic at railroad crossing intersections along the rail route and that there would be “substantial increases” in vehicle delays between East Aberdeen and the project, including at the Olympic Gateway Plaza. Emergency vehicle access could also be delayed.
 - *Rail condition*: The DEISs find that the railway infrastructure itself is in poor condition and assumes a 20-year schedule for upgrading the tracks but these upgrades are not funded or programmed for implementation. That leaves

the analysis in the DEISs very weak regarding the likelihood of an accident or spill along the rail route, congestion along the rail, impact to other products, etc. The final EISs must update the analysis and base the risks and impacts on actual current conditions or realistic future scenarios.

- *Impacts to communities:* The level of train traffic and how this traffic would impact the communities all along the rail route are not adequately analyzed in the DEISs. Furthermore, the DEISs find that noise is a significant public health impact that cannot be mitigated.
- **Respecting Tribal Treaty Rights, Treaty-Trust Obligations, and Tribal Culture.** The Quinault and Chehalis peoples have lived in this area since time immemorial. The Quinault Indian Nation has a treaty with the U.S. government to fish and gather in Grays Harbor, and the DEIS finds that there is a risk that those treaty-protected resources would be harmed if the projects move forward. Moreover, the Quinault Indian Nation is a large economic provider in Grays Harbor County. Outside the specific tribal lands and usual and accustomed fishing and hunting areas of the Quinault Indian Nation and the Chehalis people, tribal treaty lands and tribal culture all along the rail route – from the Columbia River and beyond - will be impacted by the potential of oil spills, rail congestion, air pollution, and accidents, yet impacts to these tribal nations were not reviewed. The final EISs should include these impacts in its analysis.
- **Geographic and Temporal Scope of Review:** The DEISs are extremely limited in their scope of evaluation and in some cases inconsistent with regard to what is considered the project area. Impacts of these projects will be felt on communities and natural resources all along the rail route – from the origin of the crude oil to Hoquiam – as well as the entire length of the vessel route. The final EISs should increase its scale of evaluation in order to more comprehensively identify the risks of the projects. Additionally, the DEIS uses a 20-year period to analyze impacts, but review of the projects full lifetime is required. A longer period of review will allow for a more comprehensive analysis of the projects’ risks and impacts.
- **Human Health:** The impacts on human health, including air quality, as well as risk and fear of accidents and oil spills from the transport of the crude oil alongside schools, hospitals, health care facilities, and homes are not adequately described or analyzed. Additionally, the human health impacts to the community surrounding the projects – including an increase in volatile compounds, oil spills, and accidents - is inadequately addressed in the DEISs.
- **Climate Impacts:** The DEISs do not adequately analyze the impacts of the projects on climate change, including contribution of greenhouse gas emissions and ocean acidification. In order to have any chance to stave off catastrophic climate disruption, we must start transitioning away from fossil fuels and towards clean energy. The DEISs discuss the direct emissions from the rail-transportation part of

these projects (although only from Washington’s eastern border to Hoquiam), and finds a 2.6% increase in greenhouse gas emissions from rail in Washington—over 30,000 metric tons of carbon dioxide equivalent each year.

- *Study Area:* The greenhouse gas emissions analysis is limited to Washington state and does not include transportation from the actual drill sites or full transportation to the final refining end-point.
- *Link between greenhouse gas emissions and terminal proposals:* The DEISs should incorporate the findings of a recently released report by Sightline and Oil Change International on the impact of the terminal proposals in the Pacific Northwest on greenhouse gas emissions.¹
- *Lack of cumulative analysis:* The DEISs improperly limit its cumulative effects on climate change analysis to the Grays Harbor terminals, even though federal agencies, like the U.S. Fish and Wildlife Service, have called on Ecology and Hoquiam to review the cumulative impacts of all oil and coal shipping terminals proposed for Washington ports.
- **Impacts to Wildlife:**
 - *Shorebirds and the National Wildlife Preserve:* The Grays Harbor NWR is an Aquatic Resource of National Importance, provides irreplaceable biological and ecosystem services, and affords important opportunities for wildlife-oriented recreation, education, and research. These crude-by-rail proposals would pose unacceptable risks to fish and wildlife. The possibility of a future oil spill, and the potential for resulting impacts, must be thoroughly analyzed and addressed.
 - *Threatened and endangered species.* Several species that are protected under the Endangered Species Act could be harmed by these projects, including bull trout, marbled murrelets, snowy plovers, and streaked horned larks. The U.S. Fish and Wildlife Service has stated that “redevelopment proposals bringing crude-by-rail to properties managed by the Port, including but not limited to the current Grays Harbor Rail Terminal proposal, would pose unacceptable risks to fish and wildlife trust resources managed and co-managed by the Service. Proposals bringing crude-by-rail to properties managed by the Port would present a corresponding, inherently higher cumulative risk over time of significant hazardous material releases to the terrestrial and aquatic environments.”²

¹ Tracking Emissions: The Climate Impact of the Proposed Crude-by-Rail terminals in the Pacific Northwest. Sightline Institute and Oil Change International. http://www.sightline.org/research_item/tracking-emissions/

² USFWS Scoping Letter. Grays Harbor Rail Terminal EIS. October 30, 2014 (reference number: 01EWF00-2015-CPA-0001

- **Economic Impacts:** Overall, the DEISs lack a comprehensive analysis of the projects on the economy of Grays Harbor. This is a critical omission of the analysis and must be addressed in the final EISs. For example:
 - *Impacts on commercial fishing:* The DEISs admit that commercial fishing could be affected by the increased oil tanker and barge traffic, but do not adequately value these impacts. Local jobs and long-standing ways of life are at stake. This applies to both directly within the Grays Harbor region that is so economically dependent on fishing and also in the greater coast fisheries that would be impacted by these terminals.
 - *Impacts to Grays Harbor County:* The DEISs state that the proposals would add 30.2 FTEs yet there is only limited mention of how these proposals would harm or reduce overall employment in Grays Harbor, at least 31% of which is dependent upon health marine resource jobs (a figure which excludes tribal contributions).

To meet the requirements of SEPA, the EISs must contain sufficient information to support their conclusions, disclose gaps and uncertainties, and include reasonably available known information. An adequate EIS gives decision makers tools to allow a reasoned decision. These DEISs must be revised, as they fail to meet the basic requirements of the law. Once corrected, the DEISs' conclusions that these projects present significant, adverse environmental and public health harms and risks that cannot be mitigated will be even stronger, giving Ecology and the City of Hoquiam a more complete picture of the dangers posed by these projects and the reasons why they must be rejected.

Sincerely,

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