



## The Dirt on Tesoro

The facts about an oil company's plans to put the Northwest at risk

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### Executive Summary

The oil company Tesoro, a fast-growing Fortune 100 company, has announced plans to build and operate a massive oil shipping facility on the Columbia River in Washington. The Vancouver Energy Distribution Terminal would handle up to 360,000 barrels of crude per day, transferring petroleum from mile-long trains onto oil tankers and other vessels that would ship the oil to refineries in the US and potentially overseas.

Many residents of Vancouver, Washington, as well as communities along the rail lines, are unwilling to accept the risks of Tesoro's proposed project, given a string of oil train derailments and fires across North America. A thorough review of Tesoro's track record suggests that the community has every reason to be concerned. The company has a demonstrated track record of flouting safety rules, injuring workers, polluting local air, and meddling in politics:

- **"Willful" violations in Anacortes refinery fire:** After a deadly 2010 refinery fire in Anacortes killed seven workers, state and federal investigators blasted Tesoro, calling the company "complacent" about safety and issuing 39 citations of "willful" indifference to hazards at the site.
- **One facility, 4,000 clean air violations:** The EPA says that Tesoro violated the Clean Air Act no fewer than 4,000 times at a single refinery in North Dakota and hundreds more times at other refinery locations. The company is among the top 100 toxic polluters nationally.
- **Oil spills and secrecy:** When a Tesoro pipeline burst in 2013, the company did not bother to inform the affected landowner, who only discovered the spill after he noticed crude oil bubbling six inches high around the tires of his combine.
- **Hostility to safety investigators:** Tesoro barred the gates to federal safety investigators after a burst pipe at a California refinery sprayed two workers in the face with sulfuric acid. Though the workers were helicoptered to a hospital and treated for burns, Tesoro called its employees' injuries "minor."
- **Fights with unions over worker safety:** Tesoro opposed union-supported efforts to have shareholders pressure the company into disclosing more information about its safety practices and risks.
- **Meddling in politics:** Tesoro already meddles in Washington politics, bankrolling political candidates and Tim Eyman-sponsored ballot initiatives with hundreds of thousands of dollars. In California, Tesoro spent \$1.5 million on a measure that would have gutted environmental laws.

## Introduction

The oil industry has its sights set on the Pacific Northwest. Sitting astride the path from crude oil deposits in the interior of North America to the world's hungriest energy markets in Asia, the Northwest has in recent years been confronted with plans to build two large oil pipelines and a dozen oil train delivery sites at refineries and port terminals.

Among the most prominent of these oil companies is Tesoro, a Texas-based oil refining company that has operated an oil refinery on Puget Sound at Anacortes, Washington, since 1998.<sup>1</sup> In September 2012, the Tesoro refinery became the first location in the Northwest to begin receiving large-scale oil-by-rail shipments.<sup>2</sup> In June 2013, the company acquired from Chevron the troubled Northwest Products Pipeline, a 760-mile line stretching from Salt Lake City to Spokane that handles about 87,000 barrels of refined fuel per day.<sup>3</sup> Today, the Columbia River is ground zero for Tesoro's plans.

Tesoro announced a game-changing project for the region in early 2013: the Vancouver Energy Distribution Terminal.<sup>4</sup> In partnership with Savage, a logistics and construction firm, Tesoro aims to build and operate a large-scale oil-by-rail terminal at the Port of Vancouver, Washington. Designed to handle up to 360,000 barrels of oil per day, the facility would be the endpoint for mile-long trains carrying crude oil in tank cars. The flammable fuel would be unloaded, stored, and then loaded onto tanker vessels bound for refineries at domestic or foreign ports.

The Vancouver site would handle more oil than the Northwest's largest pipeline and at full capacity would require moving an estimated five loaded oil trains in and out of Vancouver every day.<sup>5</sup>

After a string of high-profile derailments and explosions in 2013 and 2014, including one that killed 47 people, oil train movements have become increasingly controversial. A number of communities are raising reasonable questions about whether the tank cars that carry the oil are unsafe, about whether emergency responders are adequately informed or equipped to respond, and about the sincerity of the oil-by-rail industry's commitment to public safety.<sup>6</sup>

Given the inherent risks of oil-by-rail projects, many Vancouver community members have expressed deep concerns about hosting an oil-by-rail facility. A review of Tesoro's track record intensifies those concerns: the company has a history of egregious safety violations in its refinery operations, has tried to cover up spills and thwart safety investigations, and has a habit of massive spending in state and local elections to tilt policymaking in its favor.

## Section 1: Corporate Background

**A six billion dollar oil company aims to expand its reach in the Northwest.**

*"We actively promote a culture of accountability."*

—Tesoro website

Founded in 1968 and headquartered in San Antonio, Texas, Tesoro owns and operates oil refineries in California, Washington, Alaska, Utah, and North Dakota. Through subsidiary corporations, Tesoro also owns and operates a number of pipelines and other types of infrastructure, such as fuel storage tanks and marine terminals.<sup>7</sup>

Tesoro is often overshadowed by the better-known giants of the oil industry where firms like BP, Exxon Mobil, Chevron, and Royal Dutch Shell dominate.<sup>8</sup> Still, with a current market capitalization of about \$7.9 billion<sup>9</sup> and 2013 gross income of \$1.24 billion,<sup>10</sup> Tesoro is by no means a small firm. It is listed as a Fortune 100 company and as recently as 2006 and 2007 ranked as one of the 100 fastest growing companies in the US.<sup>11</sup> At the end of 2013, Tesoro had over 7,000 full-time employees, approximately 2,000 of whom were unionized. Its stock trades on the New York Stock Exchange under the ticker TSO.<sup>12</sup>

Tesoro also controls subsidiary companies that are primarily involved in transporting crude oil and transporting, manufacturing, and selling transportation fuels. One particular subsidiary, Tesoro Logistics Limited Partnership, is integral to Tesoro's viability. It owns and operates the non-refinery assets like pipelines, fuel storage sites, marine terminals, and rail loading and unloading facilities. Since April 2011, this firm has traded on the New York Stock Exchange as TLLP.<sup>13</sup>

Tesoro is growing. In 2013, it made major acquisitions, purchasing BP's large refinery in the Los Angeles area; the ARCO brand, which is the master franchise license for the *am/pm* convenience store brand; and about 800 dealer-owned gas stations in California, Nevada, and Arizona. (State and federal regulators approved the \$2.4 billion acquisition over the objections of consumer groups.<sup>14</sup>)

Tesoro CEO Greg Goff is paid handsomely. In 2012 and again in 2013, he pulled down in excess of \$13 million in total compensation.<sup>15</sup> As a percentage of total company revenue, or as a percentage of assets, he substantially out-earned the highest paid executives at oil industry heavyweights such as Valero, BP, Phillips 66, Shell, and Exxon Mobil.<sup>16</sup>

## Section 2: The Anacortes Refinery fire

**The worst industrial disaster in the history of Washington workplace safety law is rooted in Tesoro's deficient safety culture.**

*"...the deaths of these men and women would never have occurred had Tesoro tested their equipment in a manner consistent with standard industry practices..."*

—Judy Schurke, director of the Washington Department of Labor and Industries

In April 2010, a 40-year-old steel heat exchanger at Tesoro's Anacortes Refinery ruptured along welds that had developed cracks. As naphtha and hydrogen spewed forth, a fire ripped through the area. Two workers were killed at the scene; five others died later of severe burns.<sup>17</sup> Inspectors later determined that Tesoro had failed to properly inspect the exchangers for a dozen years even though they were a well-known hazard.<sup>18</sup>

After a six-month investigation into the conditions that caused the blast, state regulators cited Tesoro for 39 "willful" and 5 "serious" violations of health and safety regulations. (A willful violation is one in which an employer knowingly violates a rule and is plainly indifferent to correcting it, while a serious violation is one in which there is a substantial probability of serious injury or death.)

Calling it the “worst industrial disaster in the 37 years that [the Washington Department of Labor and Industries] has been enforcing the state’s workplace safety law,” the state slapped Tesoro with a \$2.38 million fine. It was the largest penalty issued to any firm in Washington history.<sup>19</sup>

The director of the Department of Labor and Industries, Judy Schurke, said “the deaths of these men and women would never have occurred had Tesoro tested their equipment in a manner consistent with standard industry practices, their own policies, and state regulations.”<sup>20</sup>

It was not the first time Tesoro’s Anacortes Refinery had run afoul of regulators. According to the *Seattle Times*, previous inspections had revealed similar problems there. In fact, in 2009, the company had been cited by regulators for 17 serious safety violations.<sup>21</sup>

The US Chemical Safety Board also examined the Anacortes Refinery fire. The federal investigators said that Tesoro’s lax safety culture led to a “complacent” attitude towards flammable leaks and occasional fires. They pointed out that in spite of a history of recurring leaks that placed workers in dangerous situations, Tesoro did not correct the underlying conditions. What’s more, according to the Chemical Safety Board findings, Tesoro did not adequately maintain its equipment before the lethal blast, and investigators found the accident was rooted in “a deficient refinery safety culture.”<sup>22</sup>

Along with former refinery owner Shell Oil, Tesoro paid \$39 million to settle a wrongful death suit filed by families of six of the workers who died.<sup>23</sup> The US Environmental Protection Agency has also opened a criminal investigation into Tesoro’s role in the fatal explosion.<sup>24</sup>

Yet Tesoro’s operational problems at refineries are by no means confined to Anacortes. At least two other Tesoro petroleum-handling facilities have caught fire in recent years, including one in Salt Lake City—under circumstances called “eerily similar” to the events in Anacortes<sup>25</sup>—and another in Martinez, California.<sup>26</sup>

## Section 3: Environmental violations

**Tesoro racks up thousands of air pollution violations and millions of dollars in fines.**

*“Protection and care of the environment are fundamental to our core values.”<sup>27</sup>*

—Tesoro CEO Greg Goff

Tesoro’s Martinez Refinery in the San Francisco Bay Area has been a source of many problems. The company has been cited for numerous safety and health violations there, including more than one hundred air quality violations with fines totaling nearly \$3 million.<sup>28</sup> In fact, a 2010 study by researchers at California universities found that Tesoro “rank(ed) worst in health impacts among all companies with refining operations in the state” as of 2006.<sup>29</sup>

Tesoro’s record nationally is scarcely better. It ranks as one of the top 100 toxic air polluters in the United States.<sup>30</sup> For example, Tesoro’s former refinery in Hawaii was plagued with problems. In 2013, Tesoro finally sold it off.<sup>31</sup> Although the company reported an \$81 million capital gain from the transaction, Tesoro also agreed as part of the sale to provide \$15 million for environmental

cleanup and to retain responsibility for resolving allegations that it had been violating Clean Air Act regulations.<sup>32</sup> In one case, an equipment failure at its refinery there resulted in the company flaring as much as 1,500 pounds of hazardous sulfur dioxide into the atmosphere.<sup>33</sup>

That same year, Tesoro finally paid a \$1.1 million fine to settle a lawsuit over the company's failure to follow Clean Air Act requirements at its refineries on the mainland.<sup>34</sup> The US Environmental Protection Agency had sued Tesoro for failing to test its gasoline for harmful contaminants such as cancer-causing benzene at the company's refineries in Alaska, North Dakota, Utah, and Washington. According to the EPA, Tesoro broke the law at its North Dakota refinery "on no less than about 4,000 occasions between February 2005 and May 2006, and 600 times at Salt Lake City."<sup>35</sup>

Nor have its pipelines been free from trouble. In 2013, a burst Tesoro pipeline was responsible for one of the largest spills ever recorded in North Dakota<sup>36</sup>—a spill that the company did not bother to disclose to the affected landowner.<sup>37</sup> Not until wheat farmer Steve Jensen had smelled crude oil for days and the tires of his combine were coated with oil did it become public news. He told a local newspaper that the oil was "spewing and bubbling 6 inches high."<sup>38</sup>

## Section 4: Labor relations

**After blocking accident investigations, Tesoro draws the ire of the steelworkers' union.**

*"We are committed to operating our facilities in a manner that promotes the health and safety of our employees..."*<sup>39</sup>—Tesoro website.

In 2011, the year after seven workers were killed in Tesoro's refinery, the United Steelworkers and the AFL-CIO asked shareholders of several oil companies to allow the firms to disclose more information on their safety practices and accident risks. Yet Tesoro actively discouraged its shareholders from approving these measures, making it more difficult for their investors and oversight agencies to get a full picture of working conditions and hazards.<sup>40</sup>

The firm has a troubled history with organized labor. In Los Angeles, unions claim that Tesoro has a track record of replacing union labor with non-union workers.<sup>41</sup> Concern about Tesoro's labor practices runs so deep that in 2013, when the company acquired the BP refinery there, the California Attorney General required Tesoro to guarantee it would not lay off employees at its Los Angeles refineries for two years.<sup>42</sup>

Tesoro's checkered history with workers also extends to workplace and operational safety. In February 2014, two workers were sprayed in the face by sulfuric acid spewing from a burst pipe, but Tesoro barred federal safety inspectors from inspecting its Martinez Refinery the next day.<sup>43</sup> The *San Francisco Chronicle* reported that "officials could not recall another refinery or chemical plant on U.S. soil that has challenged the [US Chemical Safety Board's] authority." For its part, Tesoro called the incident a "minor chemical release" resulting in "minor chemical burns" in spite of the fact that both workers had to be medically evacuated by helicopter to a hospital in Sacramento where they were treated for first- and second-degree burns.<sup>44</sup>

The United Steelworkers, the union that represents Tesoro's workers there, blasted Tesoro for its behavior at Martinez, claiming that "Tesoro's corporate culture of safety has steadily diminished."<sup>45</sup>

The Steelworkers point out that Tesoro has withdrawn from a union program that supports incident investigations and that the company is no longer attempting to be included in a federal voluntary worker protection program.<sup>46</sup>

The next month, March 2014, a second “serious sulfuric acid release” at the same refinery sent two more workers to the hospital in serious condition.<sup>47</sup>

It was hardly the first time that Tesoro had problems with sulfuric acid at Martinez. In November 2013, a worker had been burned on the face by acid while repairing a broken pipe.<sup>48</sup> And in 2010, a sulfuric acid pipe ruptured and spilled 84 gallons, although workers were able to contain the problem without injury.<sup>49</sup>

In 2011, Kevin Wallace, a former Tesoro VP, filed a federal “whistleblower” lawsuit against the company, alleging that he was fired for his objections to fraudulent accounting practices. The *San Antonio Express News* reported that the lawsuit alleged Tesoro set prices in violation of federal antitrust law and inflated its financial performance to shareholders and the Securities and Exchange Commission.<sup>50</sup> A US District Court judge in Texas dismissed the suit on the grounds that Wallace had not first exhausted “administrative remedies.”<sup>51</sup>

## Section 5: Involvement in politics

### Tesoro bankrolls ballot initiatives and meddles in state politics.

*“Today, Valero and Tesoro are in a conspiracy. Not in a criminal conspiracy, but a cynical one about self-serving greed.”<sup>52</sup>*

—California Governor Arnold Schwarzenegger, September 2010

In California, Tesoro spent \$1.5 million in 2010 to fund a ballot initiative campaign that would have substantially weakened the state’s environmental protection laws, drawing the ire of then-governor Arnold Schwarzenegger.<sup>53</sup> The firm worked to recruit other oil companies to join this effort. By that fall, some Tesoro shareholders were in open revolt against the company’s politicking. The *Los Angeles Times* reported that a group of shareholders attempted to require the company to institute board oversight before executives spend money on political campaigns.<sup>54</sup>

In Washington’s state capitol, Tesoro spent thousands of dollars in 2009 and 2010 on lobbying to forestall a modest tax increase on hazardous substances, including oil. The new revenue mostly would have funded cities’ and counties’ efforts to keep oil out of Puget Sound and other bodies of water. The Washington Public Disclosure Commission’s database shows that during one month, Tesoro was spending more than \$1,000 a day on just two Olympia lobbyists<sup>55</sup>—about ten times what Washington pays its elected legislators per day.<sup>56</sup>

Tesoro subsequently hijacked Washington state policy by contributing \$90,000 to a successful Tim Eyman initiative that allowed a one-third minority of state legislators in either house to block legislation. Tesoro was the initiative’s second-biggest funder, and many political observers saw the company’s involvement as an attempt to evade environmental protection and cleanup costs by short-circuiting the state’s broader authority to levy taxes and fees.<sup>57</sup> The measure was later struck down as unconstitutional by the Washington Supreme Court.<sup>58</sup>



All told, according to the National Institute on Money in State Politics, Tesoro spent more than \$200,000 on political contributions in Washington during the period from 2004 to 2012, including thousands of dollars directed to unsuccessful Republican gubernatorial candidates Dino Rossi and Rob McKenna.<sup>59</sup> In more recent years, perhaps chastened by bad publicity, Tesoro has made fewer direct contributions to candidates and ballot initiatives, preferring to direct its money to political action committees instead. In April 2012, for example, Tesoro shuttled \$100,000 to the Association of Washington Business PAC, a conservative group known largely for opposing taxes and regulations.<sup>60</sup>

Tesoro has also played politics on the national stage. The Center for Responsive Politics finds that since 1990 Tesoro has made more than \$1.2 million in political donations to support candidates for federal office. About two-thirds of that money flowed to Republican individuals and PACs.<sup>61</sup> And in March 2011, Tesoro CEO Greg Goff went on record opposing any effort by the US EPA to regulate greenhouse gas emissions to address climate change.<sup>62</sup>

Under the auspices of the Tesoro Action Center, the company wades into a range of public policy debates. It has pushed one-sided arguments opposing environmental policies like renewable fuel standards, called the US Environmental Protection Agency a “regulatory swamp,” and labeled US leadership on carbon emissions reductions “unilateral economic disarmament.”<sup>63</sup>

Tesoro has also sought to benefit from the revolving door between government and industry. For example, Jamie Moore, Tesoro’s Director of Federal Government Affairs, worked for eight years as senior policy adviser to a former US Senator from Texas, Kay Bailey Hutchison. During that period, Moore assisted with formulating the Energy Policy Act of 2005, which exempted oil and gas companies from some requirements of the Safe Drinking Water Act<sup>64</sup> and gave \$2.8 billion in tax breaks to the fossil fuels industry.<sup>65</sup> Senator Hutchison was one of the biggest beneficiaries of campaign contributions from Tesoro’s PAC in the 2010 election cycle, even though she had already announced her retirement.<sup>66</sup> When she did retire in 2012, Hutchison promptly joined a lobbying firm that has represented Tesoro.<sup>67</sup>

## Section 6: What’s next for Vancouver, Washington?

### A Columbia River port city weighs the risks of becoming an oil export hub.

*“The City of Vancouver strongly requests that the Governor of Washington... and any other relevant state agencies decline to permit crude-by-rail oil terminal projects, and specifically the proposed Tesoro-Savage project.”<sup>68</sup>*

—City of Vancouver, Resolution No. 3281, passed June 2, 2014

In Vancouver, Washington, local residents and businesses have raised an array of objections to Tesoro’s plans. Real estate developer Barry Cain claims that he will halt his \$1.3 billion downtown waterfront revitalization project if the oil-by-rail facility is approved.<sup>69</sup> Others, like Fruit Valley Neighborhood leader Eric LaBrant, have compiled neighborhood concerns about air quality, the potential for toxic fumes to reach nearby properties, and the company’s history of providing misleading information to the public.<sup>70</sup> Still others question the environmental wisdom of the proposal, pointing out that the oil Tesoro proposes to handle at the site would produce about 55 million tons of carbon dioxide annually, roughly the equivalent of five coal-fired power plants.<sup>71</sup>

The local longshoremen's union, ILWU Local 4, opposes the project as well, pointing out that oil spills would jeopardize jobs at the Port.<sup>72</sup> In June 2014, the Vancouver City Council issued a strongly-worded resolution opposing Tesoro's proposal too.<sup>73</sup> (The city had already sent a letter to the state's permitting body that identified more than 100 issues it wants included in the project's review.<sup>74</sup>)

One prominent feature of the local debate is concern over the safety of shipping oil by rail. After a string of high-profile oil train explosions, local governments and state regulators alike have begun questioning the wisdom of transporting crude oil in tank cars. Tesoro promises that its facilities will use rail tank cars that are safer than the obviously dangerous models that have exploded catastrophically in communities around North America.<sup>75</sup> (The newer tank cars also have clear safety flaws, however, and preliminary information from an oil train derailment in Lynchburg, Virginia, shows that the newer tank cars caught fire.<sup>76</sup>) But as the Vancouver *Columbian* points out, many other companies would be able to use railways to ship oil to Tesoro's Port of Vancouver site, and the company has so far offered no guarantee about the integrity of tank cars.<sup>77</sup>

Tesoro's plan may be in jeopardy. Although the firm's initial announcement indicated that the site would be operational by 2014, the company recently announced that costs are soaring as delays increase. According to the *Columbian* newspaper, construction may not begin until 2015, and the price tag may jump substantially.<sup>78</sup> The company had originally said that the project would cost \$75 to \$100 million,<sup>79</sup> but in May 2014, Tesoro told investors that costs could run as high as \$190 million.<sup>80</sup>

In 2014, Tesoro's project will undergo a comprehensive environmental review by the Washington Energy Facility and Siting Evaluation Council (EFSEC), a high-level permitting agency. Under state law, the final decision for the plan's approval rests solely with the Governor. As opposition to the project mounts—and as activists begin to call for a moratorium on oil-by-rail shipments—Tesoro's crude oil shipment plans for the Northwest are far from certain.

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