The Facts about Westway

Examining the track record of Grays Harbor oil terminal proponent

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A little-known company called Westway has big aspirations in the Pacific Northwest. If the firm gets its way, it will build and operate an oil terminal on the shores of Grays Harbor, Washington, that will bring in large quantities of crude oil by rail, store it in tanks on the shoreline, and ship it out of the bay in tanker vessels. Although Westway's proposal has generated enormous controversy in the region, the company's track record and financial underpinnings have gone largely unstudied. This report offers an overview of the company and its plans in the Northwest.

Westway and Its Northwest Plans

The Westway Group is a major American terminal operator. Based in New Orleans and focused on storing bulk liquids, the company owns 15 facilities in North America, most of them in port cities and major distribution hubs.[1] Westway primarily refined petroleum and petrochemical products, but it also handles agricultural commodities, such as vegetable oil and molasses, at a few locations. First listed on a public stock exchange in 2009, Westway was bought in 2013 by a private equity firm called EQT. Under EQT's ownership, Westway sold off its European holdings to focus exclusively on its North American operations.

Since 2009, Westway has operated a liquid storage and shipping facility in Hoquiam, Washington, on the shores of Grays Harbor, where it handles mostly methanol, a petrochemical used for a range of industrial purposes. In February 2013, Westway applied for permits to build new crude oil storage tanks that would make it possible to move large volumes of oil from trains to tankers. When added to the existing tanks at the site, the expansion project would allow Westway to store 55.6 million gallons of oil and other chemicals at its Hoquiam terminal. The planned expansion would also extend two existing rail spurs (shorter rail tracks designed for loading or unloading cars) and add two new full rail lines, allowing the terminal to unload up to 80 rail tank cars at a time.[2]

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Community Opposition

As Westway's crude oil plans have become public, they have sparked intense and widespread community opposition. The company initially expected the site to be fully operational by January 2015, but legal violations and a failure to inform and involve the public in decisions have pushed back that timeline significantly.[4] The City of Hoquiam issued a permit to Westway in April 2013 without a full environmental and public health review, finding without evidence that the terminal would have no significant environmental impacts. The Quinault Indian Nation, together with local conservation groups, challenged the decision, and in November 2013, the Washington Shorelines Hearings Board vacated the permit, sending it back for a full and public review.[5]

The City of Hoquiam and the Washington Department of Ecology began a thorough public environmental review process in April 2014. In September 2014, the city council of nearby Aberdeen, the largest city on Grays Harbor, voted unanimously to reject the project (although that city council lacks formal authority to block it).[6] In September 2015, the Hoquiam city council unanimously amended the city's zoning code to prohibit storage of crude oil for shipment anywhere within the city limits.[7]

Opposition swelled further after the city and the state released a draft environmental impact statement in late August 2015 that cited numerous areas of significant environmental and public health harm from the proposed project that could not be mitigated.[8] At public hearings in September 2015 in Grays Harbor, hundreds of people showed up to testify against the project.[9] All told, the Department of Ecology received more than 90,000 comments on oil storage terminals in Grays Harbor, the vast majority calling on local and state officials to deny permits for new oil storage projects.[10]

Westway's Poor Safety Record

Many Grays Harbor residents are gravely concerned about the risk of an explosive oil train derailment or a crude oil spill, perhaps one similar to the 1988 *Nestucca* accident when a vessel bound for a port on Grays Harbor dumped 252,000 gallons of heavy fuel oil into area waters, ravaging the region's ecology and the local economy.[11] Westway's checkered safety record does little to allay these concerns.

Between 2000 and 2006, the federal government fined Westway for 10 separate safety violations at its Port of Los Angeles facility in San Pedro, California. Many of these infractions were apparently reported by employees who were concerned about unsafe conditions at the site. Government inspectors classified four of the violations as "serious,"[12] a designation reserved for cases in which "an employer knows of or should have known of a situation that has a definite chance of causing serious harm or death and does not remedy it."[13] In fact, the terminal was considered so unsafe that local officials believed it presented a potential target for terrorists and took steps to shut down the plant. After six years of negotiations, the Los Angeles City Council voted in August 2007 to spend millions of taxpayer dollars to buy out the remaining years of the lease and eliminate the 14-acre chemical terminal. Even then, Westway left the facility dilapidated and saturated with a variety of chemicals, including aviation fuel and paraffin. The Port agreed to pay $30 million for cleanup.[14]

In 2002, Westway came under fire after it failed to report to local officials a hazardous leak of 50,000 pounds of sulfuric acid at its Riverdale, Illinois, facility—enough to overflow the containment area and spill onto the ground. The US Environmental Protection Agency fined Westway and required the company to donate thousands of dollars of fire suppression equipment to local fire departments.[15]

Since 2010, Westway has also incurred five fines from the US Federal Railroad Administration for problems ranging from safety violations to maintenance failures. These shortcomings should raise serious questions about a company that hopes to handle notoriously combustible mile-long oil trains on a daily basis at Grays Harbor.[16]

Short-Circuiting the Review Process

Westway has at least discussed plans to evade environmental review by splitting its large project in Grays Harbor into smaller ones that would face less careful scrutiny from regulators. Emails between Westway's top executives obtained by the law firm Earthjustice detailed plans to seek additional permit approvals for greater oil transport once the project was initially permitted.

For example, Robbie Johnson, Westway's vice president of engineering, wrote on January 31, 2013: "…I told ken [sic] last week as soon as SEPA clears to submit another for additional 9.6 bbl so we will have it in the works."[17] He later noted, "We could apply for additional thru put with DOE at any time to increase [redacted] expansion potential," calling the plan a "Grays Harbor Cash Cow."

This kind of project "segmentation"—getting a smaller project permitted and then quickly seeking to expand in order to avoid thorough review—is illegal under Washington law.

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Geoff Roberts, Westway's CEO, also discussed ways to wholly circumvent public review. In 2013, as Westway faced challenges to its initial permit, Roberts sought ways to change the facts on the ground and bring crude oil into Grays Harbor without any oversight or regulation. He posed this question to other Westway executives in an email: "If the conversion of the 2 tanks existing Methanol tanks [sic] can be done without a shoreline permit, can we/should we move forward on that option as both a hedge as well as additional leverage" [against the legal challengers]?

Roberts' posture demonstrates a remarkable lack of respect for the community's concerns, as well as for the permitting process. What's more, in its efforts to avoid a more exacting review process, Westway has made contradictory statements about the amount of oil it would be able to ship through the proposed terminal.[18] In its project application, Westway gave the facility's maximum throughput as 17.9 million barrels of oil per year[19] or 49,041 barrels per day—a number just slightly below the 50,000-barrel level that would trigger review by a state agency. Yet Westway's own figures in other documents give lie to those claims. In the same application, the company said that the site would be capable of receiving an average of 0.6 loaded trains per day and that each of the 120 tank cars per train would carry 714 barrels of oil, which works out to 51,408 barrels per day—a quantity that would require review by the state.[20]

Westway's Troubled Finances

Westway is owned by EQT, a private equity firm that purchased the company for $419 million in early 2013.[21] Private equity firms pool money from pension plans, university endowments, unions, insurers, and other institutional and high-wealth investors, typically to invest in private companies that aren't traded on public markets. Shortly after acquiring Westway, EQT sold the company's liquid animal feed supplements business and its several European terminals, raising at least $115 million in the sales. After downsizing the company, EQT concentrated on expanding Westway's terminal capacity, with a significant focus on Grays Harbor as an asset that could generate significant cash flow.[22]

Since Westway is wholly owned by a private equity firm, the company's finances are largely out of public view. But what is known is troubling: Westway's debt carries a B2 credit rating with Moody's and a B+ rating with Standard & Poor's. These "junk" bond ratings indicate that the company's loans are considered speculative.[23] Westway's fortunes may hinge to a large degree on what happens with its plans in the Northwest. In fact, in its February 2014 ratings report, Moody's cited Westway's legal woes with the Grays Harbor project as a key reason for giving the firm a gloomy financial review:

> *The change in outlook is due to a delay in the expansion of the Grays Harbor, WA terminal and the loss of the associated cash flow from that expansion until after 2016.... In light of the delays and uncertainties at Grays Harbor, the negative outlook also factors in the ongoing challenges associated with implementing Westway's growth capital expenditure program....*[24]

In its September 2015 ratings report, Moody's downgraded Westway's debt once again, citing further evidence that the company's predictions at Grays Harbor had been far too optimistic:

> *Originally expected to be completed in 2013, the construction on the Grays Harbor expansion has been delayed...owing to delays in the permitting process including receipt of an Environmental Impact Study (EIS). Such delays in expanding Grays Harbor has [sic] limited expected debt reduction resulting in higher refinancing risk than originally anticipated. Given the uncertainty around the timing of regulatory approval, we understand that Westway management has removed Grays Harbor entirely from their current multi-year forecast.*[25]

If anything, Moody's has too rosy a view of Westway's prospects. Its latest rating assumes that the Grays Harbor terminal expansion has been delayed "until 2016 or perhaps early 2017." But a careful review of the regulatory schedule and inevitable legal challenges suggests that the expanded terminal won't be in operation before late 2018, if ever, suggesting greater delays, higher costs, and lower returns on the Grays Harbor project than Moody's may have assumed.

Based on the typical timing for private equity investments, Westway still has several years before EQT attempts to sell the company or otherwise "monetize" its investment in the firm. It is clear, however, that the delays at Grays Harbor have significantly affected the firm's credit rating and thus raised its potential future borrowing costs.

What's Next for Westway in the Northwest?

Westway's Grays Harbor facility expansion plans are under review by the two decision makers, the City of Hoquiam and the Washington Department of Ecology, that jointly published a draft environmental impact statement (EIS) in August 2015. That assessment underwent a period of public comment between August 31 and November 30, 2015. Between the Westway project and the now-halted Imperium crude oil storage project nearby, the Department of Ecology received more than 100,000 public comments, the vast majority in opposition. A final EIS could be released in the summer of 2016, although that timing is speculative.

Once the final EIS is issued, several decision points will remain. First, the City of Hoquiam and the Department of Ecology must decide whether the significant environmental and public health impacts disclosed during the review will mandate denial of Westway's permit application. Then, Hoquiam must decide whether the project is consistent with its shoreline development laws, a decision that should lead to denial because Hoquiam's recent change to its zoning code prohibits precisely the sort of oil storage project that Westway is proposing. Whatever Hoquiam's decision, it is likely to face legal challenges from either Westway or the project's opponents. Given Westway's miscalculations and legal troubles to date, it is unlikely that the proposed facility could be operational even by late 2018, if at all.

What happens with Westway's oil terminal may have lasting effects on Grays Harbor. If the project goes ahead, the community would live for decades with large quantities of crude oil—brought in by train, stored on the shoreline, and moved out of the bay in tanker vessels—that could jeopardize the region's economic and ecological health. By contrast, if officials deny permits to the company, Grays Harbor would join a growing number of communities that, when confronted by fossil fuel proposals, have said no, choosing instead to chart a course toward cleaner and less risky forms of commerce.

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