PORT OF PORTLAND

MEMORANDUM

Date: March 26, 2015

To: Tom Armstrong, Supervising Planner, City of Portland Bureau of Planning & Sustainability

From: Tom Bouillion, Planning Manager

Re: Response to March 17, 2015 PSC Questions

Attached are responses to questions raised at the March 17, 2015 briefing of the Portland Planning & Sustainability Commission regarding the proposed environmental overlay zone amendment at Terminal 6 to allow transport of propane by pipeline through the e-zone.

Issue: Describe Department of Homeland Security and other related regulations applicable to the proposed Pembina terminal to address the threat of terrorist attack.

The primary framework for regulation to address terrorist threat is the Maritime Transportation Security Act (MTSA), implemented by the U.S. Coast Guard.

Note that facilities regulated pursuant to the MTSA are not regulated by a different set of Department of Homeland Security standards, the Chemical Facility Anti-Terrorism Standards (CFATS).

A full description of how the MTSA would apply to the Pembina terminal is attached as Exhibit 1.

Issue: Describe the role of ODOT Rail in ensuring the safe transport of propane by rail in Oregon.

ODOT's Rail Division (ODOT Rail) ensures the safe transport of propane and other hazardous substances in Oregon primarily by focusing on prevention.

ODOT Rail acts as an agent for the Federal Railroad Administration (FRA) by inspecting track, railroad equipment and cars, hazardous materials and operating practices. Oregon was the second state to voluntarily join FRA's Safety Participation Program.

At the same time, FRA Region 8 headquarters (governing the states of Alaska, Idaho, Montana, North Dakota, South Dakota, Oregon, Washington and parts of Wyoming) is located in near-by Vancouver, Washington providing additional inspectors (either in conjunction with or in addition to ODOT Rail inspectors) for facilities and rail infrastructure within Oregon.

As an agent of FRA, ODOT Rail is responsible for implementing FRA and other federal requirements through the Pipeline and Hazardous Materials Safety Administration (PHMSA), as well as currently applicable state law.

Over the last decade, ODOT Rail has increased its focus on prevention of incidents through inspections. Specifically, Agency inspectors regularly monitor train speeds, track conditions, train car placement and tanker car valve closure settings at individual facilities, rail yards operated by railroads and the rail system more broadly in Oregon.

As noted on the ODOT Rail website (<http://www.oregon.gov/ODOT/GOVREL/Pages/improving-rail-safety.aspx>) "ODOT's Rail and Public Transit Division has helped drive a reduction in derailments from 75 in 2004 to 18 in 2013—a 76 percent drop. Over the same period, rail crossing incidents have declined from 23 to 9—a reduction of 61 percent. With the noted increase in oil train movement, ODOT has stepped up its inspections. For example, inspections increased from 766 in 2012 to 865 in 2013 (includes operating, hazardous material, signal, crossing and employee safety inspections)."

While ODOT Rail focuses on prevention, local public safety agencies serve as first responders in the event of an oil spill, explosion or derailment.

ODOT Rail also helps emergency response agencies be prepared in the case of a hazardous material derailment or spill by directing railroads operating in Oregon to provide information on the movement of hazardous materials to first responder agencies, as currently required by law (ORS 842.082).

More recently, ODOT Rail has coordinated with the State Fire Marshal, Oregon Office of Emergency Management, Oregon Department of Environmental Quality, other state agencies and emergency first responders on new rule making that, if adopted, would modify ORS 842.082 and other related statutes to require railroads operating in Oregon to provide information on the movement of hazardous materials directly to ODOT Rail, which would function as a clearinghouse for all first responders in the Oregon.

Below is a link to the proposed rule:
<http://www.oregon.gov/ODOT/COMM/docs/Attach_A_Draft_HazMat%20Rule.pdf>

Issue: What is the current status of Oregon and Washington State rail safety legislation?

Both the Washington State and Oregon legislatures have bills that have been introduced in this legislative session to address rail safety regarding the movement of petroleum products as well as other hazardous materials, which includes propane.

Specifically, Oregon House Bill 3225 has been introduced which "Directs Environmental Quality Commission to adopt rules applying certain oil spill prevention and emergency response planning requirements to railroads that own or operate high hazard train routes in this state" (http://gov.oregonlive.com/bill/2015/HB3225/)

This legislation was forwarded to the House Energy and Environment Committee on March 5, 2015.

In the Washington State Legislature, House Bill 1449 requires advance notice of oil transfers, allows the possibility of tug escorts and requires railroads and others to show they can pay for oil spill (and other hazardous materials) cleanup. Senate Bill 5057, on the other hand, calls for reviews of oil-spill and hazardous materials response plans.

Senate Bill 5057 and House Bill 1449 have both passed in their originating chamber and now each needs to be approved in the other chamber.

<http://app.leg.wa.gov/billinfo/summary.aspx?bill=1449&year=2015#documents>

<http://app.leg.wa.gov/billinfo/summary.aspx?bill=5057&year=2015>

Issue: Describe the location of U.S. propane terminals relative to neighborhoods in their respective communities.

The Port reviewed the locational aspects of a number of propane terminals with characteristics similar to that of the proposed Pembina terminal, primarily those with large above ground storage facilities. Attached in Exhibit 2 are eight maps that illustrate the proximity of these facilities to neighborhoods characterized by residential development. The density of development at these locations varies greatly. The San Pedro/Wilmington LPG facility is close to the Port of Los Angeles, but is within a ½ mile of densely populated areas. These site characteristics are similarly found at Marcus Hook, PA and Nederland, TX. The Ferndale, WA LPG facility is located within 1.5 miles of the Neptune Beach community. In nearly every case the Port found residential development within 1 or 1.5 miles of the LPG facility.

Issue: What is the risk to the Port of Portland of having a stranded asset on its property should the market for propane change in the future due to a carbon tax and/or a change in global fuel demand?

The proposed lease between Pembina and the Port of Portland (the Port) will provide that upon any termination, the lessee (Pembina) will be required to remove the facility improvements unless the Port determines at its sole discretion to retain them. There is no early termination for change in laws, such as a new carbon tax, only for certain limited situations such as a termination for default or a governmental taking. Even in those limited situations, the Port's right to require removal would still apply.

Exhibit 1

Maritime Transportation Security Act (MTSA)

MTSA:

- Congress passed the MTSA in 2003 to address marine terminal security.
- In 2005 the U.S. Coast Guard implemented regulations to enact the provisions of the MTSA and to align domestic regulations with the maritime security standards of SOLAS and the ISPS (International Ship and Port Facility Security) Code.
- The regulations are found in Title 33 of the Code of Federal Regulations, Parts 101 through 106. Part 104 contains vessel security regulations, including some provisions that apply to foreign ships in U.S. waters. Part 105 contains security regulations that apply to facilities.

Facility Security Assessment (FSA)/Facility Security Plan (FSP):

- MTSA-regulated facilities such as the Port of Portland's Terminal 6 and the proposed Pembina Terminal must submit a Facility Security Assessment (FSA) to the Coast Guard that identifies and evaluates critical assets, critical infrastructure, potential threats to critical assets and infrastructure, and general facility security vulnerabilities. Pembina must develop and submit a Facility Security Plan (FSP) to the Coast Guard that addresses these vulnerabilities. These plans must also include provisions for establishing and maintaining physical, passenger / crew and cargo security, access control, and ensuring training programs to protect a facility. The FSA and FSP are considered Sensitive Security Information and as such are not publicly releasable.
- The FSP, approved by the Coast Guard, is valid for five years, after which time the facility must submit an updated FSP and FSA.
- Vessels are likewise required to submit Vessel Security Plans (VSP).

Intelligence:

- The Port of Portland is a member of the Coast Guard Sector Columbia River Area Maritime Security Committee (AMSC). The AMSC coordinates the activities of all port stakeholders, including other federal, local and state agencies, industry and the boating public. The AMSC also collaborates on plans to secure the port and effectively use limited resources to deter, prevent and respond to terror threats.
- Key intelligence sharing occurs between members of the law enforcement community and the public, through the Joint Terrorism Task Force. The Port of Portland Police plays a crucial role in this network; Through the JTTF and their strong relationship with the North Precinct of the Portland Police Bureau they pass appropriate threat-based information to the Port's terminal managers as well as all tenants. This facilitates increased security activities (increased presence/monitoring) that could be critical to deterrence and/or response if something should occur.

TWIC:

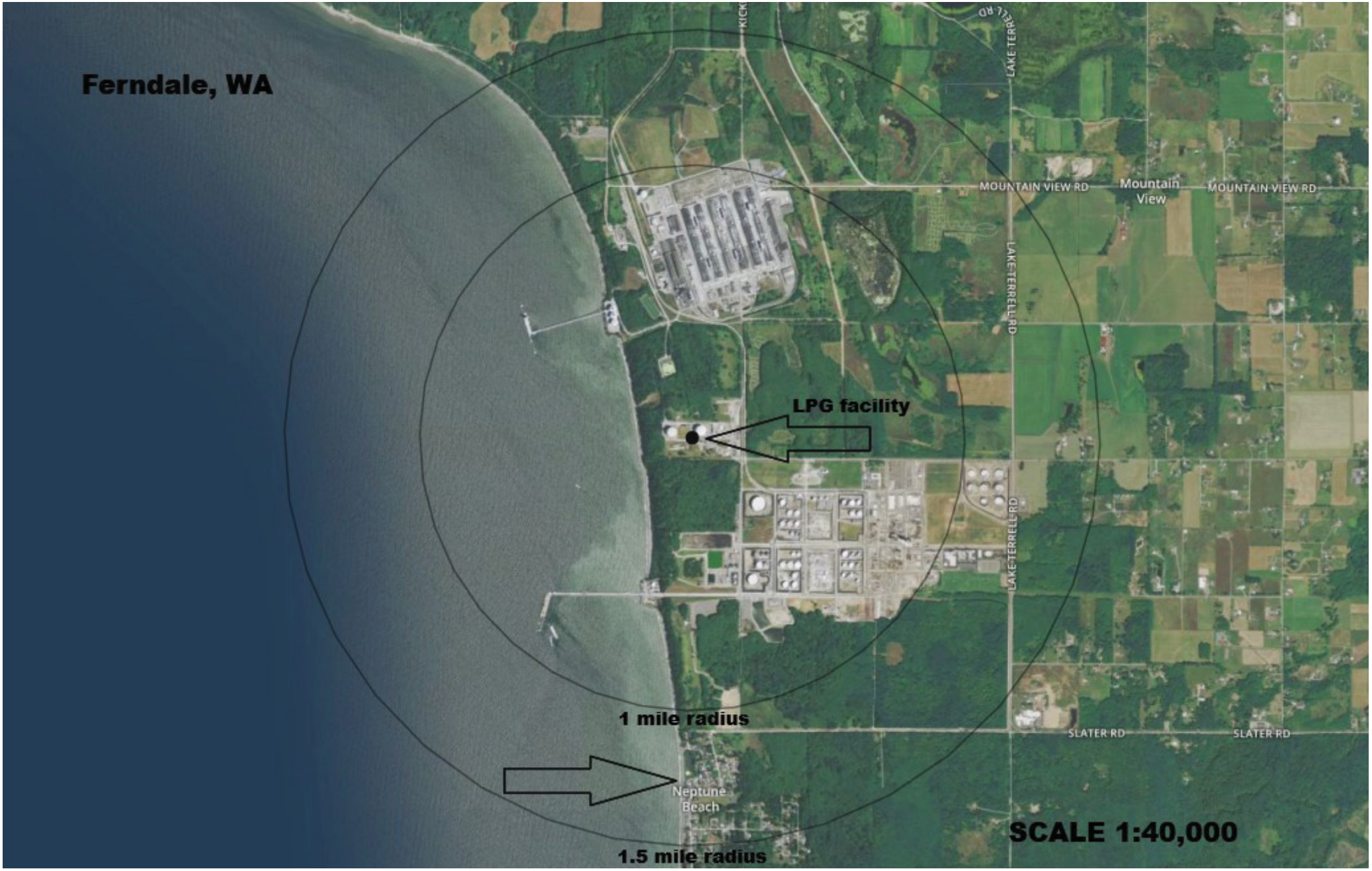
- The Transportation Worker Identification Credential (TWIC) is a key feature of the MTSA's access control regulations; anyone working on a marine facility must have one. The application process includes a federal background check prior to issuance.

Port Point of Contact: Mr. Mark Crosby, Chief, Public Safety and Security, at (503) 415-6492; or
Mr. Fred Myer, Senior Waterways Planner, at (503) 415-6542.

EXHIBIT 2

Galena Park LPG Facility

Please consider sharing an electronic file before printing



Ferndale LPG Facility

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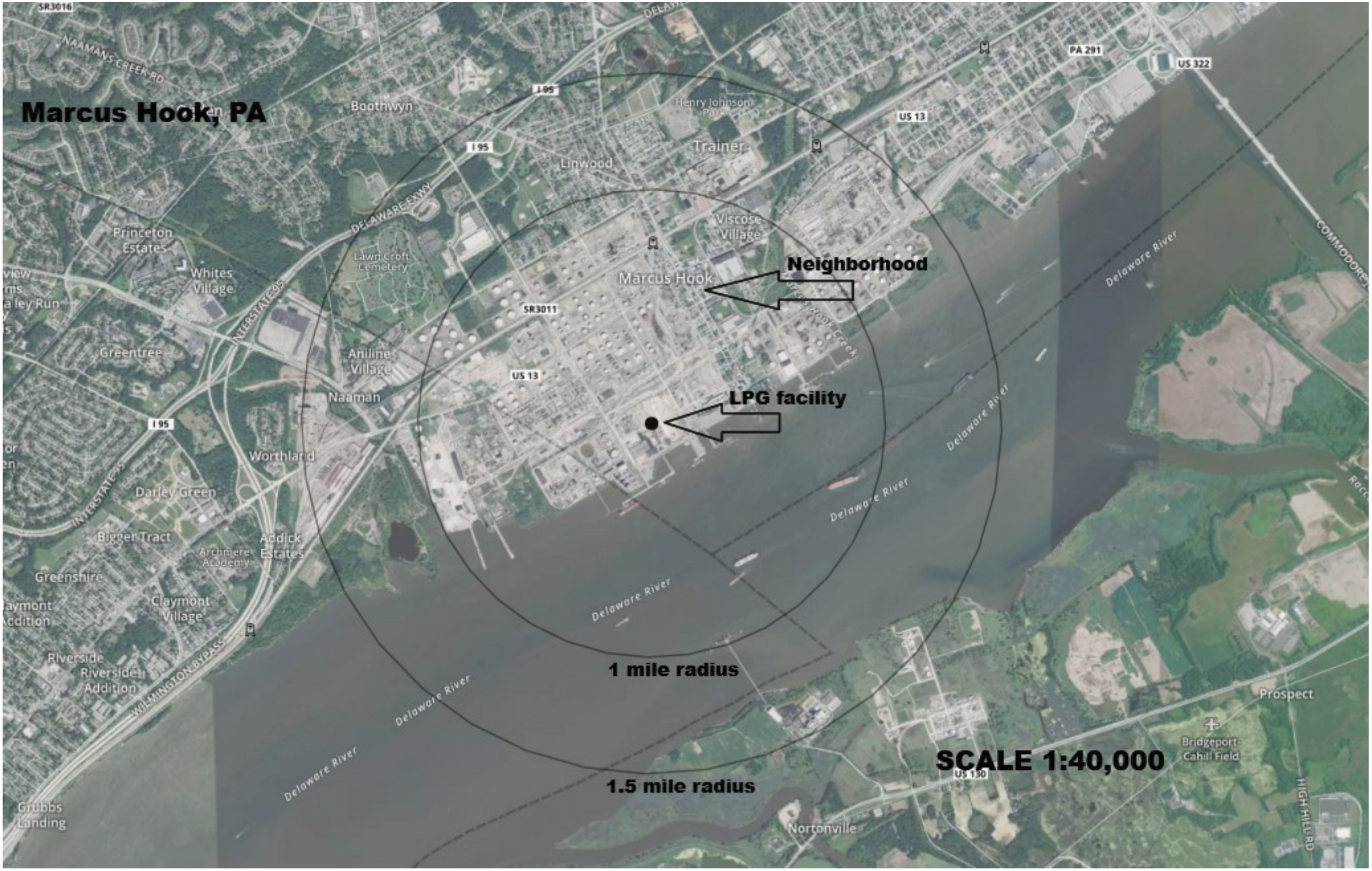

Marcus Hook LPG Facility

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Freeport LPG Facility

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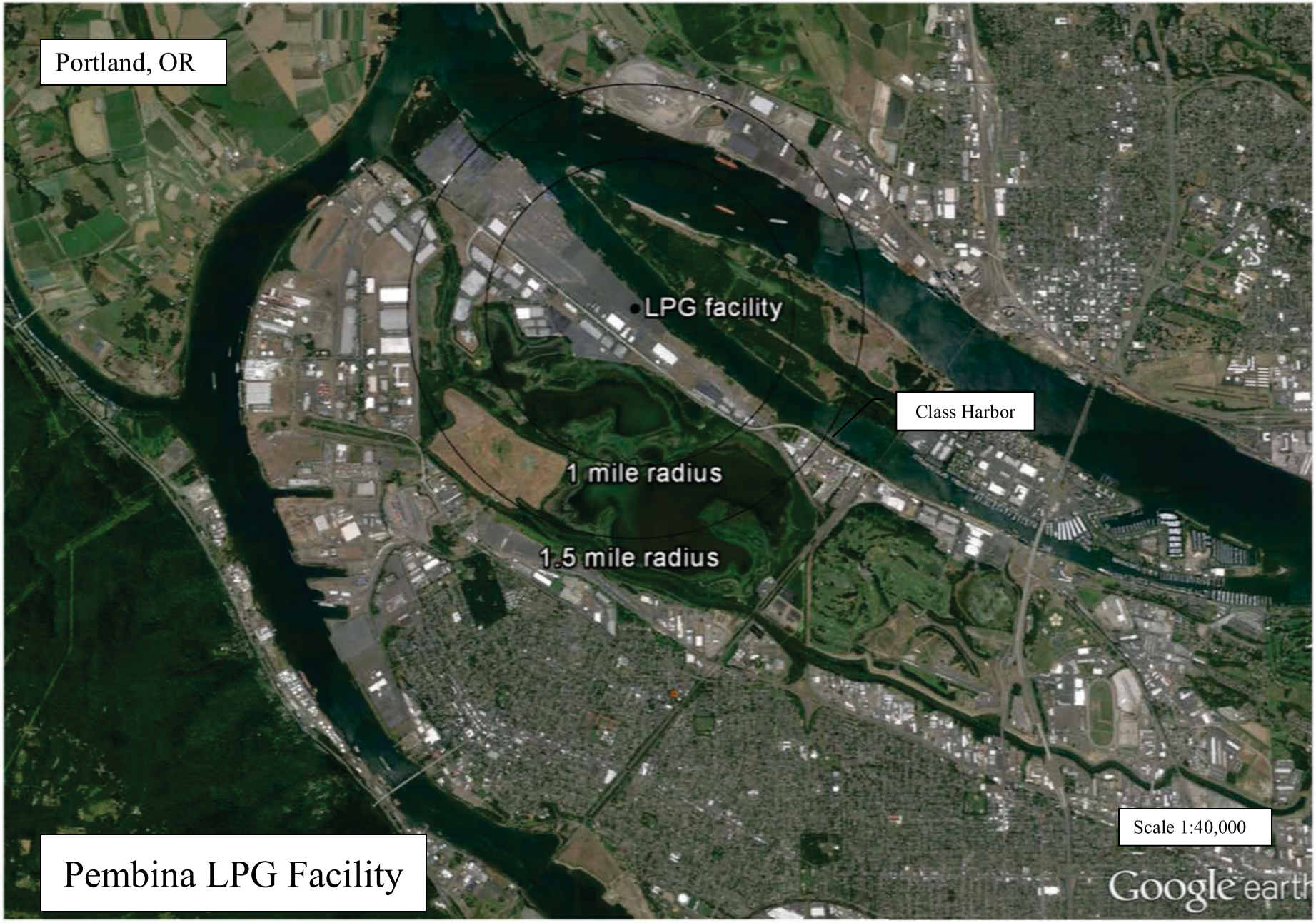

Pembina LPG Facility

Nederland LPG Facility

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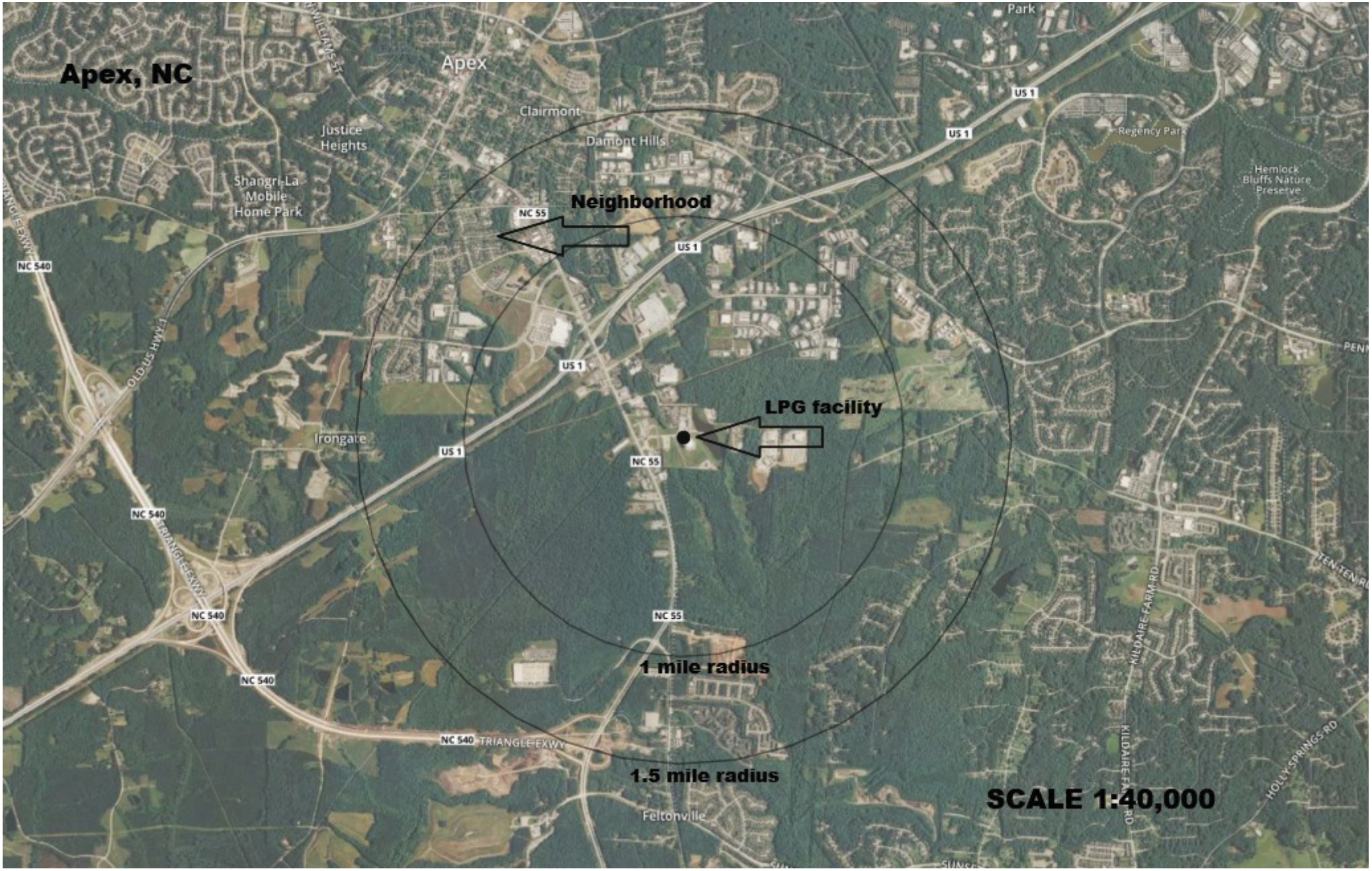

Apex LPG Facility

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San Pedro/Wilmington LPG Facility

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