



**NW Natural**<sup>®</sup>

Planning and Sustainability Commission  
1900 SW 4th Avenue, Suite 7100  
Portland, OR 97201

September 12, 2009

Members of the Planning and Sustainability Commission,

NW Natural appreciates the opportunity to provide comments on the BPS Zoning amendments. NW Natural has been operating in Oregon since 1859 and now provides natural gas to over 700,000 customers in the region; 167,000 of these customers are located in Portland.

We hope the comments below help the PSC better understand the regulatory process under which NW Natural operates, and the inherent limits this process places on the Company's LNG facility in Portland. We hope that a more granular understanding of the regulatory process will assuage any concerns you have about LNG infrastructure expansion, and request that you consider excluding the property from classification as a bulk fossil fuel terminal.

**Background:** According to the Fossil Fuel Terminal Zoning Amendments Proposed Draft, the City Council adopted Resolution 37168 in November 2015, which opposes expansion of fossil fuel infrastructure, except for safety improvements, service to end users, and infrastructure that accelerates transition to non-fossil fuel energy. The 2035 Comprehensive Plan (Policy 6.48) also calls for limiting fossil fuel distribution and storage facilities to those necessary to serve the regional market.<sup>1</sup>

**NW Natural's Business:** NW Natural is a local distribution company (LDC) that provides natural gas directly to end users in Oregon and Washington. Throughout the region, the Company owns pipelines that carry gas to homes and businesses for water and space heating, cooking, and industrial processes.

**NW Natural Environmental Values:** NW Natural takes climate action very seriously. Pipeline replacement is the number one strategy for reducing greenhouse gas emissions from the LDC system: the Company took early action and, with the completion of our pipeline replacement program in 2015, we can now claim one of the tightest local distribution systems in the country. Additionally, Smart Energy was one of the first voluntary emission reduction programs offered by an LDC. The Company also joined the U.S. EPA Natural Gas Star Methane Challenge in March 2016 as a founding member. Under this program, companies adopt best practices and report reductions to the EPA annually.

**How NW Natural is Regulated:** NW Natural operates by a fairly unique set of rules because we are a state-regulated monopoly that provides a necessary service. The Oregon Public Utility Commission (OPUC) carefully monitors and regulates the Company's actions to protect ratepayers through rate

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<sup>1</sup> Fossil Fuel Terminal Zoning Amendments Proposed Draft, August 12, 2016. Page 23.  
[www.portlandoregon.gov/bps/article/586612](http://www.portlandoregon.gov/bps/article/586612)

proceedings, audits, and the Integrated Resource Plan (IRP) process<sup>2</sup>, a complex modeling exercise NW Natural is required to produce every 2 years to demonstrate how the Company plans to meet customer demand. The Citizens' Utility Board (CUB), a residential customer advocacy organization, the NW Industrial Gas Users Association, and environmental advocates actively engage in the regulatory processes at the OPUC, in order to ensure customers are protected and to monitor NW Natural's actions with respect to climate and efficiency goals.

The regulatory process is multifaceted; as such, there are requirements on the Company to provide reliable service, as well as rules that guide how NW Natural infrastructure can be used today and in the future. Our LNG tank exists at the intersection of these regulations: the facility ensures that NW Natural can provide reliable service to its customers. NW Natural's planning processes demonstrate that the fuel is needed to meet customers' peak demands in instances where the region may experience high loads, during events such as cold weather. This purpose and function of the tank is a central part of NW Natural's portfolio of resources, and is a topic of its Integrated Resource Planning.

It is important to note that any changed use or expansion of the facility would be vetted through processes at the OPUC. These processes are open to the public, and closely monitored and followed by a variety of outside groups – including those mentioned above – and the OPUC's professional staff.

**Issues with Non-Conforming Use Designation:** The designation of the facility as a non-conforming use creates consequences not intended by the original resolutions, which specifically exempt service to end users and storage facilities to those necessary to serve the regional market. Facilities designated as a nonconforming use can find it difficult to attract investment or credit to make alterations or upgrades, including safety upgrades, particularly when they are subject to discretionary review processes.

For instance, any upgrades to the facility – seismic, safety, or otherwise – will be considered more risky because they might trigger a Type II Discretionary Land Use Review. This kind of review is highly subjective and may make it more difficult and expensive to invest in the kinds of upgrades the city seeks to incent. Additionally, there are state policies in place that incent the use of LNG in river barges and heavy duty fleets in order to displace more carbon-intensive fuels like diesel. Even if NW Natural received approval for such a project from the OPUC, the non-conforming use designation would create additional cost and uncertainty, and might prohibit NW Natural from providing LNG to those end users.

**Preferred Language:** Since NW Natural is regulated by the OPUC through transparent processes that include stakeholder engagement opportunities, and since the intent of the original resolutions sought to exempt service to end users and service to the regional market, we request the code avoid classifying the facility as a “bulk fossil fuel terminal.” We have included language below to this effect that would fit on page 23 under “*Exceptions that are not Bulk Fossil Fuel Terminals.*” Such a carve-out would impact only NW Natural and would not create a loop-hole for other terminal owners and operators.

Proposed Language      *Any facility operated by a public utility and regulated by the Oregon Public Utility Commission under ORS Chapter 757 for the purpose of ensuring fuel reliability to direct users through an interconnected system.*

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<sup>2</sup> Oregon Administrative Rules 860-027-0400. “...“Integrated Resource Plan” or “IRP” means the energy utility’s written plan satisfying the requirements of Commission Order Nos. 07-002, 07-047 and 08-339, detailing its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs.”

**Secondary Approach:** If the PSC is unable to exempt our facility, we ask that an additional section be added to the zoning code that deals specifically with bulk fossil fuel terminals as a non-conforming use. To ensure fairness, a separate code section should be drafted because the existing code does not implement the intent for a fair process, as professed in the staff report, and the staff report relies too much on the Council Resolution, which is not codified, and is not part of the zoning code.

We do not have sample language at this time, but as an example, the PSC should consider the following:

- If a change in law would impose technical or engineering requirements that would curtail capacity and ability to serve customers, modifications to maintain capacity and service should be allowed outright as a matter of regulatory entitlement.
- For repair and maintenance, the code should explicitly prohibit the City from using such measures as an opportunity to curtail or impose costly upgrades.
- Changes in related or supporting facilities or accessory uses should be allowed upon a showing of no increased public safety risk.
- Changes in intensity of uses – through efficiency and upgrades – that allow greater throughput also should be allowed upon demonstrating no increased risk to public safety.

Again, we appreciate the opportunity to offer comments on this proposed draft. We are happy to answer any questions you may have.

Sincerely,



Gary Bauer  
Director, Government Affairs