



THE BUREAU OF **PLANNING  
& SUSTAINABILITY**

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The Planning and Sustainability Commission (PSC) is responsible for the stewardship, development, and maintenance of the City's Comprehensive Plan, Climate Action Plan, and Zoning Code. Oregon DEQ recently required Zenith Energy to obtain a Land Use Compatibility Statement (LUCS) from the City of Portland due to changes in activities at that facility: from asphalt refinement to storage and transfer of significant volumes of crude oil and other liquid fuels.

In 2015, Portland adopted a Fossil Fuel Infrastructure Policy (ENN-10-02), stating that: "City Council will actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways" and that "the City shall consult with its Tribal Government Partners ... in advancing this policy." Additionally, Portland adopted an Oil Trains Policy, stating, "the City of Portland opposes oil-by-rail transportation through and within the City of Portland...."

As steward of the above plans, and in light of the City of Portland's binding Oil Trains Policy (EN-10.01) and Fossil Fuel Infrastructure Policy (ENN-10-01), the PSC urges the Bureau of Development Services (BDS) to:

### 1. Evaluate this LUCS based on Portland's 2035 Comprehensive Plan

Given the unique and complex circumstances present at the Zenith facility and the magnitude of impact from its activities, it is appropriate — indeed essential — to evaluate this LUCS against Portland's Comprehensive Plan. Portland clearly has the discretion to do this, as evidenced by the LUCS decision



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regarding Zenith’s non-fossil fuel infrastructure expansion.<sup>1</sup> We call on the City to holistically evaluate all site operations at Zenith’s facility in reviewing this LUCS, consistent with the site-wide intensification of activity that has prompted DEQ to require a new Title V permit, and to make a determination that is aligned with Comprehensive Plan goals, including those on climate, equity, and seismic impacts.

## **2. Conduct a tribal consultation**

The Comprehensive Plan specifically encourages environmental justice and consultations with partners in decision making,<sup>2</sup> including tribes. Tribal communities in Oregon and Washington have previously raised concerns about the safety risks of fossil fuel infrastructure and related threats to human health, cultural heritage, and environmental quality. Indeed, consultation with tribes is required under ENN-10-02 (Fossil Fuel Infrastructure Policy, 2015), as noted above.

There is good reason to expect that activities at the Zenith facilities may impact tribal rights, now and into the future. Risks include oil spills from tanks located over a liquefaction zone, where seismic activity could cause massive damage to environmental health, including to fish populations. In addition, Zenith’s activities depend on a steady (and growing) transfer of crude oil and other liquid fuels along the Columbia River by rail and through densely-populated areas, with accompanying opportunities for derailments, spills and/or explosions.

The City of Portland should consult the Columbia River Tribes and any other potentially affected tribes regarding this LUCS application. We encourage BDS to stand behind Portland’s values of environmental justice and equity and consult communities who have been historically left out of the conversation. Given the significant deleterious impacts Zenith’s operations pose to human health, our environment, and our ecosystems, acknowledgement, and consideration of public comment generally — and tribal input specifically — are appropriate and necessary.

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Over the past year, Portland has experienced extreme heat waves and unprecedented air quality issues due to wildfires, all influenced by climate change. Since it is too late to prevent climate change, it is more important than ever that we take decisive action to limit future devastation. The PSC, through a multi-year process and extensive community engagement, helped craft the Comprehensive Plan to

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<sup>1</sup> See Land Use Compatibility Statement (with initial application) for non-fossil fuel infrastructure [https://portlandor.govqa.us/WEBAPP/\\_rs/\(S\(ki2tuubqauguzq3v43z1qngf\)\)/BusinessDisplay.aspx?sSessionID=&did=35&cat=0](https://portlandor.govqa.us/WEBAPP/_rs/(S(ki2tuubqauguzq3v43z1qngf))/BusinessDisplay.aspx?sSessionID=&did=35&cat=0).

<sup>2</sup> Community Involvement Chapter 2 - Partners in Decision Making / Policy 2.1, Environmental Justice / Policy 2.3 and 2.4.



serve as a guide for making difficult decisions like the one before you now. We hope you will turn to it for that purpose.

We appreciate that the City held off on its LUCS determination until a draft of the joint Portland-Multnomah County report on *Impacts of a Cascadia Subduction Zone Earthquake on CEI HUB* was released, which may contain new information relevant to the review. The City should also hold off until a tribal consultation is complete.

Thank you for your time and consideration. We look forward to continuing our collective work to make Portland a better city for all.

Sincerely,



Eli Spevak, Chair (on behalf of the PSC)

Cc: Mayor Wheeler and commissioners Ryan, Rubio, Hardesty and Mapps

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*This letter was issued based on an 8-2 vote of the PSC at its July 27, 2021 meeting.*

