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September 9, 2016

City of Portland Bureau of Planning and Sustainability
Planning and Sustainability Commission
1900 SW 4th Ave, Suite 7100
Portland, OR 97201

Sent via email to: psc@portlandoregon.gov

Re: Fossil Fuel Zoning Testimony

Dear Members of the Planning and Sustainability Commission,

Thank you for the opportunity to offer our comments on the proposed draft of the City of Portland's Fossil Fuel Terminal Zoning Amendments ("amendments"). We offer these comments on behalf of Columbia Riverkeeper and Friends of the Columbia Gorge. Riverkeeper and Friends of the Columbia Gorge recognize that the amendments are still in draft form, and we appreciate and support the revisions the Bureau of Planning and Sustainability (BPS) staff made between the discussion draft and the current proposed draft. As discussed below, we offer further suggested changes that will more fully reconcile the proposed code changes with the City's November 2015 Fossil Fuel Policy Resolution, Resolution # 37168. Riverkeeper and Friends of the Columbia Gorge support the concept of prohibiting bulk fossil fuel terminals and assigning existing fossil fuel terminals the status of a legal, nonconforming use. The proposed zoning code changes offer the flexibility to improve the safety and reliability of Portland's fossil fuel terminals through a non-conforming use Type II process, and they properly reflect the intention of the City's original resolution to limit to the greatest extent possible fossil fuel infrastructure in the City of Portland.

We urge the City to amend the draft zoning code changes to further align the proposed amendments with the original intent of Portland's landmark Fossil Fuel Policy Resolution, Resolution # 37168. Portland's Fossil Fuel Policy Resolution ("resolution") stated that the City would "actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways." The draft amendments come much closer to accomplishing this impressive goal than the previous discussion draft, but gaps remain in the code language that could allow unintended fossil fuel projects – including dangerous oil train terminals – to establish or expand in Portland. For this reason, the proposed amendments do not fully achieve the City Council's intention to prohibit new major fossil fuel infrastructure, and we urge Planning and Sustainability Commission (PSC) members to make modest changes to the proposed amendments that bolster the fossil fuel zoning code proposal.

We appreciate the effort of staff and the PSC to solicit input on zoning amendments that would implement the City's new fossil fuel policy. Columbia Riverkeeper and Friends of the

Columbia Gorge submit the following brief comments to explain the need for stronger language in the amendments that would prohibit new fossil fuel infrastructure in the City of Portland.

I. The amendments should prohibit new bulk fossil fuel terminals.

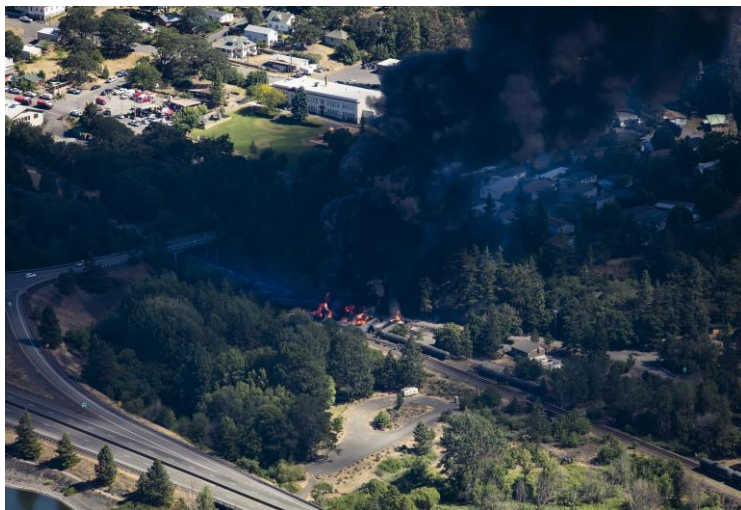
Riverkeeper and Friends of the Columbia Gorge support the proposed amendments' prohibition of bulk fossil fuel terminals. The amendments correctly identify bulk fossil fuel terminals as having the ability to transload fossil fuels and wisely prohibit new facilities with this capability. Proposed fossil fuel code changes Section 33.920.300, "Bulk Fossil Fuel Terminal," states,

Bulk Fossil Fuel Terminals are establishments primarily engaged in the transport and bulk storage of fossil fuels. Terminal activities may also include fuel blending, regional distribution, and wholesaling. The firms rely on access by marine, railroad or regional pipeline to transport fuels to or from the site, and either have transloading facilities for transferring a shipment between transport modes, or have storage capacity exceeding 5 million gallons (or equivalent volume) of fossil fuels. There is minimal on-site sales activity with the customer present.¹

This language is a huge improvement from the discussion draft, and we strongly support the intent to prohibit bulk fossil fuel terminals. However, we remain concerned that the language of the proposed zoning code changes carves out too large an exception for potential new terminals by allowing projects up to 5 million gallons of new storage. Staff considers facilities below 5 million gallons too small to be considered "bulk fossil fuel terminals," but this volume represents almost 120,000 barrels of crude oil – approximately enough for two unit trains of oil.

Portland's resolution was meant to steer Portland away from increased fossil fuel use rather than simply accommodating forecast fossil use by relying on estimates from the fossil fuel industry. Portland's landmark policy can be strengthened by reducing or eliminating the 5 million gallon exception for new fossil fuel storage.

As Northwest residents recently learned first-hand during an oil train derailment, spill, and fire in Mosier, Oregon on June 3rd, 2016, oil trains pose an acute safety risk. The derailment occurred as a result of oil shipments to the U.S. Oil facility in Tacoma, which receives one oil train per week, on average. The City's proposed amendments would potentially allow new crude-by-rail deliveries to the Portland area, with each unit train of oil carrying 2.5 to 3 million gallons of crude oil. The City



Oil Train derails, spills, and burns in Mosier, OR on June 3, 2016.

¹ Fossil Fuel Terminal Zoning Amendments Draft. Page 47.

should eliminate or reduce the 5 million gallon threshold because it is still high enough to accommodate oil trains.

Furthermore, the draft amendments fall short of aligning with Portland's Resolution # 37164 in opposition to crude-by-rail, passed unanimously by City Council on November 4, 2015, which called for the City to oppose any project that would increase oil train traffic through Portland. As currently written, the proposed amendments could facilitate an increase in crude-by-rail traffic through the City of Portland. The City's draft amendments acknowledge that "derailment risks to natural resources, especially along rivers, and to rural communities appear to be significant."² The City should address these risks by prohibiting new crude oil facilities, as the cities of Vancouver, Aberdeen, and Hoquiam have done already. In the alternative, the City should consider lowering the limit for crude oil facilities to below the volume of one unit train, 50,000 barrels³ (2.1 million gallons) or less.

The City of Vancouver passed a new ordinance on July 18, 2016 that prohibits oil storage and handling facilities, oil refineries, and prohibits expansion at existing crude oil facilities. Vancouver's ordinance states that "development of new crude petroleum facilities, petroleum refineries, and expansion of existing crude petroleum facilities is contrary to the health, safety, and welfare of its citizens and business community," and prohibits the expansion of existing crude oil facilities in Vancouver.⁴ Portland should consider a similar approach with respect to new and existing petroleum terminals by either lowering the threshold of what constitutes a "bulk fossil fuel terminal" or prohibiting them altogether.

We also urge the City to eliminate the 5 million gallon exception because it is unnecessary for liquid gas storage, particularly methane ("natural gas"). We urge the City to prohibit new liquefied natural gas (LNG) or gaseous fuel bulk terminals outright in the same manner that the proposed amendments would prohibit bulk coal terminals. The draft amendments indicate that the existing NW Natural Gas LNG plant/terminal has existing storage capacity of 7,000,000 gallons. As noted in our previous comments, neither NW Natural's 2014 Integrated Resource Plan (IRP) nor its 2016 Draft IRP indicate that NW Natural anticipates any increase in storage demand at its Portland LNG Gasco facility. On the contrary, NW Natural's projections show capacity remaining constant at its Portland LNG facility throughout the planning period for the report. Further, NW Natural's Draft 2016 IRP indicates that seismic investigations are ongoing at its Portland facility, a major issue of concern for highly volatile LNG storage:

One additional matter is that **studies are just beginning for each LNG plant** in regard to Oregon's seismic initiative. It is too soon to know what actions may arise from these studies, but recommendations will be directed to reducing the consequences at each plant from a major Cascadia earthquake/tsunami event, such as minimizing tank leakage. There is no intention of making major changes to the plants, so the cost impact is expected to be modest.⁵

² Fossil Fuel Terminal Zoning Amendments Draft. Page 22.

³ Unit trains of oil are typically 90 cars or more in length, often carrying in excess of 60,000 barrels of oil.

⁴ See details in City of Vancouver's Staff Report: http://www.cityofvancouver.us/sites/default/files/fileattachments/city_council/page/20031/08_sr099-16_prohibition_of_crude_oil_facilities.pdf

⁵ NW Natural Draft IRP. 2016. P. 3.24

Where Portland’s fossil fuel resolution called for the City to oppose new fossil fuel infrastructure, BPS’ proposed amendments seem to grant unplanned-for expansions of new LNG storage in Portland. To bring the amendments back into alignment with the resolution, the discussion draft should be revised to prohibit new LNG storage altogether.

Lastly, we encourage the Planning and Sustainability Commission to clarify that facilities approved for one purpose – say, the storage of biofuels – may be limited to that purpose. City permits can carry conditions, and it will be reasonable for the City to condition new or expanded facilities to ensure that liquid bulk storage facilities are not transitioned to use for crude oil or other fossil fuels. The City can accomplish this goal by requiring that new applications for new or expanded facilities be limited by a condition of approval to the purpose for which they are authorized in their applications. In this way, the City’s proposed ban on new fossil fuel bulk terminals fossil can preclude proposals that would circumvent the City’s policy.

II. The Amendments Should Limit Existing Fossil Fuel Facilities and Prevent Aggregation of Projects

Riverkeeper and Friends of the Columbia Gorge support the City’s proposal to identify existing fossil fuel facilities as legal nonconforming use facilities. By assigning existing facilities this status, the City preserves the ability for these facilities to address safety, seismic, and local market response issues while still preserving the City’s ability to achieve the larger goal of reducing reliance on fossil fuels. The City summarizes its approach to existing facilities as follows:

Existing Bulk Fossil Fuel Terminals would become legal, non-conforming uses, which may continue to operate. Expansion would require approval through a nonconforming situation review, which is a Type II discretionary land use review. The Type II procedure is an administrative process with the opportunity for public notice and comment.⁶

Portland’s Climate Action Plan sets forth goals for the City to curb its emissions, and limiting fossil fuel infrastructure will be critical to achieve an 80% reduction in greenhouse gas emissions by 2050 for the City of Portland. The staff’s report regarding the proposed amendments acknowledges that the continued use and expansion of any fossil fuels would hinder the City’s ability to meet this goal, stating, “While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, substituting these fuels for higher-carbon fuels does not begin to approach the goal of an 80% reduction in carbon emissions by 2050 established in Portland’s Climate Action Plan or the State’s 75% goal.”⁷ Accordingly, we support the City’s proposal to require expansion of existing terminals to go through a Type II non-conforming use process to limit fossil fuel infrastructure at existing facilities.

The City is likely to allow bulk fossil fuel terminals that are already operating to continue to do so at their current capacity, but the City may act to limit expansion at existing facilities by adding specific review criteria for nonconforming use review. We ask that the City add to the nonconforming use review the following factors:

⁶ Fossil Fuel Terminal Zoning Amendments Draft. Page 27.

⁷ Fossil Fuel Terminal Zoning Amendments Draft. Page 8.

- Expansion shall not increase greenhouse gas emissions and climate change impacts;
- Expansion shall not increase the risk of fire and/or explosion at either the Bulk Fossil Fuel Terminal Site, or the transportation route used to convey fossil fuels to or from the Bulk Fossil Fuel Terminal, and
- Expansion shall not increase the risk of the release of fossil fuels from either the Bulk Fossil Fuel Terminal Site or transportation equipment or infrastructure used to convey fossil fuels to or from the Bulk Fossil Fuel Terminal, into the environment, the Columbia River or other waterways;

Additionally, we ask that the City consider adding language that prohibits the aggregation of smaller projects in order to avoid the 5 million gallon threshold that defines a “bulk fossil fuel terminal.” By limiting aggregation and adding more stringent criteria to its nonconforming use review, consistent with the City’s resolution, the proposed code changes would not inhibit improvements at these existing facilities that address seismic upgrades, safety improvements, or accelerate the transition to non-fossil energy.⁸

III. Focus on Public Safety, Seismic Upgrades and Reducing Risks at Existing Facilities

The City’s fossil fuel resolution contains clear direction that “City bureaus are directed to examine existing laws, including those related to public health, safety, building, electrical, nuisance, and fire codes, and develop recommendations to address fossil fuels that strengthen public health and safety.” According to the City’s resolution, bulk fossil fuel terminals “pose risks to safety, health, and livability, including mobility of people, other freight, and other commercial vehicles,” and “pose considerable risks in the event of a major earthquake.”⁹ Furthermore, NW Natural has indicated that their own LNG storage is undergoing new seismic reviews. We urge the City to revise its draft amendments to require or incent seismic upgrades at existing fossil fuel terminals.

We urge BPS staff to work with Portland’s Bureau of Emergency Management to develop amendments or future code changes that protect Portland residents, consistent with the direction of the resolution and the comprehensive plan update.

IV. Conclusion

Thank you for the opportunity to comment on Portland’s proposed draft of zoning code amendments to implement Portland’s Fossil Fuel Policy Resolution 37168. Columbia Riverkeeper and Friends of the Columbia Gorge are pleased to support much of the language included in the proposed amendments. With a few modest changes, the City can attain the goals set forth in the original resolution - to prohibit new fossil fuel bulk terminals, limit existing fossil fuel terminals, and strengthen public safety and seismic protections at the City’s existing terminals.

⁸ Fossil Fuel Terminal Zoning Amendments Draft. Page 6.

⁹ Portland Fossil Fuel Policy, Resolution 37168.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel R. Serres', written in a cursive style.

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A handwritten signature in black ink, appearing to read 'Steve McCoy', written in a cursive style.

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