



Oregon Sierra Club

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City of Portland
Bureau of Planning and Sustainability (BPS)
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Comments: Fossil Fuel Terminal Zoning Amendments – Discussion Draft

Dear Mr. Kountz:

To begin with, please accept our thanks to you and your colleagues at BPS for this thorough and useful Discussion Draft on this component of the implementation of Council Resolution No. 37168 and 2035 *Comprehensive Plan* Policy 6.48. We see many virtues to the work your project team has done, and this document (and the follow-up and additional documents to come) will be useful not just to the policy makers, stakeholders, and populace of Portland, but also to many people working on these issues across the United States and around the world. We appreciate your efforts.

However, we request that you take a fresh look at three core aspects to the principles and major definitions underlying these draft zoning amendments. Here are areas where we believe that you have significant misunderstandings, apparently trying to:

- avoid the universality of the public intent, as defined by the Council approvals;
- add inappropriate definitions of applicable terminal size (“large”), which distorts Council intent; and
- most importantly, ignore the deep implications of the baseline policy framework necessary to avoid a “business as usual” approach to the most unexpected and most significant environmental, economic, and social crisis our planet has ever faced: the climate crisis – the fundamental reason for all of this work.

First, we spoke to the baseline policy framework in an open letter delivered to the City Council on July 13, entitled “**No New Fossil Fuels Infrastructure**”: **First, Do No More Harm** (copy attached, and incorporated into these comments by reference). This letter speaks to a straightforward but interlocking four-part schematic that outlines precisely where we are as a global and local political economy: **Keep It in the Ground, Do No More Harm, Reduce the Need, Make the Just Transition**. Here are the outlines of these four components, as provided to the Council:

“1. **Keep It in the Ground**

We now know that our combustion of fossil fuels has moved our global atmosphere and temperature structure into such dangerous territory that civilization is genuinely at risk if we do not make radical reversals in behavior. At least four-fifths of global fossil fuel reserves must be left completely intact, in the ground, and never exploited.

This requirement is completely contrary to modern corporate financial structure, because proven reserves constitute roughly half of the assets (and therefore a major component of share value) of the fossil fuels companies. This is one of the key reasons why business-as-usual policies and procedures are inevitably doomed to failure – for both corporate financial health and planetary social and environmental

health. This has been one key factor in the current financial collapse of shareholder equity in coal corporations.

Acceptance of ***Keep It in the Ground*** is a mandatory first step for both the psychological and political economy revisions we must make for survival. This is the foundation for the other three intersecting components of this basic methodology. Resolution 37168 speaks eloquently to many of the issues inherent in our mandatory recognition of our new reality.

“2. Do No More Harm

Understanding the compulsory physics and chemistry of ***Keep It in the Ground*** leads inevitably to this second principle: don’t make things worse by continuing down the same destructive path. We must begin with our environmental version of the first line of the Hippocratic Oath: ***Do No More Harm***.

This is the required primary set of actions for directly confronting the climate crisis: to get out of this hole, first we have to stop digging. “No New Fossil Fuel Infrastructure” is the easiest way to proceed first. The core of Resolution 37168 – preventing new export and storage infrastructure – falls completely within this principle.

It is imperative that you maintain and defend your policy.

“3. Reduce the Need

Simultaneously, demand reduction is vital to permit us to ***Do No More Harm***. Gradual complete elimination of coal for electrical production in Oregon is now state law. The same goal must be applied to oil and natural gas, urgently. As I noted in my testimony to you on November 12, there is no fossil fuel solution to the fossil fuels crisis.

You must align City procedures and economic governance with this need for both conservation and energy efficiency (which are overlapping but distinct sets of tools). Beyond direct City internal control and external economic governance, you must also push the Portland business communities – especially the fossil fuels companies – and the other governments that overlap with and impact your work to both ***Do No More Harm*** and ***Reduce the Need***.

“4. Make the Just Transition

Finally, underpinning all these efforts must be the recognition that there is no substantive difference among environmental, economic, and social justice. We are engaged in a transition into a full-renewables energy economy, and that will be impossible unless it is done based on justice for all. The urgency of the effort means that coordination of ***Do No More Harm***, ***Reduce the Need***, and ***Make the Just Transition*** becomes the essence of this era.”

Second, we believe your project team has been persuaded to misread the plain language in both Council Resolution 37168 and 2035 *Comprehensive Plan* Policy 6.48. These legally-binding components of Portland’s overall legal framework were, we believe, intentionally crafted by the Council to be as broad as possible – while quite appropriately simultaneously allowing for adequate flexibility in implementation, so as to make implementation feasible.

This is clearly evident in the sensible balance within the first two *Be It Resolved* sections of Council Resolution 37168, and in the elegant simplicity of Policy 6.48:

BE IT RESOLVED, that the 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

BE IT FURTHER RESOLVED, that this Resolution does not restrict:

1. improvements in the safety, or efficiency, seismic resilience, or operations of existing infrastructure;

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2. the provision of service directly to end users;
3. development of emergency backup capacity;
4. infrastructure that enables recovery or re-processing of used petroleum products; or
5. infrastructure that will accelerate the transition to non-fossil fuel energy sources;

Policy 6.48 Fossil fuel distribution. Limit fossil fuel distribution and storage facilities to those necessary to serve the regional market.

Nowhere in these provisions does it say explicitly that any expansion of fossil fuels infrastructure is contemplated, encouraged, or desired. And it is clear from the entirety of Resolution 37168, including the carefully defined *Whereas* clauses in this binding policy resolution, that the Council did not in any way support or encourage any expansion of fossil fuel use in its unanimous approval.

Unfortunately, your draft language redefines “service directly to end users” and “necessary to serve the regional market” in ways that completely undercut the clear intent of the Council. This must be reconsidered and reversed for these zoning amendments to reflect the will of the people of Portland, expressed through the Council.

Finally, as a specific key example of the failure of the draft amendments to follow the universality implicit in both Resolution 37168 or Policy 6.48, your project team has consistently violated both the letter and spirit of our new Portland legal and policy framework by adding a term found nowhere in either: “large.”

See, for example, this paragraph from Discussion Draft page 6 that attempts to explain these proposed amendments in the context of the first Be It Resolved section:

The proposed zoning code changes are a key implementation action of Resolution 37168, adopted November 2015. Addressing the overall direction of the resolution to oppose expansion of fossil fuel distribution and storage infrastructure, this project proposes size standards that restrict development of **large** [emphasis added] new fossil fuel terminals.

This wholly-new concept, “large,” appears nowhere in either the resolution or the policy. We presume that it has been added to the Discussion Draft at the behest of stakeholders who are not interested in the difficult, expensive, and vital work of actually moving Portland out of a “business as usual” model for fossil fuels use, so that we can properly work through our part of the climate crisis.

“Large,” of course, is in the eye of the beholder. It is deceptively simple; a multitude of sins can be contained within it; and – in this crisis – exactly the sort of distortion that we must work to prevent.

The Council’s wisdom in laying down clear guidelines, in great detail, was, we believe, intended to avoid exactly this sort of distortion of the ordinance changes we need.

Overall, therefore, we urge you to reconsider the Discussion Draft based on the three principles outlined above:

- incorporating the universality of the public intent;
- preventing distortion of the Council intent; and
- fully recognizing the core fallacy of a “business as usual” implementation.

Thank you for your consideration.

Ted Gleichman, on behalf of Oregon Sierra Club