



Working Waterfront
COALITION



June 27, 2022

Portland City Council
1221 SW Fourth Ave., Room 130 Portland, OR 97204

RE: Fuel Terminal Zoning Amendments on Remand

Honorable Mayor Wheeler and members of the City Council:

We are writing on behalf of the thousands of worker and employer members of the Columbia Pacific Building Trades Council, Portland Business Alliance, Working Waterfront Coalition and Oregon Business & Industry. Our organizations represent a broad diversity of businesses and organized labor in our city, region, and throughout the state of Oregon.

Our organizations are committed to working with the City of Portland and all stakeholders to develop real solutions to speed up our community's transition to cleaner fuels, and reduce emissions while ensuring we can meet the energy needs of our city and state today and in the future.

We write to express our concern with the city's decision to once again propose a flawed ordinance targeting fuel facilities. The proposal before you is a virtual carbon copy of the 2016 and 2019 ordinances, which the Land Use Board of Appeals (LUBA) declared legally defective on seven counts in 2017 and five counts in 2020.

We are aware that the new proposal contains additional "findings" purportedly to address the legal deficiencies of the 2019 proposal, but the official impact statement makes it clear that no substantive changes have been made.

Since the court's decision in 2020, the first substantive attempt to reach out to the organizations who have successfully challenged the both the 2016 & 2019 ordinance occurred on May 20, 2022. At this meeting, city staff expressed a desire for our organizations to provide possible amendment language that could avoid a third round of litigation. In response to this request, we authorized our attorney to provide redlines to the amendment that, if adopted, would address the ongoing deficiencies in these ordinances. These proposed amendments were provided to city staff, who declined to include them in the ordinance brought before you today.

This decision to bring back an ordinance that has already been rejected by LUBA and Oregon Court of Appeals multiple times, and the failure again to collaborate with the impacted

stakeholders, calls into question the stated rationale and goals of this ordinance. Not only could the current proposal result in another costly legal battle, if implemented, it would hurt the local economy and, in several ways, hinder the city's climate and safety goals.

We respectfully ask the mayor and council to reject the current redo of a legally deficient ordinance, and work with all stakeholders to develop a fact-based proposal that is legal and will support the city's climate action goals. A collaborative approach driven by facts, rather than ideological politics, would support vital infrastructure improvement projects that increase worker safety; reduce greenhouse gas emissions; and mitigate risks posed by earthquakes.

The current proposal plainly violates the City's climate policy on fossil fuel infrastructure in City Resolution No. 37168. Resolution No. 37168 specifies that the City's policy is to exempt needed fossil fuel infrastructure that:

1. Improves safety;
2. Provides service directly to end users;
3. Develops emergency backup capacity;
4. Enables recovery or reprocessing of petroleum products, or
5. Accelerates the transition to lower emission sources.

The proposed ordinance fails to provide exceptions for fossil fuel infrastructure projects that improve safety, develop emergency backup capacity, or accelerates the transition to lower emission fuel sources. The City and State of Oregon have separate plans developing to encourage seismic safety at the terminals, facilitate emergency backup capacity, and transition to lower carbon fuels. The draft ordinance contradicts these efforts and Resolution No. 37168.

In the spirit of collaboration and solution oriented advocacy we have provided the council a redlined version of the ordinance that, if adopted, could avoid further litigation and would actually allow the ordinance to go into effect. After seven years of wasted time and resources, we continue to be perplexed as to why the city refuses to seriously address the legal deficiencies identified by the courts.

We understand the political pressure on public and private sector leaders to take more urgent action to address the growing impacts of climate change. We call on the council to reject this ordinance, which is identical to what was successfully contested by business, industry and the trades in 2016 and 2019, and work with us to identify real solutions.