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Public Testimony: January 24, 2019

Environmental Quality Council
Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

**RE: Tar sands oil in Oregon, and Proposed Major Modification
to Air Contaminant Discharge Permit (05-0023-ST-01)**

Dear Council:

Tar sands oil is considered one of the dirtiest and most dangerous fossil fuel industries and contributes to climate change. Oregon is poised to export this dirty fuel through Port Westward Industrial Park – a rural area in Columbia County. Because Oregon is not prepared for the safe movement of tar sands oil by rail and ship and has not evaluated the impacts of its toxic emissions, I am writing to ask that you conduct a due diligence process regarding the impacts of diluted tar sands oil.

Global Partners, LP, owns Columbia Pacific Bio-Refinery (CPBR) which operates an oil terminal at Port Westward. The facility was originally built and permitted as an ethanol production plant but was sold and is now used as an oil and/or ethanol terminal. No ethanol is produced at the site. CPBR operates under an air contaminant discharge permit which expires on August 1, 2019. Plans for major modifications at the facility, including a switch to diluted tar sands oil warrants a new discharge permit and a public hearing, rather than a renewal of their current permit.

CPBR's major modifications to its transloading facility at Port Westward are described in new subleases and construction projects for a throughput of 1.8 billion gallons of oil per year. The current rail, pipeline, and storage infrastructure is too small to capitalize on this amount of throughput.

Major modifications proposed for the facility which appear to be outside the current DEQ permit include: expansion of an on-site rail lead; construction of 72 additional pumping stations for unloading product; laying four 30-inch pipelines for transfer of product to tanks and ships; and the purchase and reconditioning of 9 storage tanks from Portland General Electric (PGE). I have attached a table that compares description of the facility in the sublease to the current facility infrastructure. I would expect the DEQ to do their own review of all modifications including the VOC limit for diluted tar sands oil.

The current permit (05-0023-ST-01) at Section 11.1 approves construction of the new tank farm.¹ However, the purchase of storage tanks from PGE was not approved and, therefore, appears to be outside the permit.

In 2014, during the review of the current air contaminant discharge permit, concerns were expressed about the possibility of piecemealing the facility. The reviewer wrote in the record about his concerns and is quoted below:

“The Oregon Air Quality program will not allow CPBR to “piecemeal” facility changes over time to avoid federal major source determination. All equipment and emitting activities are, and will continue to be, considered new under Oregon’s program.”²

The record of the reviewer’s concerns for piecemealing is playing out in 2019.

Additionally, in a document titled, Response to Comments (dated August 19, 2014), there is a special notation regarding the permitting of the lighter weight crude and ethanol. The review contains the following very specific information clarifying the understanding between DEQ and the permittee:

“In a letter to DEQ dated May 21, 2014, Brien Flanagan, attorney for CPBR.... stated that “CPBR does not object to DEQ adding a definition to Condition 2.3 in the proposed permit indicating that ‘volatile organic liquid products allowed under this permit are crude oil and ethanol.

....Based on statements made by CPBR in its May 21, 2014 letter, DEQ will revise Condition 2.3 of the permit with the following or similar language to limit approved volatile organic liquids: “*volatile organic liquid products allowed under this permit are crude oil and ethanol.*”³

On December 12, 2018 the Port of St. Helens Commission approved a change in API weight to a range of between 18 to 44 which is the range for the diluted tar sands oil. This weight change is another major modification of uses at the CPBR facility.

In 2008, the facility was constructed as a corn processing plant for producing ethanol and then over the last five years CPBR is “piecemealing” the facility into a fuel terminal capable of receiving and shipping tar sands oil.

In short, I am asking that DEQ to consider this major modification as an issue for a new permit in order to create a clear record of what is actually permitted after conducting a top to bottom review of the facility. Locating a major tar sands oil terminal adjacent to the Columbia River requires a new contaminant permit and a new spill response plan

¹ Oregon DEQ Air Contaminant Discharge Permit (05-0023-ST-01) Section 11.1. Construction Activities. Full text is shown on Attachment 1

² Dave Monro, DEQ NW Region AQ Manager letter dated December 11, 2014 to Petitioners (NEDC, Center for Bio. Diversity, Neighbors for Clear Air, CR and Sierra Club) – page 3, paragraph 1.

³ Response to Comments – Proposed Air Contaminant Discharge Permit (05-0023-ST-01) for Cascade Kelly Holdings LLC, dba Columbia Pacific Bio-Refinery – Dated August 19, 2014, page 10, paragraph 2

The Council can impact the assault of tar sands oil on Oregon through the state's new Cleaner Oregon Air legislation and rulemaking. In addition, I believe an environmental assessment of the Lower Columbia River to evaluate the cumulative impact of industrial activities along both sides of the river is warranted and is described more specifically in the attached letter dated December 31, 2018.

If you have questions, please reach me at plich@comcast.net or phone 503-369-6091.

Sincerely,

Paulette Lichatowich

Attachments:

Attachment I. Comparison of major modifications to the current CPBR facility.

Attachment II. Letter to Congressional Delegation, December 31, 2018

The following table demonstrates a lack of consistency between long term planning in the current DEQ permit storage capacity and Third Amended Sublease between the parties. DEQ can clarify the features and quantities permitted at the CPBR facility through a new DEQ permit.

Comparison of major modifications to the current CPBR facility.

Existing Facility Infrastructure	Major Modifications to Facility Infrastructure*
2 storage tanks with capacity of 200,000 barrels	9 older storage tanks to be purchased from PGE and reconditioned for heavy crude oil. (with capacity of 1.2 million barrels) Section 11.1 of current DEQ permit lists the capacity of 4 new storage tanks with a capacity of 432,000 barrels. However, amended sublease approves the construction of 6 new storage tanks with capacity of 720,000 barrels. <i>Clarification needed.</i>
24 pumping stations for unloading and transloading	Construct 72 additional pumping stations for a total of 96 pumping stations for unloading heavy crude oils and ethanol.
	Construct new Rail Lead No. 2 for efficient movement and processing of trains.
	Construct up to 4 additional pipelines, each up to 30 inches in diameter, within the boundaries of the pipe line easement.
Berth 1	New piping bridge at Berth 1

Authorization for capacity of tanks in current DEQ permit. Air Contaminant Discharge Permit (05-0023-ST-01) at Page 31:

11.0 AUTHORIZATION TO CONSTRUCT

11.1. Construction Activities

This permit allows the permittee to construct and operate the following listed additional emission sources to be used at the transloading facility:

- a. Four (4) new 108,000-barrel (4.5 MMGal) internal floating roof volatile organic liquid storage tanks;
- b. Two (2) new 36,000 gallon closed-system process tanks (pressure vessels);
- c. One (1) vapor combustion unit (VCU); and
- d. Pumps, piping, and other ancillary equipment necessary to support the new tanks and VCU.

*Text from recent sublease agreement: Third Amendment to Amended and Restated Sublease, between Port of St. Helens, Cascade Kelly Holdings, LLC doing business as Columbia Pacific Bio-Refinery and Portland General Electric, January 2017 at Page 13.

Tank Construction - Construction, maintenance, operation and use of up to six (6) additional storage tanks with a maximum combined storage capacity of 720,000 barrels, with no single tank having a storage capacity in excess of 150,000 barrels, and up to 2 additional process tanks with a maximum capacity of 42,000 gallons each, and a secondary containment berm in the locations depicted in Exhibit A5 (the "Tank Area"). Such additional storage tanks and required secondary containment berm must be located on the Land.

To: Honorable Jeff Merkley, Oregon U. S. Senator
Honorable Ron Wyden, Oregon U. S. Senator
Honorable Suzanne Bonamici, Oregon Congresswoman
From: Paulette Lichatowich and Jim Lichatowich, Columbia City, OR
Date: December 31, 2018

I am writing to update you about industrial development in the Lower Columbia River. Fossil fuel infrastructure in the Lower Columbia River is creating an industrial sacrifice zone through the cumulative impacts to the environment along both sides of the river. It's important that our congressional delegation insure that this activity comply with all federal laws. The development of an industrial sacrifice zone involves two states which means it would be appropriate for our congressional delegation to require federal action in the form of a comprehensive environmental assessment of the developments along the Lower Columbia River.

The lower river is like the bottom of a funnel. All the threatened and endangered salmon in the upper river must pass through this narrow passageway in order to reach the lower river estuary and the Pacific Ocean. A spill of sinking tar sands oil will be devastating to salmon that must pass through the lower river bottleneck during the downstream migration of juveniles and during the upstream migration of adults to their home streams.

On December 8, 2018, we wrote to Senator Merkley about the planned expansion of shipments of new types of oil to the docks near Clatskanie, Oregon at Port Westward. We spoke about the proposed lease agreement between the Port of St. Helens, Portland General Electric and Global Partners of Waltham, MA to allow a different weight of oil to be shipped via unit trains to this site for transloading onto ships.

On December 12, that lease agreement was approved by the Port of St. Helens Commissioners to allow heavier crude oils with a range in API weight of 18-44. This range of oils encompasses solvent diluted tar sands oil. It appears to be a reasonable certainty that steps have been set in motion to expand the former Cascade Grain Ethanol Plant into a much larger tar sands oil terminal. This oil terminal will be like the Tesoro oil terminal rejected in 2018 by the Port of Vancouver.

In addition, on December 28, 2018 the Oregon Land Use Board of Appeals remanded for the second time, the Port of St. Helens' application to rezone 837 acres of agricultural land to resource industrial in the Port Westward area along the Columbia River.

The combination of expansion of rail shipments of tar sands oil and the desire to rezone ag lands to industrial at Port Westward is a bold step by the port district to create a huge industrial area. The Cascade Grain Plant at Port Westward was originally built to produce ethanol, then was transferred to Global Partners for storage and transloading of crude oil. This is an example of being built for one use and then changed to a different use without meaningful public hearings. It's important to point out this type of fossil fuel industrial development has been rejected by the public on both sides of the river, many times.

The cumulative impact from industrial development on the banks of the Columbia including the reasonably foreseeable impact from two methanol refineries, at Port Westward and the Port of Kalama (only a few river miles apart) must be considered an attack on the endangered salmon species of the entire Columbia River Basin because of the funnel effect of the lower river.

Animals are sustained by webs of ecological relationships and they become endangered when those relationships unravel. The kind of developments proposed for the Lower Columbia River has far reaching implications to maintenance of ecological relationships which may impact animals over great distances.

The life sustaining relationship between the endangered Southern Resident population of Orca whales and endangered wild Pacific salmon vividly demonstrates one of these important ecological relationships. The extinction risk to Orca whales is described in a new report entitled, *Emergency measures on both sides of the border required to save Southern Resident killer whales*.ⁱ The cumulative impacts of industrial development in sensitive areas along the lower river is adding to the risk of extinction of endangered species.

Our concern for cumulative impacts is based on protection of the environment. As defined in Federal law as (see 40 C.F.R., 1508.7); “*Cumulative impact* is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

In addition, for NEPA purposes, an impact need not be certain—or even likely—to occur to be “reasonably foreseeable.” Decision-makers must look at proposed projects, to determine if such projects are reasonably foreseeable. In this case, an environmental assessment of the cumulative effects of the industrial development of the lower river corridor is an urgent need.

In the issue brief titled, *Next Frontier for Dangerous Tar Sands Cargo: The Pacific Northwest*, the authorsⁱⁱ warn that: “This tar sands invasion has major ramifications for the entire West Coast. It requires a strong response from decisionmakers who must recognize the critical links between proposed tar sands infrastructure and strong comprehensive climate policies, lowering oil consumption, and expanding clean transportation solutions.”

To turn the tide before the Lower Columbia River is damaged, each generation has a responsibility to work toward a better future. We should recognize the problem early so we don’t harm our environment beyond the possibility of restoration.

Congressional action for an environmental assessment of the Lower Columbia River to evaluate the cumulative impact of industrial activities along the lower river is an urgent need for saving the endangered salmon species and water quality of the river for the benefit of the Pacific Northwest.

If you have additional questions or are interested in learning more about the local citizen groups who are working to protect the Columbia River, we can be reached at 503-369-6091.

This is an open letter which will be sent to news media outlets.

ⁱ Wild Fish Conservancy and Raincoast Conservation Foundation. August 2018. “Emergency measures on both sides of the border required to save Southern Resident killer whales.” <http://wildfishconservancy.org/WFCRCFEmergencyMeasuresforSRKW.pdf>

ⁱⁱ 350 Seattle and eleven others. April 2015. Issue Brief: “Next Frontier for Dangerous Tar Sands Cargo: The Pacific Northwest.” <https://www.lclark.edu/live/files/19387-2015-05-05-nrdc-next-frontier-for-tar-sands>.