



State of Oregon Department of Environmental Quality

Hearing Officer's Report and Response to Comments

Date: June 30, 2020

Hearing Officer: Steven Dietrich

Company Name: Cascade Kelly Holdings LLC, dba Columbia Pacific Bio-Refinery

Permit No.: 05-0023-ST-01

Application No.: 030770 and 031160

Background

Cascade Kelly Holdings, LLC, applied to DEQ for a renewal of and modification to a Standard Air Contaminant Discharge Permit for a volatile organic liquid transloading facility, located at 81200 Kallunki Road, Clatskanie, Oregon. Cascade Kelly Holdings LLC, does business as Columbia Pacific Bio-Refinery (CPBR or the permittee). CPBR is currently permitted to transload up to 1,839,600,000 gallons of volatile organic liquids (VOL) per year with the permit defining VOL as crude oil and ethanol. The modification will add renewable diesel as a VOL.

DEQ prepared a draft Air Contaminant Discharge Permit (ACDP) and proposed it for public review and comment in a public comment period from April 10, 2020, through June 5, 2020. In addition, DEQ held a virtual online public information meeting and public hearing for the proposed permit on May 13, 2020.

This report and Response to Comments provides DEQ's responses to the public comments submitted during the comment period and public hearing.

Public comment

DEQ received 2,427 written comments and 10 oral comments from individuals supporting or opposing the proposed permit. Comments received during the public comment period as well as comments received at the public hearing are summarized or stated below. DEQ responses follow each comment or group of comments. Most of the comments and the public input received by DEQ were focused around common concerns and perceptions. Where similar comments were provided by multiple persons, DEQ has summarized or grouped the comments/concerns. In some cases, the commenters refer to "Global", "Global Partners", or "Global, LP" which is the controlling shareholder of Cascade Kelly Holdings, LLC.

A. Comments related to crude oil operations at the transloading facility.

1. **Summarized comment:** *Remove crude oil entirely from Global's air permit. DEQ should not approve air pollution for an oil transloading facility.*

DEQ response: DEQ issues ACDPs to facilities that meet permitting requirements, and may not discriminate between facilities based on the products they handle or use, or the activities they undertake—other than as air permitting rules apply to such products and activities. CPBR has demonstrated that it meets DEQ air permitting requirements. The Plant Site Emission Limits (PSELs)

are based on CPBR activities associated with the transloading of crude oil. The PSELs were set as part of CPBR's August 14, 2014, ACDP and CPBR did not request any reductions in their PSEL and did not request the removal of crude oil from Condition 3.3. of the proposed permit. Permit requirements must have basis in rule; and DEQ cannot impose more or less stringent requirements on a facility without this regulatory basis.

2. **Summarized comment:** *Include volume limitations specific to each of the allowable products. As currently drafted, the permit allows Global to transload up to 1.8 billion gallons of product per year with nothing to prevent Global from reaching that limit solely with crude oil.*

DEQ response: CPBR's PSEL for volatile organic compounds (VOC) is based on the transloading of 1,869,900,000 gallons of crude oil, which was the transloading throughput limitation in CPBR's 2014 ACDP. ACDPs limit emissions from a source and provide all applicable monitoring, recordkeeping, and reporting so that the source can demonstrate compliance with the applicable limitations. CPBR has the authority to operate (e.g., transload) under several differing operational scenarios. Any further restrictions to CPBR's operations must be based in rule, and there is no rule that requires any further limitation on the amount of crude oil that CPBR may transload.

3. **Summarized comment:** *Exclude translocation of crude oil from this permit because crude oil transloading is in direct conflict with Governor Brown's 2020 order (EO 20-04) on climate change.*

DEQ response: Governor Brown's March 4, 2020, Executive Order (EO 20-04) directed state agencies to enact plans to reduce greenhouse gas (GHG) emissions at least 45% below 1990 levels by 2035 and at least 80% below 1990 levels by 2050.

DEQ is beginning a public process to explore how responses to the many important directives from the executive order (EO) to DEQ and the Environmental Quality Commission (EQC), DEQ's governing body, will be integrated—in the future. However, there is nothing specific in the EO to suggest DEQ limit or adjust, at this time, the process for permitting or renewing permits in the manner these comments suggest. Instead, DEQ is developing new and expanding existing GHG reducing programs to be implemented consistent with the specific directives to DEQ and the EQC. DEQ must issue this ACDP under its current rules.

4. **Summarized comment:** *Land use planning should not be allowing increases in infrastructure to support growth of fossil fuel industries.*

DEQ response: Land use permitting for CPBR is governed by Columbia County. The proposed permit renewal does not approve of the construction of any new physical infrastructure. All emissions units in the proposed permit were approved for construction in the initial 2014 permit or through the Notice of Intent to construct (NC) process, which meet Columbia County's land use rules. All NCs submitted by CPBR are detailed in the review report.

5. **Summarized comment:** *DEQ Must Remove "Operating Scenario #2" from the Permit because on May 15, 2020, Portland General Electric (PGE) informed the Public Utility Commission of Oregon that "the transaction between Global and PGE for the purchase and sale of the Beaver [Tank Farm] has been terminated."*

DEQ response: The use of the PGE tank farm by CPBR was approved by DEQ on April 26, 2017, through a type 2 NC. Even though the commenters presented documentation that indicates the transaction will no longer occur, DEQ regulations still allow the proposed operational scenario.

6. **Summarized comment:** *DEQ should not allow Global to establish an oil-by-rail terminal under the guise of an ethanol facility.*

DEQ response: The proposed permit is to regulate air emissions from a transloading facility, which is permitted to transload crude oil, ethanol, and renewable diesel; not exclusively ethanol.

7. **Summarized comment:** *In 2018 Port Westward commissioners approved a modification to Global Partners' lease agreement to permit the transloading of heavier grades of crude consistent with tar sands crude, which is a much more toxic product. DEQ's proposed permit does not account for emissions.*

DEQ response: The facility's PSELs are based on the properties of Bakken crude oil and associated potential air emissions. If CPBR chooses to transload a different type of crude oil they will need to evaluate the change in operations and air emissions, to stay within the limits of the current ACDP. If CPBR needs to modify its facility to handle different material, then it would have to submit an appropriate NC to DEQ for review, prior to construction.

B. Comments related to oil trains

8. **Summarized comments:** Comments regarding the safety and necessity of regulating Oil Trains:
- a. *The permit, as drafted, will facilitate the expansion of oil train traffic through Portland, the Columbia River Gorge National Scenic Area, and Columbia County at great risk to the communities along the rail routes and near the facility.*
 - b. *Understand the clear danger these trains represent to the residents of the Gorge and the much larger economic stream that flows through it in 184 and those same rails.*
 - c. *I spent a half hour near an oil train, and subsequently I had an asthma attack and trouble breathing for a week. This pollution is unbelievably toxic---and if it gets in our water supply, we won't recover.*
 - d. *Wordings should also include the costs to towns, cities and counties along the route to be paid an annual sum to support the people and the lands that are impacted by the toxins released as these trains travel through these areas along with complete and total cleanup costs for environments impacted by them.*
 - e. *Have you ever been to the small town of Rainier OR? Where the trains roll down A Street. Within only a few hundred feet of the front doors of our homes, post office, bank, hardware store, City Park, little league field, senior center and senior housing? If not, please come check it out and imagine what an oil train accident there would do to us. The track cuts the senior center and senior housing off ENTIRELY from ALL ROADS. No ambulance can get through when trains roll through. With oil trains that are a mile long, and take 5-7 minutes to cross, that's the difference between life and death for someone having a heart attack or stroke.*
 - f. *Oil trains should not be traveling through densely developed urban areas.*
 - g. *Please take steps not only to curtail rail deliveries to Port Westward but all oil train passage through metropolitan areas.*
 - h. *I urge DEQ to begin limiting the transfer of oil from foreign countries (Canada) through Oregon and Washington.*
 - i. *Consider carefully the possible loss of human life, and also possibility of serious injuries, perhaps requiring long-term care of multiple individuals, as a result of another crash such as occurred at Mosier.*
 - j. *No hazardous materials should be shipped by train (or driven in trucks) through communities. Dangerous trains and trucks should be required to reroute to safer locations and cover the real cost of the material development and use.*

- k. *I am concerned that increasing oil trains will put communities along their route in danger, as well as clean water, salmon and all the wildlife that depend on them. Biofuels contain their own risks and hazards and the Mosier derailment was a wake-up call.*
- l. *You must consider the significant health risks their current proposal and on-going plans will pose to the areas near the rail line.*
- m. *Oil trains are reckless. Remember what happened in Mosier, Oregon 2016. An oil train was derailed, spilled and burned, yet the oil industry still schemes to increase oil train traffic through the region. These trains — which can easily explode when they derail — pose unacceptable risks to public safety, health, and clean water.*
- n. *Just to scare yourselves, walk under some of the bridges along the Columbia on either side. Many are in states of neglect that should prohibit their use.*
- o. *If you have ever stood next to one of these oil trains, as I did, you would be outraged at their emissions. At ten feet, they affect one's breathing. After a half hour of contact, I had severe coughing for days. I would further request that no extreme hazardous chemicals nor contaminated radiation materials be moved or relocated thru this corridor.*
- p. *We need to move forward with a safety-first basis, not profit and the ease of business as usual-first basis. Especially considering the ensured environmental dangers and degradation of oil and fossil fuels, on people, habitats, and the climate (that we are ever-increasingly getting further from saving).*
- q. *The air quality permitting process has inadequately assessed Air quality impacts on upstream and downstream communities and from mobile sources of air pollution.*
- r. *As a resident of Mosier, whose home purchase process coincided with the oil-train derailment there, I am deeply concerned about more oil cars passing through the Columbia Gorge. On almost any other summer day the west wind could have been blowing 30 mph. The fire would have been unstoppable before reaching The Dalles. Furthermore, in many, many other stretches of the railroad, the track is on fill with water on both sides—unreachable and any spill would go directly into the river, resulting in immeasurable harm for miles downstream.*
- s. *I drive along I-84...the railroad tracks along the Gorge were not built for the weight of oil train cars. It's only a matter of time.*
- t. *We have already seen the damage that can be done by crude oil fires on train tracks and don't need any more crude oil traffic in this fragile area.*
- u. *Please - prohibit the transport of crude oil by global partners through Portland, Vancouver, Columbia River gorge national scenic area, and Columbia County. The risk is far too great for our local communities as well as the planet when this oil is refined and burned.*
- v. *The permit will facilitate the expansion of oil train traffic through the Columbia River Gorge National Scenic Area, and will degrade a global treasure. This is an area that I have grown up hiking in, boating on the river, and simply taking domestic and international visitors to sight see.*
- w. *I oppose all use of resources of the commons, highways, rail, rivers and even the air we breathe, to be corrupted and made hostile for life on Earth, to sell made-poisonous fossil energy, extracted by means that pollute forever shale lands controlled by complicit public and private actors, disregarding public will.*
- x. *Pendleton has two main rail lines through the middle of town with an average of 54 unit trains running 30 MPH. We rarely even notice Global's trains when combined with other rail traffic, in fact the local runs of logs in and empty rail cars out from Rainier have more effect on daily traffic than occasional Global Partners tank cars which run nights or early morning hours before heavy traffic starts on highway 30.*

- y. *After years of living in Columbia County I have learned that residents are brain dead concerning rail safety. On a regular basis people stop on the tracks at the Gable Road/Wal-Mart rail crossing; each afternoon pedestrians trespass onto the active rail yard to cross and shop at Skinny's and Burgerville; people listen to music on their cell phone thru ear pods and walk in to traffic and onto the rails; and local communities build new schools and businesses along the rail line yet complain about children and community safety.*

DEQ response: Although there are some Clean Air Act requirements related to emissions from the transportation sector, including in some instances, from trains, in general, DEQ does not have authority to regulate trains or railroad activities. Trains are regulated by the United States Department of Transportation Federal Railroad Administration and the Oregon Department of Transportation Rail Safety Division.

DEQ's permitting action and authority is confined to the equipment and activities of the CPBR stationary source that emits air contaminants. The permit proposed for issuance to CPBR is an ACDP; its content is specific to the regulatory requirements of DEQ's stationary source air quality program. While public health and safety are elements of DEQ's authoritative concern, DEQ is confined to our ability to regulate air contaminant emissions from the source under our regulatory authority. DEQ's authority in this permitting action is defined within the Oregon Administrative Rules. DEQ reviewed the CPBR facility's operations and design in a manner consistent with this defined regulatory authority. Our review did not find the facility's current or proposed operation to present an imminent danger to human health or the environment.

CPBR is regulated under the Oil Spill Contingency Planning program and DEQ's Emergency Response Section is beginning to regulate high hazard rail routes under new legislation approved in 2019. The high hazard rail route program will regulate the rail lines and require the companies which run them to follow similar rules that CPBR follows to prevent and respond to spills at their facility. Another part of this program is the preparation of Geographic Response Plans which will evaluate the environmental, cultural and community hazards of any potential oil spill, and plan the equipment and tactics DEQ would use in the event of a spill.

No applicable requirements associated with the Air Quality program pertain to the commenters' points of concern. The comments raise points and concerns outside of DEQ's authority and so, DEQ cannot act to deny or modify the permit as requested.

9. **Summarized comment:** *Prohibit oil trains with vapor pressure above 9 psi (pounds per square inch). The higher the vapor pressure, the more likely a train will explode if it derails.*

DEQ response: As stated in response to question category 8, DEQ does not have authority to regulate vapor pressure in train cars. At the facility itself, Condition 3.4. of the draft permit limits the monthly average of the true vapor pressure of VOLs stored on site to 11.12 psi, which corresponds to an applicability threshold in New Source Performance Standard (NSPS) Subpart Kb (40 CFR Part 60, Subpart Kb). All crude oil emission calculations for CPBR are based on a vapor pressure of 11.12 psi and the corresponding air emissions are below the major source threshold. Without a basis for a reduced maximum vapor pressure or a specific request from the permittee, this limit would be arbitrary. Permit requirements must have basis in rule; and DEQ cannot impose more or less stringent requirements on a facility without this regulatory basis.

C. Comments related to climate change

10. **Summarized comments:** Comments regarding Climate Change impacts:

- a. *This project should not be approved unless DEQ requires risk bonds of \$6 billion and an annual fee equal to the social cost of carbon from the end use.*
- b. *Expand the CO2 analysis to include drilling through burning from all possible oil fields.*
- c. *So when you are analyzing a facility like this for greenhouse impacts and greenhouse gas emissions, you should be including the end result emissions of the fuel they're processing, not just the emissions that are going to be happening directly at the site, otherwise you're not actually analyzing what the greenhouse gas impacts and climate change impacts from this facility are going to be.*
- d. *The air quality permitting process has inadequately assessed Net impact on global greenhouse gas (GHG) emissions.*

DEQ response: DEQ's authority is defined within Oregon's Air Quality programmatic rules, most of which are contained in the EPA-approved State of Oregon Clean Air Act Implementation Plan which defines how the Clean Air Act is implemented in Oregon. This air quality permitting action is confined to the CPBR stationary source's air contaminant emissions. When DEQ writes an Air Contaminant Discharge Permit it must include all applicable requirements of Oregon's Air Quality program in the respective permit. At the time of this permit action, as it pertains to these comments, CPBR is subject only to GHG monitoring and reporting requirements under the GHG program. The permit includes a site-specific PSEL for GHG emissions in accordance with OARs 340-216-0066(3)(b) and 340-222-0040. DEQ does not have authority to influence or regulate fossil fuel extraction, shipment, or end-use related activities in this permit action. Any future new applicable GHG regulations adopted by the EQC will be applied to this facility in the appropriate manner and as defined by the EQC in rule. DEQ drafted the CPBR permit to appropriately address all applicable requirements to which this facility is subject and has made no changes to the permit in response to this comment.

11. Summarized comments: Comments regarding energy development:

- a. *As countries across the world divest from fossil fuels in the wake of COVID-19 and move towards renewables, Oregon should do the same.*
- b. *Right now oil prices are so depressed, there is no point in continuing to produce the dirtiest form right here in North America. We are making ourselves into a third-world country instead of being pioneers in renewable energy.*
- c. *This is the time to advance wind and/or solar energy.*
- d. *Any policy or action that promotes any fuel source other than 100% sustainable and clean sources such as solar and wind, is criminally negligent as it knowingly increases carbon emissions and there accelerates climate change and the degradation of current and future American's resources, health and prosperity.*
- e. *It is incumbent upon us as citizens of the planet to discourage ANY additional infrastructure or facilities permitting that furthers or encourages fossil fuel development. This is especially true since we lack any coherent plan to transition from fossil fuels to less GHG emitting technologies.*
- f. *This project extends and expands the use of fossil fuels, the effects of which are damaging our entire planet with fires, flooding, drought, crop failures, species extinctions and depletion of natural resources through global warming.*
- g. *I urge DEQ to be behind the shift away from fossil fuels that is both overdue and urgent.*

DEQ response: DEQ does not have the authority to choose which types of projects or industries are appropriate for economic development in an area. DEQ evaluates the type of activity or activities proposed for a certain facility regarding air emissions. If the facility can meet all applicable

requirements in current Oregon environmental law and regulations, DEQ will issue an air permit and continue to monitor the facility for ongoing compliance.

12. **Summarized comment:** *The permit must require CPBR to report annual actual GHG emissions from the site into Oregon's GHG Facility Emissions database.*

DEQ response: Reporting of GHGs in accordance with OAR chapter 340, division 215 is required for sources that have actually emitted 2,500 or more metric tons of GHGs in any given year (with some exceptions). The CPBR transloading facility has never emitted more than 2,500 metric tons of GHGs and therefore is not required to report GHGs under OAR chapter 340, division 215. Requiring CPBR to report is contrary to DEQ's regulations and would be arbitrary and capricious. However, the proposed permit requires CPBR to report 12-month rolling GHGs emissions as part of their annual air emissions report.

D. Comments related to CPBR's compliance with applicable regulations

13. **Summarized comments:** Comments related to CPBR and Global, LP's compliance history:
- a. *Global Partners has violated its permits on numerous occasions, including releasing more air pollution than permitted in order to maximize profits.*
 - b. *Global Partners has a long history of violating permits by increasing the amount of chemicals and fossil fuels handled at their terminals without giving notice to regulators.*
 - c. *I want to remind everyone here that Global has already violated its permits with the Port Westward facility here in Oregon. In 2013, Global Partners bought the Columbia Pacific Bio-Refinery as an ethanol facility. Quietly and without a permit, they changed its operation to handle crude oil with almost no public notice or process. DEQ fined the company and then granted this permit that's at issue today despite enormous public opposition. DEQ received numerous comments claiming that Global, LP has a poor record of safety and environmental compliance and should therefore not be granted a permit.*
 - d. *Global Partners has a long track record of air quality and safety violations.*
 - e. *There are numerous examples of Global Partners being disingenuous in their actions in other parts of the country and there is no reason for us to trust them here (see specific examples in report by Center for Economic Sustainability). Furthermore in Maine instead of direct testing, GP self-reported used a formula developed by the oil industry using estimated lower vapor pressures that resulted in vastly lower emissions reports than the reality of actual emissions.*
 - f. *I remind that a farming person at Clatskanie ratted on Global Partners. The wheat grown anywhere in the Pacific Northwest could never be stock for bio-fuel. Global Partners lies at every turn. Global Partners was believed by Oregon DEQ against almost-universal public condemnation, after the 7/24 hearing. It is time to stop this evil collusion with greedy investor-liars.*

DEQ response: It is DEQ's responsibility to write the proposed permit to address all Air Quality regulatory requirements that are applicable to the CPBR facility. To properly do so, the proposed permit must include appropriate and sufficient monitoring, recordkeeping, and reporting requirements to allow CPBR and DEQ to verify the company's compliance status. DEQ staff also perform on-site inspections, both announced and unannounced, to ensure that CPBR is complying with all applicable permit requirements. DEQ has not observed any violations at CPBR (neither the transloading nor ethanol production facility) since 2014.

14. **Summarized comments:** Comments related to independent monitoring:

- a. *Please mandate independent monitoring if any crude oil is transloaded.*
- b. *This project should not be approved unless DEQ requires independent monitoring of emissions.*

DEQ response: DEQ reviews all reports and notifications submitted by CPBR. The self-monitoring and reporting requirements in the permit are representative of most requirements for all air, water, and land permits issued by DEQ and the USEPA. DEQ staff also perform on-site inspections to ensure that CPBR is complying with all applicable permit requirements. Periodic source testing (which tests air emissions at the source) is performed by an independent 3rd party company, and DEQ staff can witness this testing on site.

15. **Summarized comment:** *A violation of the DEQ permit should be cause for Global's lease termination.*

DEQ response: DEQ's Office of Compliance and Enforcement has a set process used to determine the appropriate response for non-compliance with applicable permit conditions and environmental laws. Termination of a facility's lease (e.g., revision of contracts that CPBR has with Port Westward) is not within DEQ's enforcement authority.

16. **Summarized comment:** *Global has yet to address air pollution and surface water on-going environmental risks and has failed to adequately plan, stock, or supply adequate first responder resources for a spill or fire, whether by accident or negligence, earthquake or dike failure.*

DEQ response: For this action, DEQ is charged with writing an Air Contaminant Discharge Permit that includes all applicable requirements associated with the stationary source of air contaminants. Permit requirements must have basis in rule; and DEQ cannot impose more or less stringent requirements on a facility without this regulatory basis. DEQ's Air Division does not have regulatory authority to include surface water or first responder resourcing conditions into an ACDP.

CPBR has an approved oil spill contingency plan under DEQ's Emergency Response program which DEQ uses to evaluate the company's ability to respond to an oil spill under OAR chapter 340, division 141 and ORS 468B.300. DEQ conducts regular drills to evaluate CPBR's emergency response capabilities. These drills are designed to test CPBR's knowledge of the Incident Command System, the Northwest Area Plan, and the capabilities of their equipment as it is deployed in the field. Tabletop exercises are designed to test the company's command and control capabilities once per year, and twice per year CPBR conducts equipment deployment drills, which DEQ can initiate unannounced. DEQ evaluates their personnel, training, equipment, tactics, emergency notification procedures and the company's understanding of how the physical and chemical properties of the oil or ethanol will behave if spilled into the Columbia River.

17. **Summarized comment:** *Global should be required to prove financial resources with evidence of sufficient insurance to address any spill, explosion, fire, or damage.*

DEQ response: For this action, DEQ is charged with writing an Air Contaminant Discharge Permit that includes all applicable requirements associated with the stationary source of air contaminants. Permit requirements must have basis in rule; and DEQ cannot impose more or less stringent requirements on a facility without this regulatory basis. DEQ's Air Division does not have regulatory authority to include financial assurance conditions into an ACDP. However, DEQ's regulations for Oil Spill Contingency Planning and Fees do require financial responsibilities per OAR 340-141-0230 (2).

18. **Summarized comment:** *All Global entities should be liable for any Global Partners' entity causing an event, and Global Partners' management should be held directly liable for all environmental accidents.*

DEQ response: The permit holder, Cascade Kelly Holdings LLC is the legal entity liable for enforcement related to violation of the proposed ACDP.

E. Comments related to facility operations

19. **Summarized comments:** Comments related to switching the VOL transloaded:

- a. *The applicant has already requested a “lease amendment” from its original contract, and appears to be heading down a slippery slope of one change request after another, as if they either: a.) can’t make up their collective minds what direction to take; or b.) they’re “wedging” a little at a time into territory that wouldn’t be acceptable to citizens/residents, with Columbia Pacific hoping no one will notice.*
- b. *Given the current health and financial state of affairs in Oregon and the nation, this isn’t the time to pander to a dodgy applicant on a dodgy project. If the permit is denied, Columbia Pacific won’t be able to operate their diesel bio-refinery—which is probably the best overall choice for Oregon’s environment.*
- c. *The community needs durable protection against touting one substance and switching to crude oil.*
- d. *If Global Partners wants to ship ethanol, then fine. Give them a permit that specifically allows them to transport and transload ethanol and only ethanol. If they want to have a permit for a facility that handles another drastically different product, they should have to get a completely separate permit for that kind of commodity. These commodities are not interchangeable.*
- e. *Regarding renewable diesel – what happens if they don’t have enough supply, the permit needs to prohibit fossil substitutes?*

DEQ response: ACDPs limit air emissions from a source and provide all applicable monitoring, recordkeeping, and reporting so that the source can demonstrate compliance with the applicable limitations. CPBR has the authority to operate (e.g., transload) under several differing operational scenarios, which can include different products. DEQ staff also perform on-site inspections, both announced and unannounced to ensure that CPBR is complying with all applicable permit requirements. See also, response to question category 1, above.

20. **Summarized comment:** comments regarding permitting the transloading and ethanol production facilities separately:

- a. *DEQ should disallow any overlap between tank usage for ethanol production, oil transloading at Global's facility.*
- b. *What is the justification for making these two separate permits when you're having the same equipment being used and how is that going to work?*

DEQ response: OAR 340-200-0020 (166) defines “Source” as: any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all air contaminant emitting activities that belong to a single major industrial group, i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, or that support the major industrial group. On July 26, 2012, DEQ determined that the crude oil

transloading operation was considered a separate source because the transloading operations do not support the ethanol facility's primary activity and because both operations fall under different SIC group classifications (51 vs 28). This point was repeated in the March 27, 2014, Notice of Civil Penalty Assessment and Order.

OAR 340-200-0020 (57) defines "emissions unit" as any part *or activity* of a source that emits or has the potential to emit any regulated pollutant (emphasis added). DEQ evaluated the activities taking place when determining which emissions units would be regulated under CPBR's ACDPs. While some specific pieces of equipment are shared between the two sources, the activities are distinct and the ACDPs require monitoring and recordkeeping of the specific activities taking place.

21. **Summarized comment:** *The permit must be more specific to prevent any confusion as to exactly what substances are allowed and how much of each substance.*

DEQ response: Condition 3.3. of the proposed permit limits CPBR to 1,839,600,000 gallons of combined VOL product throughput per year. The 1,839,600,000 gallons can be composed of any combination of crude oil, ethanol, and renewable diesel.

22. **Summarized comment:** Comments regarding Renewable Diesel

- a. *Renewable diesel encompasses any number of different kinds of diesel. What exactly counts as renewable diesel depends on who you're talking to and who you're asking. And the feedstock that goes into making the diesel is extremely important in considering whether that diesel is actually a "green fuel" or not. So the feedstock is paramount and the permit should be contingent upon what feedstock is going into the diesel that they're using.*
- b. *Deny the permit for transloading renewable diesel until a more comprehensive environmental assessment can be conducted, to include net impacts on global greenhouse gas emissions of the renewable diesel, depending on feedstock involved.*
- c. *Certain varieties of renewable diesel may emit more particulate matter (PM) than petroleum diesel when combusted.*

DEQ response: Condition 3.3.b. of the proposed permit defines "renewable diesel" as "R100 and R100 that has been blended to meet RFS, LCFS or other renewable fuel credit programs." However, DEQ's permitting action is confined to the equipment and activities of the CPBR stationary source that emit air contaminants. The permit proposed for issuance to CPBR is an Air Contaminant Discharge Permit; its content is specific to the regulatory requirements of DEQ's stationary source air quality program. Emissions from production and use of materials transloaded do not occur at the stationary source and cannot be included as part of the proposed ACDP under current applicable rules.

23. **Summarized comment:** *DEQ should prevent Global from building, refurbishing or buying tanks to make ethanol, and then converting these tanks for use for shipping crude oil.*

DEQ response: CPBR is required to submit an NC for modifications to the ethanol and transloading facility in accordance with OAR 340-210-0205. Because the facilities are considered separate sources of air pollution, the transfer of equipment from one to the other is considered a modification and is treated like new construction. OAR 340-210-0225 identifies the triggers involved for the various "types" of NCs. A permit modification and subsequent public comment period is required if the NC qualifies as Type 3 or Type 4 and can be required for some Type 2 NCs. The transfer of TK6104 from the ethanol facility to the transloading facility occurred through a Type 2 NC which did not require a permit modification and was approved by DEQ on October 23, 2018 (Application 30370). The

notification process would have been identical if CPBR planned to install a new tank because the emissions from the tank qualified the project as a Type 2 NC.

24. **Summarized comment:** *The fragmented approach to the air quality permits has obscured the public's view of real and potential harms from Global Partners' operations.*

DEQ response: The potential to emit (PTE) from both of CPBR's facilities is limited by the applicable PSELs. Actual emissions for each 12-consecutive month period must be reported to DEQ annually and are reviewed by DEQ staff for accuracy. CPBR must also submit an emissions inventory of toxic air contaminants as part of the Cleaner Air Oregon (CAO) program. CAO is DEQ's new industrial air toxics permitting program which was adopted to ensure that facilities do not pose an unacceptable public health risk in the surrounding community. All emissions data is publicly available and CPBR's recent annual reports can be found on DEQ's website.

25. **Summarized comment:** *The Vapor Combustion Unit (VCU) performance test results listed in paragraph 39 of the review report prove that monitoring temperature alone is an extremely unreliable indicator of emissions from the VCU so DEQ should require the use of VOC, NO_x and CO Continuous Emissions Monitors (CEMS) to directly and continuously measure emissions from the VCU.*

DEQ response: Emissions of Nitrogen Oxides (NO_x) and Carbon Monoxide (CO) are solely due to the combustion of propane and vapors collected from the transloading operations. The tested emission rates are below the PTE calculations based on both the manufacturer's design specifications and AP-42 Table 1.5-1 and testing has shown that emissions from the VCU are consistently below 0.2 lb/hr for NO_x, CO, and VOC when transloading ethanol. The use of temperature as an indicator is to ensure efficient destruction of the VOC vapors collected from the transloading operation. Proper combustion is dependent on "the three T's", time, temperature, and turbulence. Of these three indicating parameters, temperature can be easily measured and controlled by operators of combustion devices and is frequently used as a monitored operational parameter for combustion based control devices (e.g., thermal oxidizer, flare, VCU). In several test runs of the 2016 and 2017 test events the NO_x, CO, and VOC values tested below the applicable test detection limit. The use of a CEMS is not practical at such low emissions concentrations and would not provide any additional relevant data.

26. **Summarized comment:** *Section 3.8d of the draft permit requires CPBR "maintain the operating temperature of the VCU system at or above the average operating temperature recorded during the most recent approved source test." Then, Section of 4.6(a), the temperature limit set forth in Section 3.8d is declared an "action level" but allowed to drop by 25°F. Section 4.6(b) of the draft permit further declares that the "exceedance of an action level is not considered a violation of an emission limit in the permit." Temperature is allowed to drop by 25°F, but any increased emissions as a result of that temperature drop are not accounted for in the permit. It is worth noting that the regulations contemplate action levels being set "in addition to applicable emissions standards." OAR 340-226-0120(2)(a). Here, however, there are no emissions standards applicable to the VCU aside from the temperature limit. DEQ either needs to set a clear emissions standard for the VCU or needs to remove the "action level" designation to the temperature limit.*

DEQ response: The emission action level requirement was improperly applied in Condition 4.6.a. DEQ is removing Conditions 4.6.a. and 4.6.b. from the permit. CPBR must maintain the VCU temperature at or above the level recorded during the most recent approved source test per Condition 3.8.d.

27. **Summarized comment:** *DEQ should require CPBR to control emissions from the marine loadout of renewable diesel.*

DEQ response: The proposed permit requires barge loadout capture and control consistent with the requirements of 40 CFR 63 Subpart Y. 40 CFR 63 Subpart Y does not apply to emissions resulting from marine tank vessel loading operations of commodities with vapor pressures less than 1.5 psi at standard conditions. Renewable diesel has a vapor pressure below 0.1 psi. Requiring capture and control would be above and beyond maximum achievable control technology (MACT) requirements and would exceed the capability of the applicable controls.

28. **Summarized comment:** *DEQ should require CPBR to submit detailed information about the specific biodiesel products it intends to handle at its facility.*

DEQ response: The proposed permit does not include biodiesel as a VOL that can be transported. The paper cited in the commenter's letter specifically refers to biodiesel but it demonstrated that all varieties of biodiesel tested have vapor pressures below 0.1 kpa (0.015 psi) at temperatures below 50 degrees C.

DEQ obtained safety data sheets for renewable diesel from REG Marketing & Logistics Group, LLC¹, Neste², and Valero³ to compare the reported vapor pressures. The corresponding vapor pressures were <0.006 psi at 20° C, 0.013 psi at 25° C, and <0.019 psi, respectively. In addition, on July 31, 2013 the California Air Resources Board (CARB) issued a statement⁴ that renewable diesel should be treated the same as conventional CARB diesel "for all purposes." DEQ has reviewed CARB's statement and finds it reliable and compelling. The PTE calculations and compliance methodology use a vapor pressure of 0.0059 psi which corresponds to the vapor pressure of petroleum diesel fuel at 57.2° F, the average daily liquid surface temperature for July and August (the hottest months of the year).

29. **Summarized comment:** *CPBR has not provided any information on the types of biodiesel it intends to handle. Without a product name or specific composition information it is impossible for DEQ to meaningfully estimate what the hazardous air pollutants (HAPs) emissions from those products might be. The data submitted by CPBR is based on petroleum-based diesel, which the company has not shown to be indicative of the types of biodiesel it plans to handle.*

DEQ response: The proposed permit does not include biodiesel as a VOL that can be transported. The use of petroleum based diesel properties is adequate for an emissions analysis per the July 31, 2013, California Air Resources Board (CARB) statement⁵ on renewable diesel. The statement also includes test data showing the aromatic content and polycyclic aromatic hydrocarbon content of renewable diesel range from a similar value to values significantly lower than that of petroleum diesel. DEQ has reviewed the CARB statement and finds it reliable and compelling. This makes the use of petroleum diesel a conservative assumption for emission calculations.

30. **Summarized comment:** *CPBR has not characterized the HAPs from the specific crude oil the facility plans to handle.*

¹ https://www.regi.com/docs/default-source/sds-distribution/sds-402-us.pdf?sfvrsn=c9c629a8_10

² https://www.neste.fi/static/ktt/13898_eng.pdf

³ https://www.valero.com/en-us/Documents/OSHA_GHS_SDS/SDS-US-R100-GHS-Diesel%20R100%20Renewable%20Diesel-2-10-2020.pdf

⁴ https://ww2.arb.ca.gov/sites/default/files/2018-08/Renewable_Diesel_Joint_Statement_7-31-13.pdf

⁵ https://ww2.arb.ca.gov/sites/default/files/2018-08/Renewable_Diesel_Joint_Statement_7-31-13.pdf

DEQ response: As part of a renewal application [OAR 340-216-0040 (2)(a)], CPBR is not required to resubmit any part of an application for portions of the facility or permit conditions that are not undergoing any change. CPBR provided an analysis of the specific crude oils handled as part of the 2013 permit application.

31. **Summarized comment:** *CPBR's Ethanol and Transloading permits need to be revised to clearly indicate the specific period of time during which the HAPs limits apply. As currently drafted, both permits say "the annual plant site emissions limits apply to any 12-consecutive calendar month period." Since the facility is operating under two separate permits for which the combined HAPs emissions need to be under 10/25 tpy, those 12-month periods need to overlap. As the permits are currently written, there is nothing preventing Global from obfuscating the HAPs limits by reporting its HAPs emissions using different 12-consecutive calendar month periods. DEQ needs to revise both permits to make clear that the "12-consecutive calendar month period" must be exactly the same for both permits.*

DEQ response: PSELs include emissions from all applicable emissions units for the same 12-consecutive month period and this clarification will be added to the review report. CPBR must include 12-consecutive calendar month emissions, calculated each calendar month, as part of their Air Quality annual reports in accordance with Condition 9.4.b. of the ACDP. Any attempt to obfuscate the reporting would be a false report and would be subject to enforcement.

32. **Summarized comment:** *DEQ Must Stop Allowing Global to Make Significant Changes to the Columbia Pacific Bio-Refinery Without Public Notice, Comment, or Analysis of Potential Impacts. Under a "Notice of Intent to Construct" issued in 2017, for instance, DEQ authorized Global to begin handling crude oil in the tanks that Global planned to purchase from PGE. We request that DEQ refrain from allowing any significant changes to Global Partners' operation of the CPBR without first issuing public notice and soliciting public comment.*

DEQ response: CPBR is required to submit a NC for modifications to the transloading facility in accordance with OAR 340-210-0205. OAR 340-210-0225 identifies the triggers involved for the various "types" of NC. A permit modification and subsequent public comment period is required if the NC qualifies as Type 3 or Type 4 and can be required for a Type 2 NC in some scenarios. The type is determined through the criteria set out in OAR 340-210-0225. In most cases the difference between types is the extent to which the proposed project or facility change would increase the level of emissions at the source.

The proposed purchase of PGE's storage tanks referenced in the comment occurred through a Type 2 NC which did not require a permit modification and was approved by DEQ on April 26, 2017 (Application 29033). DEQ must consistently follow and apply its air rules for all regulated facilities.

F. Comments related to the emission calculations

33. **Summarized comment:** *Crude oil is well known to contain dangerous levels of hydrogen sulfide, yet the draft permit assumes hydrogen sulfide emissions from the facility will be "de minimis." Experience with other oil-by-rail facilities in the state has made clear that this is a faulty and dangerous assumption. DEQ must include a hydrogen sulfide emissions limit that is protective of air quality and workers at the facility.*

DEQ response: The PTE for hydrogen sulfide was calculated to be 0.11 tons per year using a hydrogen sulfide content of 2,000 ppm, which is the upper range of sulfur for Bakken crude oil. This

is below the de minimis emission rate of 1 ton per year specified in OAR 340-0200-0020 (m) so a PSEL for hydrogen sulfide is not included in the permit. DEQ is unable to include a limit protective of air quality because neither DEQ nor EPA have established an ambient air quality standard for hydrogen sulfide. Hydrogen sulfide is considered a toxic air contaminant under DEQ's newly adopted industrial air toxics permitting program, CAO, and will be included as part of a risk assessment when CPBR is called in to demonstrate compliance under the program. DEQ's authority is to regulate ambient air as defined in OAR 340-0200-0020 (11). This does not include areas inside a facility's boundary that the general public does not have access to. Regulations governing worker safety within a facility's property are under the purview of the Oregon Occupational Safety and Health Division of the Oregon Department of Consumer and Business Services.

34. **Summarized comment:** *Regarding vapor recovery, what happens to the vapors displaced in storage tanks when the rail cars unload?*

DEQ response: All storage tanks regulated by this ACDP are required to have internal floating roofs. The internal roof is designed to maintain contact with liquid in the tank to minimize the air space in the tank which minimizes the volatilization of VOC and HAPs in the liquid. When VOL is transferred from rail cars to a storage tank the air displaced is above the floating roof, which does not have direct contact with the volatile liquids. The control efficiency of internal floating roofs range from 60 to 99 percent, depending on the type of roof and seals installed and on the type of liquid stored.

35. **Summarized comment:** *DEQ should also evaluate more thoroughly the volatile organic compounds that come from oil train unloading operations. DEQ understates the potential release of volatile organic compounds like benzene from oil transloading.*

DEQ response: Benzene, and a number of other regulated HAPs, are present in crude oil mixture in low concentrations. As part of CPBR's 2013 permit application DEQ required CPBR to submit information related to the HAPs content of Bakken crude oil. DEQ reviewed this information to determine the potential emissions of both individual HAPs and total combined HAPs. Potential HAPs emissions from CPBR when transloading only crude oil are displayed in the table below. Emissions are below major source thresholds (i.e., 10 tons per year of any individual HAPs and 25 tons per year of combined HAPs). Therefore, no other permit requirements are necessary on air emission rates.

Hazardous Air Pollutant	PTE (tons per year)
Acetaldehyde	<0.01
Acrolein	<0.01
Benzene	0.37
Cumene	0.05
Ethylbenzene	0.20
Formaldehyde	0.01
Isooctane	0.05
n-hexane	0.28
Naphthalene	<0.01
Toluene	0.53
Xylene (mixed isomers)	0.68
Total HAPs	2.19

36. **Summarized comment:** *the permit does not include any controls or limits on potential emissions from the unloading of railcars, trucks, or barges.*

DEQ response: Emissions from the unloading of railcars, trucks, and barges is accounted for in the storage tank and equipment leak calculations. Storage tank emissions are the sum of working and breathing losses. Working losses relate to the emissions that occur during the loading and unloading process. The railcar, truck, and barge tanks do not result in any additional emissions because the tanks are unloaded under neutral to negative (i.e., vacuum) pressure. If there is no positive pressure in the railcar, truck, or bank tank, it will not emit outward vapors.

37. **Summarized comment:** *Representatives from this facility have claimed that no emissions occur when the railcars are vented because a vacuum is created before the vents are open. We strongly urge DEQ to not take the facility at its word on this and should include permit conditions for unloading to ensure that actual operations are in accordance with the emission calculation model.*

DEQ response: DEQ evaluated this claim as part of CPBR's initial transloading permit and agreed that there are no outward emissions from railcars during unloading. This was upheld in *Northwest Environmental Defense Center v. Cascade Kelly Holdings, LLC*, 155 F.Supp.3d 1100, 1125 (D. Or. 2015) and the same determination was made independently by Nebraska DEQ when evaluating ethanol transloading for E-Energy Adams, LLC's April 18, 2014 minor permit revision. DEQ has reviewed these conclusions and finds them reliable and compelling.

38. **Summarized comment:** *The Draft Permit Fails to Consider Fugitive Emissions from Marine Vessel Loading.*

DEQ response: Fugitive emissions from marine vessel loading are included in the PTE calculations and in the PSEL compliance methodology. The VOC and HAPs calculations use a capture efficiency of 98.7%, meaning 1.3% of the vapors do not get directed to the control device (vapor recovery unit or VCU). PSEL compliance emission factors for fugitive loading (i.e., the 1.3% of emissions that do not get routed to the control device) are included as Loadout Fugitives (Leaks) FS03 in Condition 14.0 of the proposed permit.

39. **Summarized comment:** *Frequent use of TK-6104 will result in accelerated deterioration of its components as well as alignments associated with roof penetrations. All of this excessive wear will result in increased emissions that are not accounted for in the calculation methodology—which assumes the tanks are well maintained and in good working order.*

DEQ response: Revisions to the calculation methodology are not required because per 40 CFR 60.11(d), CPBR must properly operate and maintain the storage tanks and associated controls in addition to the periodic tank inspections and repairs required by 40 CFR 60 subpart Kb.

40. **Summarized comment:** *The PTE calculations for fugitive emissions from components such as valves and pumps are incorrect. The emissions factors CPBR used are for estimating the average emissions, rather than the maximum emissions required for PTE calculations. Furthermore, the calculations assume that none of the components can leak, which is also incorrect.*

DEQ response: Emissions from fugitive leaks were calculated using the information available in EPA's Protocol for Equipment Leak Emission Estimates (EPA-453/R-95-017). CPBR utilized the leak rates for marketing terminal emission factors. In describing emission calculation methodologies, the EPA protocol states "One accepted approach for estimating emissions allows use of average emission factors developed by the EPA in combination with unit-specific data that are relatively

simple to obtain. These data include: (1) the number of each type of component in a unit (valve, connector, etc.), (2) the service each component is in (gas, light liquid, or heavy liquid), (3) the TOC concentration of the stream (and VOC or HAPs concentrations if speciation is to be performed), and (4) the time period each component was in that service.” Additionally, the emissions are overestimated because the emission factors used are for total organic compound emission rates which includes non-VOCs such as methane and ethane and because CPBR did not take control credit for the leak detection and repair requirements in Condition 4.1. of the draft permit. In addition, the PSELs in the proposed permit are enforceable limits on the source’s PTE.

41. **Summarized comment:** *The equipment counts used in CPBR’s PTE calculations are not supported by any engineering drawing or details—instead, DEQ appears to have accepted these counts without any verification.*

DEQ response: DEQ accepts the equipment counts provided by CPBR in their application and follow up materials. Applications must be signed by a responsible official of the facility certifying the accuracy of their contents. In the event of an error or omissions OAR 340-216-0040 (4) requires “Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.” In addition, the PSELs in the proposed permit are enforceable limits on the source’s PTE.

42. **Summarized comment:** *CPBR’s Use of EPA’s Outdated TANKS Software Resulted in Flawed and Incorrect Emissions Estimates.*

DEQ response: To evaluate the impact of the AP-42 updates on tank emissions, CPBR provided DEQ with emissions from Tank 6105 calculated using the Tanks ESP Program, which utilizes the updated AP-42 equations, and the Tanks 4.09.d program, which was utilized for the permit application. The same input assumptions for tank construction and product characteristics were utilized in both programs. The resulting emissions utilizing the updated AP-42 equations were lower than the former AP-42 equations (i.e., TANKS 4.09.d program) relied upon in the renewal application. Because it is an overestimate of emissions, DEQ accepts the results from TANKS 4.09d.

43. **Summarized comment:** *CPBR Unjustifiably Relies on Weather Data from Astoria, OR in its PTE Calculations.*

DEQ response: When inputting temperature data for the calculation of storage tank emissions, an applicant may use the values provided in AP-42 to estimate ambient temperature. When AP-42 does not provide temperature for the applicant’s city, the applicant may choose the “most applicable city.” CPBR chose to use the monthly average for Astoria of 53.57 degrees Fahrenheit rather than the monthly average for Portland of 62 degrees Fahrenheit. The lower temperature more closely corresponded to temperatures at the facility, located in Clatskanie, Oregon. The National Climate Data Center estimated that the annual average temperature in Clatskanie was 49.9 degrees Fahrenheit between 1971 and 2000, making the Astoria temperatures more representative of the temperatures near the facility.

44. **Summarized comment:** *DEQ should require the company to verify the accuracy of storage tank emission calculations by conducting actual emissions testing.*

DEQ response: DEQ is unaware of any peer-reviewed methods to accurately measure emissions from VOL storage tanks. Calculating emissions from storage tanks is a complicated endeavor and the best available methodology is currently the equations included in AP-42, Chapter 7. This analysis

requires site specific information (e.g., temperatures, tank parameters, VOL properties) which CPBR must obtain either through manufacturers, government entities, and/or testing.

45. **Summarized comment:** *As written, the draft permit fails to account for the emissions that will result from the repeated tank cleaning CPBR will need to undertake in order to switch between products.*

DEQ response: Emissions from tank cleanings must be accounted for in PSEL compliance calculations, using the methodology prescribed in Condition 14.0 for Storage Tank Roof Landings and Degassing. In addition, the PSELS in the proposed permit are enforceable limits on the source's PTE.

46. **Summarized comment:** *DEQ should require a more accurate calculation of CO₂e using the IPCC's latest estimated global warming potential of 28 for methane.*

DEQ response: OAR 340-200-0020 (22) defines CO₂e as "an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and is computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 C.F.R. part 98, subpart A, Table A-1-Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide." At the time of permit issuance, 40 CFR 98 Table A-1 provides a methane global warming potential of 25. Using any number other than 25 would be a violation of DEQ rules.

47. **Summarized comment:** *The city (Vancouver) attorney told me that EPA is well known to underestimate the potential air pollution from a proposed project and thus it back away from requiring the best available control technology.*

DEQ response: The PTE and emission factors for PSEL compliance in CPBR's permit were calculated using source specific test data, EPA's Tanks program, site specific data (e.g., crude composition, meteorological data, equipment configuration), manufacturer's documentation, and EPA's compilation of emission factors (i.e., AP-42). For each process at CPBR, the most representative data source was chosen. If new data is found to be more representative DEQ will determine if there are any new applicable requirements and will incorporate the new data and applicable requirements into the permit. At this time DEQ is confident the basis for conclusions in the permit is sound.

G. Other Comments

48. **Summarized comment:** *DEQ received several comments endorsing the issuance of the proposed permit to CPBR. Many of these comments identified various economic benefits associated with the facility and job creation.*

DEQ response: DEQ acknowledges the support for the proposed air contaminant discharge permit. None of the commenters endorsing DEQ's issuance of the proposed permit identified elements of the permit action that required change or re-evaluation. No further consideration by DEQ is necessary for this comment category.

49. **Summarized comment:** *I have explored the Port Westward area, the relics of its original river port economy, and the crumbling homes and infrastructure left behind. This project is not the way to reinvigorate the area. The money spent on fossil fuels and even biofuels will in less than a decade be seen as a boondoggle and the area will once again be abandoned.*

DEQ response: Land use permitting for the Port Westward area is governed by Columbia County. DEQ does not have the authority to choose which types of projects are appropriate for economic development in an area. After DEQ evaluates the type of activity or activities proposed for a certain facility regarding air emissions, if the facility can meet all applicable requirements in current environmental law, DEQ will issue a permit and continue to monitor the facility for ongoing compliance.

50. **Summarized comment:** Comments requesting a cumulative impact study:

- a. *Please include a cumulative impact study: A proper analysis is necessary of the cumulative impact on air quality taking into account all sources within the region in Oregon and Washington.*
- b. *The main thing I can encourage you to do at DEQ, which sadly is rarely ever done at regulatory agencies across the country and including in Oregon is a proper analysis and inclusion of cumulative impacts, not only in terms of how this permit relates to the other permits that this facility is required to have which isn't properly done, but also just the impacts in general throughout the region.*

DEQ response: DEQ's authority is defined within Oregon's Air Quality programmatic rules, most of which are contained in the EPA-approved State of Oregon Clean Air Act Implementation Plan (SIP) which defines how the Clean Air Act is implemented in Oregon. Different states have different regulations and DEQ derives no authority from Washington State's programs. This air quality permitting action is confined to the CPBR stationary source's air contaminant emissions.

51. **Summarized comment:** *DEQ is still holding a single online meeting for a project that has been the subject of years of controversy in the midst of a global pandemic*

DEQ response: DEQ must balance the need to continue agency operations with a commitment to offer public engagement. Because in-person meetings and hearings are currently not possible under current restrictions in place to slow the spread of COVID-19, DEQ has held virtual public hearings for several proposed ACDPs, including CPBR's transloading permit, providing over 30 days' notice prior to the hearings. In addition, DEQ extended the comment period until June 5, 2020 (an additional two weeks) in response to a request for an extension of the comment period.

52. **Summarized comment:** *DEQ needs to take seriously the clear relationship between increased particulate emissions and mortality rates from COVID-19.*

DEQ response: The proposed permit renewal and modification does not result in any increases in actual emissions of particulate matter. The PSELs in CPBR's 2014 ACDP were not set in accordance with OAR 340-0222-0040 (1) and DEQ is revising the PM and small PM (PM₁₀) PSELs to the generic PSELs to be consistent with the applicable regulations as specified in paragraph 17.d. of the review report. DEQ must continue to do its work to protect the environment and respond to permit applications received in a timely manner.

53. **Summarized comment:** *The permit allows for an increase in allowable emissions of Particulate Matter and Small Particulate Matter (PM_{2.5}) without any justification.*

DEQ response: The proposed permit renewal and modification do not result in any increases in actual emissions of particulate matter. The PSELs in CPBR's 2014 ACDP were not set in accordance with OAR 340-0222-0040 (1) and DEQ is revising the PM and PM₁₀ PSELs to the generic PSELs to be consistent with the applicable regulations as specified in paragraph 17.d. of the review report. There is no proposed change to the fine PM (PM_{2.5}) PSEL.

54. **Summarized comment:** *It is in DEQ's interest to approve projects because the permit holder has to pay DEQ an annual fee that supports staffing.*

DEQ response: A primary responsibility of DEQ's Air Quality program is to make sure facilities are in compliance with our laws and regulations. To accomplish this DEQ consistently issues permits that contain the appropriate regulations, assesses ongoing compliance through inspections and reviews, and takes enforcement actions when sources violate applicable requirements. Oregon's environmental regulatory programs, similar to most states in the US, rely on fees paid by individuals and regulated entities. DEQ conducts its evaluation of proposed activities at a given facility to determine what applicable requirements must be met before it can issue permits. After a permit is issued, DEQ monitors facility operations to confirm compliance with all applicable conditions and laws.

55. **Summarized comment:** Comments regarding CPBR's ACDP renewal application:

- a. *This application is too open and needs specific limits and enforcement procedures to be seriously considered. If this application is returned to the applicant for additional information there should be a time limit for re submission. DEQ has taken up enough taxpayer money attempting to get complete information from Global Partners. If they can't get it right after all of this time they should be made to resubmit the complete application for approval. The taxpayers should not be financing their inadequacies. CPBR is paying their "experts" to get it right and if they can't, the application should not be approved and the matter should be closed.*
- b. *This application needs definite and enforceable limits to be seriously considered.*

DEQ response: DEQ determined CPBR's ACDP renewal application to be technically complete on July 16, 2019; meaning that the application satisfied all applicable requirements under OAR 340-216-0040 (2).

56. **Summarized comment:** Comments regarding water quality:

- a. *Freshwater shellfish has seen serious declines though the years. Much of this has to do as a result of the excessive petroleum based commerce out of Clatskanie.*
- b. *Consider the possible effect on fish, especially salmon smolts and on spawning locations in the event of a spill. Some salmon runs are balanced on the edge of extinction and are protected under the Endangered Species Act. Even those that are not now endangered should not be exposed to the hazards of oil train traffic.*
- c. *Global must take every measure to prevent surface water contamination into the Columbia River or Beaver Drainage District.*
- d. *The company must provide adequate equipment, trained personnel, and disclosure of any spill event as well as funding for routine water testing of the watershed neighboring its facilities by an independent party.*

DEQ response: For this action, DEQ is charged with writing an Air Contaminant Discharge Permit that includes all applicable requirements associated with the stationary source of air contaminants. Permit requirements must have basis in rule; and DEQ cannot impose more or less stringent requirements on a facility without this regulatory basis. DEQ's Air Division does not have regulatory authority to include surface water conditions in an ACDP.

CPBR has an approved oil spill contingency plan which DEQ uses to evaluate the company's ability to respond to an oil spill under OAR chapter 340, division 141 & ORS 468B.300. DEQ conducts

regular drills to evaluate CPBR's emergency response capabilities. These drills are designed to test CPBR's knowledge of the Incident Command System, the Northwest Area Plan, and the capabilities of their equipment as it is deployed in the field. Tabletop exercises are designed to test the company's command and control capabilities once per year, and twice per year CPBR conducts equipment deployment drills, which DEQ can initiate unannounced. DEQ evaluates their personnel, training, equipment, tactics, emergency notification procedures and the company's understanding of how the physical and chemical properties of the oil or ethanol will behave if spilled into the Columbia River.

57. **Summarized comment:** *The air quality permitting process has inadequately assessed Disproportionate impacts on low income communities and communities of color.*

DEQ response: DEQ recognizes that low income and minority populations are systemically more impacted by industry due to patterns of land use and economic inequality. CPBR is in priority group three of the CAO program, DEQ's newly adopted air toxics risk assessment program. DEQ's initial assessment to place CPBR into group three and the assessment that will take place when CPBR is called into CAO, both account for the demographics of the surrounding area and the proximity to residents and workers as they relate to public health protection.

58. **Summarized comment:** *The permit should require tracking and reporting of total toxic and GHG emissions from all activities at the site, in a manner accessible to the public.*

DEQ response: The proposed permit requires CPBR to track and report all GHGs emissions from the stationary source. The annual reports are available to the public on DEQ's website. Tracking and reporting of HAPs is required only if the HAPs have a PTE above the de minimis level. The only HAP with the PTE above the de minimis level is acetaldehyde, which CPBR must track and report actual emissions of. Source annual reports are available to view from DEQ's website.

H. Conclusion

Based on the comments received during the public review process DEQ intends to issue the proposed ACDP with the following noted revisions:

Review report:

1. The following sentence was added to Paragraph 17.h.: Compliance with the PSEL must be determined using identical 12-consecutive month periods from each source.

Permit:

1. The phrase "as provided below" was removed from Condition 4.6.
2. Conditions 4.6.a. and 4.6.b. were removed from the permit.
3. The reference in Condition 8.2.h. was revised from "Condition 0" to "Condition 4.1".

DEQ would like to thank all individuals who took the time to review the proposed ACDP as well as those who attended the virtual public hearing and/or submitted comments.