

**From:** Dale Bickenbach <BickDaleN@outlook.com>  
**Sent:** Thursday, September 30, 2021 6:35 PM  
**To:** City Clerk's Office  
**Cc:** Crabtree, Mary  
**Subject:** Non-Interim Tideflats and Industrial Land Use Regulations

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

With respect to amended Ordinance No. 28470, and modifications to the Planning Commission proposal as proposed by the IPS Committee I have briefly reviewed and support these well written changes.

1. New and Expanded Cleaner Fuel Facilities Permitted.
2. Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes.
3. National Security Petroleum Fuel Facilities.
4. Projects which have undergone Environmental Review and Mitigated Impacts.
5. Financial Assurance.
6. High Impact Uses.
7. Residential – Northeast Tacoma Slope.
8. Residential Use in the M-1 District

Without trying to go into depth I believe the Planning Commission and planning staff have provided appropriate changes with which the City can succeed in our goals. Despite the intense communications received from more 'concerned' organizations wanting more rapid and stronger legal statements in City regulations I think the approach presented is rational and points the City in the proper direction. Being that we function as a democratic system changes can be made by those who study the issues and have knowledge of the best procedures for change.

Thanks.

dnb

Dale N Bickenbach  
5232 South Mason Avenue  
Tacoma, Washington  
98409-1817

+ 1 253 475 5242 (Please e-mail, first)

**From:** [Maxine Pendas](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Thursday, September 30, 2021 8:06:56 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Maxine Pendras  
maxine\_pendras@aw.org  
1210 N. Tacoma Ave  
Tacoma, Washington 98403

**From:** [Jennifer Schaal](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Friday, October 1, 2021 6:13:25 AM

---

Council Tacoma City ,

Mayor Woodards and Tacoma City Council,

This is the time to stand up to corporate polluters and demand a livable future and low carbon economy. Tacoma has a rich history in the past couple of decades of working to reverse the damage done to our port, our waters, and the air we breathe by the fossil fuel polluters, and I am asking for your strength and fortitude in making the tough decisions now to protect us. All of the current ills we face pale in comparison to what is being done to our habitat by our dependence on fossil fuels.

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

--New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

--Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.



--National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

--Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,  
Jennifer Schaal

Jennifer Schaal  
jenniferschaal@gmail.com  
2115 S I ST  
TACOMA, Washington 98405

**From:** [Marse Lear](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Friday, October 1, 2021 7:13:25 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Marse Lear  
MARSELEAR@HOTMAIL.COM  
1932 S Ash Street  
Tacoma, Washington 98405

**From:** [Pam Beal](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 10:27:43 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Pam Beal  
pambeal@gmail.com  
204 Contra Costa Ave  
Fircrest, Washington 98466

**From:** [Nadine Wallace](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 9:11:40 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Nadine Wallace  
mardine1@comcast.net  
2709 North Cedar St  
Tacoma, Washington 98407

**From:** [Ann Sweeney](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 8:20:11 AM

---

Dear Comment Email Email,

Please make the right decision and protect our jobs and our Tide Flats!!!

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Ann Sweeney  
5419 S Bell St  
Tacoma, WA 98408  
[ann.sweeney@americascarmuseum.org](mailto:ann.sweeney@americascarmuseum.org)



**From:** [Jeff Ten Pas](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 8:20:11 AM

---

Dear Comment Email Email,

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Jeff Ten Pas  
1712 Eastwood Way  
Lynden, WA 98264  
[jeff@bai-environmental.com](mailto:jeff@bai-environmental.com)

**From:** [Michael Prichard](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 8:20:11 AM

---

Dear Comment Email Email,

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Michael Prichard  
3010 N 28th St  
Tacoma, WA 98407  
[mprich56@gmail.com](mailto:mprich56@gmail.com)

**From:** [Jose Xavier](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 8:20:09 AM

---

Dear Comment Email Email,

Manufacturing closer to the intended consumers is the sound strategy.

Similar to “buying local” produce at the vegetable markets, manufacturing industries that are operating locally needs to be encouraged.

They follow the current environmental norms and comply with all regulations and hence they should not be forced to shutdown.

A lot of lives depend on the industries operating legally on the tide flats.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Jose Xavier  
5715 98th Ave NW  
Gig Harbor, WA 98335  
[jfxavier@gmail.com](mailto:jfxavier@gmail.com)

**From:** [Justin Meyer](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 8:20:08 AM

---

Dear Comment Email Email,

During this time of mandates you as elected officials can make the decision to help or county's businesses by not adopting any mandates and allowing extra business and revenue to flow in from the neighboring counties that choose to choke out there small businesses and residents, or you can join in with these neighboring counties, and choose to send your residents to neighboring counties and cities to spend there money. You can look at the the stats and from Callem and Jefferson counties and see the results of such mandates only have compacted the problem at this point and have unintentional consequences. Please don't push your residents and and businesses and employees out of this county!

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Justin Meyer  
3639 S Alaska St  
Tacoma, WA 98418  
[justin.meyer80@yahoo.com](mailto:justin.meyer80@yahoo.com)

**From:** [Joshua Olson](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 7:30:09 AM

---

Dear Comment Email Email,

Dear Councilmembers: I am the sole provider for my family. If something happens to my job it would have a lasting negative affect on my income. Because I am the sole provider most of my biweekly paycheck is used for mortgage, bills and food. Leaving very little for saving at this time in my life. Meaning if I lost my job It would affect my family instantly. I'm not the only person in this situation. I have a brother a nephew and many life long friends who's families are in a similar situation. Please consider the devastation this would bring to so many blue collar workers and there families . Thank you for your time and god bless

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Joshua Olson  
419 S 63rd St  
Tacoma, WA 98408  
[Irisholy73@yahoo.com](mailto:Irisholy73@yahoo.com)

**From:** [Linda Fortune](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 2:08:09 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

I feel very deeply about the following thoughts and want you all to stop fossil fuel expansion in any form on our Tideflats. I want you to put our environment first. Needless to say, the current oil leak off the Southern California coast will tragically harm all wildlife, beaches and water for years to come. Take responsibility for all of Tacoma and our waters! Protect our orcas, fish, waterfront recreation, and our air!!! Stop fossil fuel expansion!!!

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,  
Dr. Linda Fortune

Linda Fortune  
lafort3@wamail.net  
4114 N 30th St  
Tacoma, Washington 98407

**From:** [Roger Martin](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 1:22:30 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over four years now, your constituents have weighed in time and time again that something has to change.

Over the last weekend, I spent three days with my daughter and her husband. My kid is leading the Oxford University (the British one) US West Coast team studying rising sea levels and their interface with infrastructure (like the Tideflats construction). Her team runs computer simulations on Oxford main campus' supercomputer with the latest data to compute probable outcomes from different combinations. They are currently changing their emphasis to what my daughter calls "soil moisture." What she's really talking about is saltwater intrusion from rising sea levels. As far as I can tell, Tacoma is still completely avoiding assessing the danger of the weakness of building potentially dangerous infrastructure on top of landfill that is soaking in seawater that is constantly rising.

The most recent, very observable demonstration of this danger was the deadly collapse of condo construction in Surfside FL. I urge you to read the very recent report on the follow-on studies, described in the New York Times (<https://www.nytimes.com/interactive/2021/09/01/us/miami-building-collapse.html>) . It clearly shows that structural failure began beneath, not above, the basement garage floor. The building's floor is "anchored" in "reclaimed wetlands"--in other words, shoreline landfill. That landfill sits directly on top of the basic foundation of the entire state of Florida--dead coral. Dead coral is made of calcium carbonate, which dissolves faster as the acidity of seawater gets higher and as the level of the seawater gets higher. Both are happening with global warming. The substrate under the Tideflats is even weaker; it is 1500-2000 feet of loose mud. Similarly, the UC-B / ASU report I cited in previous correspondence to you people shows that the rate of subsidence of shoreline landfill increases with the increasing height of the water in which it sits. Wake up!

Back to what my daughter told me over dinner: she predicts that of the six Oxford teams, the interest of the overall program is shifting more to the US West Coast study. She predicts that in the end, her team will be the one leading the final report. Rest assured, Tacoma will likely be mentioned prominently--your chance to be famous, especially if/when the anticipated 7.1 earthquake hits inside the Sound.



You can't safely put dangerous chemicals inside structures that sit on top of shoreline landfill. Just like it did in Surfside and is doing in San Francisco's Millenium Tower complex and has been doing for decades all around the Bay's landfill, the "foundation" of the landfill is sinking. It is not sinking uniformly. One part of a floor can sink faster than another, just like in the TV commercials about house foundations. The bottom of concrete tanks can crack and rupture, as can their walls. Pipes can be bent and break--including tanks and pipes filled with dangerous, exploding, and/or polluting liquids and gases.

What do leaking pipes filled with petroleum products look like? Just look at Orange County CA today.

If this stuff breaks and bad and dangerous stuff leaks, Tacoma will have to pay for the lawsuits. Tacoma will have to pay any fines that come from environmental damage, not PSE or US Oil. People like PSE won't pay a penny to pay for any judgments for plaintiffs, and YOU PEOPLE will be responsible for what the good people of Tacoma will have to pay.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve-outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Roger Martin

fbrogert@yahoo.com

3800-A Bridgeport Wy, W, #543

University Place, Washington 98466

**From:** [Rebecca Lee](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 1:10:26 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Rebecca Lee  
brlee.rblee@gmail.com  
3335 N Orchard St  
Tacoma , Washington 98407

**From:** [Shirley Read](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 12:47:24 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,  
Shirley Read

Shirley Read  
sdread47@hotmail.com  
820 n. Stadium way  
Tacoma, Washington 98403

**From:** [Malakay BETOR](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 12:46:28 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Malakay BETOR  
malakay.list@gmail.com  
3001 N. Mason St.  
Tacoma, Washington 98407



**From:** [Patricia Herbert](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 12:11:47 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Patricia Herbert  
sequoia592000@yahoo.com  
PO Box 1652  
Vashon, Washington 98070

**From:** [john doherty](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 10:56:18 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

I am hoping that we as a community with City Council leadership will say "NO" to expansion of fossil fuel infrastructure in the tideflats. Corporations will want to fully depreciate whatever they build, and what they are talking about building will have a "useful" life of 30-50 years. It's time to say "NO" to fossil fuel pollution given the climate emergency we face.

Thank you,

John Doherty

john doherty  
johnwdoherty@gmail.com  
4608 n lexington st  
tacoma, Washington 98407



**From:** [Kyla Wilson](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 3:14:02 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

We do not need fossil fuel jobs when we have this opportunity to invest Covid19 Recovery funding and American Infrastructure funding in clean hydrogen fuel technology and green jobs as outlined in the draft Tacoma Climate Action Plan.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity

expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Kyla Wilson  
kylamwilson@gmail.com  
3223 6th Ave, Apt 5  
Tacoma, Washington 98406

**From:** Maddie Merton <maddie@edbtacomapierce.org>  
**Sent:** Monday, October 4, 2021 3:24 PM  
**To:** City Clerk's Office  
**Cc:** Bruce Kendall; FRANK BOYKIN  
**Subject:** ATTACHED: Tideflats Non Interim Regs - Public Comment  
**Attachments:** Non Interim Regs - Public Comment - Maddie Merton, EDB.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Greetings, City of Tacoma.**

Please find attached my comments regarding the Tideflats Non Interim Regulations for Tuesday, October 5, 2021 meeting.

Thank you,

**MADDIE MERTON**  
Vice President, Business Retention & Expansion



Work: 253.284.5891  
Cell: 253.317.1903  
950 Pacific Ave. Suite 410, Tacoma, WA 98402  
[edbTacomaPierce.org](http://edbTacomaPierce.org) | [maddie@edbtacomapierce.org](mailto:maddie@edbtacomapierce.org)



950 Pacific Avenue, Suite 410  
Tacoma, WA 98402

253.383.4726  
[edbTacomaPierce.org](http://edbTacomaPierce.org)

October 4, 2021

Tacoma City Council Members  
City Hall  
747 Market Street  
Tacoma, WA 98402

***RE: Tideflats Non-Interim Regulations***

Tacoma City Council Members:

The Tideflats is one of the primary economic drivers for the city, the region, and the state, providing family wage jobs and a critical tax base. The Council must use great care when regulating policy for an area that is so vital to our collective economic future. The Non-Interim Regulations being considered are an attempt to short-cut the Subarea Plan process by making some of its most economically destructive proposed elements permanent. These regulations will put thousands of jobs and the families they support at risk.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

A handwritten signature in purple ink, appearing to read 'Maddie'.

Maddie Merton  
Vice President, Business Retention & Expansion  
Economic Development Board for Tacoma-Pierce County  
[maddie@edbtacomapierce.org](mailto:maddie@edbtacomapierce.org)



**From:** [Mark Wells](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:10 PM

---

Dear Comment Email Email,

Tacoma needs the Tide Flats for Industry and the excellent family wage jobs created and maintained because of the existing industry and future industry that will establish themselves there if you have to fortitude to stand up for what's right. And to stand up for what we elected you to do.  
Parks and trails are not going to fund a growing community.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Mark Wells  
3212 17th St SW  
Puyallup, WA 98373  
[deadeyemark@comcast.net](mailto:deadeyemark@comcast.net)

**From:** [Daniel Bucci](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:10 PM

---

Dear Comment Email Email,

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Daniel Bucci  
1906 N Proctor St  
Tacoma, WA 98406  
[dbucci@parpacific.com](mailto:dbucci@parpacific.com)

**From:** [Tim Attebery](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:08 PM

---

Dear Comment Email Email,

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Tim Attebery  
3601 20th St E  
Fife, WA 98424  
[tattebery@agcwa.com](mailto:tattebery@agcwa.com)

**From:** [AJ Gordon](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:08 PM

---

Dear Comment Email Email,

We community leaders value the commitment and time you have put forth during the process. Let's make sure to get to the finish line.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

AJ Gordon  
5110 Orca Dr NE  
Tacoma, WA 98422  
[aj@gordon-group.net](mailto:aj@gordon-group.net)

**From:** [Brian Foster](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:08 PM

---

Dear Comment Email Email,

I have worked down on the port for over 20 years and have been able to provide for my family with this work. I will not be able to stay in this area without the jobs that the port provides for me. Please consider all of us that work down here when making this tough decision.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Brian Foster  
7707 Vickery Ave E  
Tacoma, WA 98443  
[fosterbrian26@yahoo.com](mailto:fosterbrian26@yahoo.com)

**From:** [Joe Straub](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:07 PM

---

Dear Comment Email Email,

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Joe Straub  
12024 Eckenstam Johnson Rd  
Anderson Island, WA 98303  
[jstraub@parpacific.com](mailto:jstraub@parpacific.com)

**From:** [Lance Ganieany](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Thank you for your Efforts to Protect Tideflats Jobs  
**Date:** Monday, October 4, 2021 3:50:07 PM

---

Dear Comment Email Email,

Dear Chair McCarthy and Members of the IPS Committee:

This Wednesday, August 25, is your last scheduled meeting regarding the ongoing analysis of the Tacoma Tideflats regulations submitted by the Mayor and City Council for your review. You appear to be on schedule to complete your work by the Council's requested deadline of August 31.

Thank you for taking the time during your last seven Committee meetings to conduct a thoughtful discussion related to the various issues regarding the proposed Tacoma Tideflats regulations. These are challenging issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Therefore, it is important that you take the time to make sure everyone considers every possible consequence.

It is my hope that your hard work will result in the crafting of regulations that facilitate job growth and future Tideflats investment that also addresses the concerns about protecting the environment and climate change.

I am encouraged you brought in a diverse array of opinions and subject matter experts so that the Mayor and Tacoma City Council has all the necessary information to enact thoughtful regulations that reflect both the needs and values of Tacoma and our entire region.

Sincerely,

Sincerely,

Lance Ganieany  
PO Box 672  
Cathlamet, WA 98612  
[papawelderlg@yahoo.com](mailto:papawelderlg@yahoo.com)

**From:** [Joy Caddock](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Please close the loophole allowing existing fossil fuel companies to pollute our communities.  
**Date:** Monday, October 4, 2021 3:35:56 PM

---

Council,

I've already sent a letter to you through Power Past Fracked Gas with specifics--but I wanted to send one more, I guess, just in case? It's that important.

I'm a terrified parent of a 7 year old that sees the diminishing air quality in our region.  
I'm a steward of a salt marsh in the Tideflats through 350 Tacoma that is brokenhearted about the air and water and soil degradation.  
I'm a farmworker who has seen confusing changes in a climate I've lived in for over 46 years.  
I'm a community member who sees you declare a climate emergency and fly the flag of the Puyallup people, but then make no real change and action toward choosing a path to promote environmental equity and living peacefully with the original stewards of this place.

This past 4 years has been a storm of environmental challenges including a pandemic that is linked with climate changes, out of control fires, a heat dome. We are seeing a decline in the Southern Resident Whales gracing us, their home, because of pollution, and ship traffic. We know of salmon being almost non-existent in comparison to what they once were. We've seen Interim Regulations drag on in a way that still has allowed for dangerous loopholes that honors existing fossil fuel companies to expand past dangerous levels of pollution. We see heavy polluters like West Rock still pump out unfettered toxins during the height of fires. We see the "air agency" PSCAA repeatedly side with polluters and grant stamps of approval to fossil fuel facilities but then not adequately monitor air--using outdated threshold numbers ignoring the health of the people. Over these 4 years we've seen and heard countless testimonies and countless letters have been written for you to shore up and close off these loopholes that honor profit and economics over life itself. We the people are deflated and can't breathe and need you to stand up for us, elected officials.

It's time for you to make courageous steps as a governing body. The one step you can make right now is to vote to put an end to the expansion of these existing companies' ability to continue to degrade our region past the point of no return. It should have been done 4 years ago---but we always have the ability to move in the right direction. Do it for the children in your life and their right to breathe this beautiful air and drink this beautiful water. Do it so they can maybe see a whale. This isn't a time for half measures and placating companies. It's a time for concrete steps that will guide for a just transition AWAY from fossil fuels and extractive mentalities that put profit of a few over the lives of many. Your time is NOW.

Sincerely,  
Joy Caddock



**From:** [Therese Dowd](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 7:34:06 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Do we want Tacoma to lag behind and still trying to have a foot in both camps or are they willing to step up and stop all gas and oil expansion now and in the future? Other communities have spoken up and set up the bans on fossil fuels. What is holding Tacoma back in the yesteryear of innovation? The fossil fuel economy will adjust and in many parts of the country they already are? The transition may pose problems but Tacoma and fossil fuels will adjust as we move into the future.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that you incorporate all the fully developed changes recommended by The Citizens for a Healthy Bay.

It is time to exercise leadership for the good of our community and strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Therese Dowd  
[therese.dowd@gmail.com](mailto:therese.dowd@gmail.com)

1870 N. Skyline Dr.  
Tacoma, Washington 98406

**From:** [Jenna Judge](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 7:20:42 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

As a resident of Tacoma, and public servant invested in a thriving ecosystem that supports all people in our region, I am writing to urge you to pass strong non-interim regulations to halt expansions, with no exceptions, in the tideflats.

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity

expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Jenna Judge  
jennajudge2@gmail.com  
5321 N 43RD ST  
TACOMA, Washington 98407

**From:** [Louisa Beal](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 6:46:32 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma has done OK with Tideflats regulations, but until those regulations prevent existing high risk facilities to stop the pollution, the City's job is not over.

For over 4 years now, your constituents have weighed in time and time again that something has to change. This has been the views of the Puyallup Tribe of Indians, The Planning Commission, and hundreds if not thousands of advocates, and the message has been clear. It is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma. This is vital to the health of the planet and to future generations.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,  
Dr. Louisa Beal

Louisa Beal  
Louisa.Beal.DVM@gmail.com  
205 Berkeley Ave  
Fircrest, Washington 98466



**From:** [Briana Brannan](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Please Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 6:38:56 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

As your constituent I ask for your leadership to pass Tideflats Regulations that will end loopholes.

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Briana Brannan  
briana4144@gmail.com  
3202 S Mason Ave A306  
Tacoma, Washington 98409



**From:** [Ingrid Archibald](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 6:20:37 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Ingrid Archibald  
ingrid@stand.earth  
6527 24th Ave NW, Apt 4  
Seattle, Washington 98117

**From:** [Barbara Menne](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 10:36:03 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Barbara Menne  
menneb1@outlook.com  
1415N. Anderson St  
Tacoma, Washington 98406

**From:** [Kat Wood](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 9:39:58 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

As a proud healthcare provider in Tacoma, I am asking you to do what is in the best interests of the people of Tacoma and our future health and livelihoods in this beautiful place.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Kat Wood

kwood66@gmail.com

822 131st St. Ct. E

Tacoma, Washington 98445

**From:** [Jenna McMichael](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Monday, October 4, 2021 9:37:20 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Jenna McMichael  
aardvarkm@gmail.com  
822 131st St. Ct. E  
Tacoma, Washington 98445



**From:** [BARRY/KIM BECKNER](#)  
**To:** [Hines, John](#); [Thoms, Robert](#); [Blocker, Keith](#); [Ushka, Catherine](#); [Beale, Chris](#); [Hunter, Lillian](#); [McCarthy, Conor](#); [Walker, Kristina](#); [City Clerk's Office](#)  
**Subject:** opposition zoning application LU21-0046  
**Date:** Monday, October 4, 2021 7:41:19 PM

---

Tacoma City Council Members,

My name is Kim Beckner. I live at 3328 North Shirley St.. I've read the opposition letters from my neighbors Luke Mattson, Stephen Clements, and Mike Elliot. I am in complete agreement with them. The rest of our neighbors feel the same way as well. That is complete opposition of the rezoning of the property behind us.

I strongly disagree with the hearing examiners recommendation to approve this project. None of us want this rezoning except for the builder and property owner and possibly the city who will benefit from the taxes. I feel this is being done to us without our input and opinion, and that it is a cash grab on the part of the property owner and builder to profit off of the pandemic related housing crisis. They are trying to get this fast tracked before the housing market gets flooded when the pandemic protection ends for delinquent renters and owners and the housing market drastically drops. The council listened to us last time in 2016, so why not now? Please vote no on this zoning change. We have written numerous letters of opposition that I hope you've received and read. In these letters, we have addressed why this rezone should not happen.

As representatives of the people, the city council should take into consideration our voice. Thank you

**From:** [jaala smith](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Non-Interim Regulations!  
**Date:** Tuesday, October 5, 2021 11:21:10 AM

---

My family and neighbors support the non-interim regulations as proposed by the Planning Commission. We want to ban fossil fuel expansion, no exceptions.

We do not support the proposed amendments which are redundant or which seek to create loopholes for further fossil fuel expansion. As the City's own Planning Commission points out, passing some of these amendments might be a violation of Washington's Growth Management Act.

We find Motion 4 from the Infrastructure, Planning and Sustainability Commission to be very problematic - without mentioning it once by name, this amendment would allow Puget Sound Energy to expand their fracked gas LNG facility to full capacity even though they have yet to apply for this. As environmental law firm Earthjustice points out, this could be a violation of Washington's anti-bribery laws.

We also stand by the Puyallup Tribe, whose own council members have appeared before the city to ask for a ban on expansion to protect the health of their people and their treaty rights.

We believe that the sooner Tacoma embraces a renewable energy future, the better off we will be, both in terms of jobs and our environment. Fossil fuel facilities, even though they take up a huge part of our Port, provide around 250 jobs, or just 0.15% of those tallied by the Economic Development Board of Tacoma Pierce County. Why do they have such an outsized impact on our policies?

Sincerely,  
Jaala Smith

**From:** [Mariana Sanchez Castillo](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 11:17:08 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Mariana Sanchez Castillo  
mariana.snchez@gmail.com  
361 Crockett St  
Seattle, Washington 98109

**From:** [Cynthia Cannon](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect the Tacoma Tideflats by Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 11:00:23 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. For over 4 years now, your constituents have weighed in time and time again that something has to change. We want to stop protecting fossil fuel industry profits. We want to stand up for ourselves, the people who live and work here and stop corporate polluters that impair our livable future and low carbon economy?

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. Ban expansions that are not in service of true renewable fuels. Incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has

no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to begin a decade of clean energy transformation. Truly, long-term, this step is a win-win for all of us.

Thank you,

Cynthia Cannon

[cj.cannon@comcast.net](mailto:cj.cannon@comcast.net)

5346 Broad View Avenue NE

Tacoma, Washington 98422

**From:** [Daniel Villa](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Public Forum - Non-Interim Regs  
**Date:** Tuesday, October 5, 2021 10:45:39 AM

---

Dear City Clerk,

I am a volunteer with 350 Tacoma and have been one of the hundreds of people who have testified for an end to fossil fuel expansion these past four years the City has been discussing the interim and non-interim regulations. I am writing once again to urge the City Council to ban fossil fuel expansion, no exceptions. Our volunteer group has helped send over 1,750 emails from concerned residents on this issue and rallied the community to testify in person.

350 Tacoma supports the non-interim regulations as proposed by the Planning Commission. We want no fossil fuel expansion, no exceptions.

We do not support the proposed amendments which are redundant or which seek to create loopholes for further fossil fuel expansion. As the City's own Planning Commission points out, passing some of these amendments might be a violation of Washington's Growth Management Act.

We find Motion 4 from the Infrastructure, Planning and Sustainability Commission to be very problematic - without mentioning it once by name, this amendment would allow Puget Sound Energy to expand to full capacity even though they have yet to apply for this. As environmental law firm Earthjustice points out, this could be a violation of Washington's anti-bribery laws.

We also stand by the Puyallup Tribe, whose own council members have appeared before the City to ask for a ban on expansion to protect the health of their people and their treaty.

We believe that the sooner Tacoma embraces a renewable energy future, the better off we will be, both in terms of jobs and our environment. Fossil fuel facilities, even though they take up a huge part of our Port, provide around 250 jobs, or just 0.15% of those tallied by the Economic Development Board of Tacoma Pierce County. Why do they have such an outsized impact on our policies? Studies show that, for an equal investment, green energy creates three times as many jobs. Even some city and port representatives have suggested Tacoma manufacture and export wind turbine components, or invest in green hydrogen technology.

When we stop using fossil fuels - and we will, we must - Tacoma will undoubtedly be left to clean up their toxic remains. So why allow them to expand before they must ultimately shrink and collapse?

Once again, we urge the City Council to adopt the non-interim regulations as proposed by the Planning Commission. No expansion, no exceptions.

For a better tomorrow,

Daniel Villa

Volunteer, 350 Tacoma



**From:** [Nathalie Hamel](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 7:23:33 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

The Tacoma Community Climate Action Plan just came out: the goal is for net-zero emissions by 2050. To allow fossil fuel expansions would be an egregious misalignment with a net-zero goal. More fossil fuels would counter what the community of Tacoma has made clear over and over: they choose a cleaner and greener economy safe from climate change.

Your decision to stop the expansion of fossil fuels does not just affect the city. If you stop the expansion, you are taking a bold action that puts you in the lead and encourages the next city to also advance a climate friendly actions. The community is not afraid and in fact is begging you to take bold, transformative action.

You can stand up to corporate polluters and demand a livable future and low carbon economy! For over 4 years now, your constituents have weighed in time and time again that something has to change.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,  
Nathalie Hamel, Ph.D.  
West End Neighborhood, Tacoma

Nathalie Hamel  
nathalie.hamel@gmail.com  
4810 North Visscher St  
Tacoma, Washington 98407

**From:** [Catharine Cline](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 7:12:32 AM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities begin to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Catharine Cline  
cathicline49@gmail.com  
2016 Sycamore St. SE  
Lacey, Washington 98503

**From:** [Kevin Dolan](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Tuesday, October 5, 2021 7:00:16 AM

---

Dear Comment Email Email,

Fossil fuel doesn't just fuel planes, train and automobiles. One of the byproducts of making fossil fuel also make roofing products and the asphalt that paves and patches the holes in the roads. I have worked on a few asphalt expansion projects at the refiners and roofing plants in the tide flats plants. We all no that are roads in Tacoma need to be to be repaired and replace and we all want a home that the roof doesn't leak. By making it hard for these plant to get permits to keep up with the demands of are cities or make it were the cant keep there doors open will hurt are Tide Flat works jobs, citizens of Washington that rely on the product made by industry on the tide flat and the city of Tacoma tax base.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Kevin Dolan  
12420 Golden Given Rd E  
Tacoma, WA 98445  
[dolankjk@msn.com](mailto:dolankjk@msn.com)

**From:** [Ben Weatherton](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Tuesday, October 5, 2021 7:00:13 AM

---

Dear Comment Email Email,

Please do the right thing

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Ben Weatherton  
8509 District Line Rd  
Burlington, WA 98233  
[benweatherton@hotmail.com](mailto:benweatherton@hotmail.com)

**From:** [Ken Zirinsky](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Non-Interim Tideflats & Industrial Land Use Regulations; Written CXomment  
**Date:** Tuesday, October 5, 2021 6:53:10 AM

---

Dear Sirs,

Regarding the Non-Interim Tideflats & Industrial Land Use Regulations:

I am writing to request that the City Council, please, pass policy that will:

1. Stop the expansions of current oil and fracked gas infrastructure in the Tideflats and, also, prohibit the construction of new fossil fuel facilities.
2. Provide incentives for developing renewable fuel infrastructure in the Tideflats.

Since 2017 The City of Tacoma has allowed existing fossil fuel industries to expand because of a loophole in the Tideflats Regulations, and we've seen terminals like SeaPort Sound take advantage of this loophole as they seek to build new fossil fuel storage. The updated regulations that the City plans to pass need to finally close this loophole, not create continue to enable corporate fossil fuel companies to pollute the environment and add greenhouse gasses that increase global warming and the climate crises.

Please note the following reasons for preventing any fossil fuel infrastructure expansion at the Tideflats:

1. Oil terminals create almost no local jobs.
2. Fossil fuel facilities can cause dangerous explosions in earthquakes or other natural disasters.
3. According to the IPCC at the United Nations, we need to drastically cut fossil fuel emissions of greenhouse gas, in order to try to avoid the worst and deadliest outcomes of global warming.
4. Tacoma has declared a climate emergency. We need to act in a way that attempts to address the climate emergency.

I strongly suggest that the City Council adopt Non-Interim Tideflats & Industrial Land Use Regulations that prevent expansion of existing and new Fossil Fuel Infrastructure. Please promote growth in the Tideflats that is sustainable, renewable, and non polluting.

Thank you for your time reading my comment.

- Kenneth Zirinsky

---

Home phone: 253.752.7160  
[ellenkenab@yahoo.com](mailto:ellenkenab@yahoo.com)

**From:** [Sherry Anderson](#)  
**To:** [City Clerk's Office](#)  
**Cc:** [Thomas C. Nivison, Attorney at Law](#)  
**Subject:** Public Comment re: non-interim regulations  
**Date:** Tuesday, October 5, 2021 11:24:33 AM

---

City Clerk,

Please add my submission below to public comments for tonight's City Council Meeting Public Forum specific to non-interim regulations. Thank you.

As a Tacoma resident, in advocating for my community, **I support the non-interim regulations as proposed by the Planning Commission.** It is time to ban fossil fuel expansion, no exceptions.

As the **proposed amendments** are both redundant AND might be a violation of Washington's Growth Management Act or which seek to create loopholes for further fossil fuel expansion, **I strongly oppose these amendments.**

As environmental law firm Earthjustice points out, **Motion 4** from the Infrastructure, Planning and Sustainability Commission could be a violation of Washington's anti-bribery laws. Although not mentioned by name, this amendment could allow Puget Sound Energy to expand their fracked gas LNG facility to full capacity even though they have yet to apply for this. These corrupt and deceptive practices must be stopped at your level. Please act in the best interest of your community members here in Tacoma, where you have been elected to serve, and **deny this motion.**

Thank you,

Sherry Anderson

--  
--

Sherry Anderson  
[sherry.anderson23@gmail.com](mailto:sherry.anderson23@gmail.com)  
206-861-6490

"Love is for Giving, Joy is for Sharing, and Toothpaste is for Brushing your Teeth." ~ Rachel Anderson



Virus-free. [www.avast.com](http://www.avast.com)



**From:** [Steve Whitcher](#)  
**To:** [City Clerk's Office](#)  
**Subject:** RE: Ban Fossil Fuel Expansion  
**Date:** Tuesday, October 5, 2021 11:26:12 AM

---

Continued reliance on polluting fossil fuels is unsustainable and harms the health of People and the Planet.

I urge banning fossil fuel expansion projects in Tacoma.

**From:** [Todd Mitchell](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Tuesday, October 5, 2021 11:30:09 AM

---

Dear Comment Email Email,

The business in and around the Port of Tacoma is what allowed for me to bring my family out of poverty, the good paying careers of the Tideflats are solid blue Collar opportunities.

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Todd Mitchell  
23209 Lower Dorre Don Way SE  
Maple Valley, WA 98038  
[Lowerdorre@msn.com](mailto:Lowerdorre@msn.com)

**From:** [Maude Laslie](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats--Stop Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 12:28:04 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Maude Laslie  
mlaslie@comcast.net  
5346 Broad View Avenue NE  
Tacoma, Washington 98422

**From:** [Kayla Quinn](#)  
**To:** [City Clerk's Office](#); [Blocker, Keith](#); [Woodards, Victoria](#)  
**Subject:** 10/5/2021 Public Comment  
**Date:** Tuesday, October 5, 2021 1:07:57 PM

---

Good afternoon,

I am writing to submit public comment for October 5, 2021 regarding the Council's discussion of the non-interim regulations.

I agree with 350 Tacoma and support the non-interim regulations as proposed by the Planning Commission. I want to ban fossil fuel expansion, no exceptions.

I do not support the proposed amendments which are redundant and seem to seek to create loopholes for further fossil fuel expansion. As the City's own Planning Commission points out, passing some of these amendments might be a violation of Washington's Growth Management Act.

Motion 4 from the Infrastructure, Planning and Sustainability Commission is very problematic - without mentioning it once by name, this amendment would allow Puget Sound Energy to expand their fracked gas LNG facility to full capacity even though they have yet to apply for this. As environmental law firm Earthjustice points out, this could be a violation of Washington's anti-bribery laws.

I also stand by the Puyallup Tribe, whose own council members have appeared before the city to ask for a ban on expansion to protect the health of their people and their treaty rights.

Thank you,

~Kayla Quinn (she/her)

**From:** [Axel Anderson](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Tuesday, October 5, 2021 1:20:10 PM

---

Dear Comment Email Email,

JOBS!!!!

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Axel Anderson  
25041 SE 192ND ST  
MAPLE VALLEY, WA 98038  
[AxelAnderson88@outlook.com](mailto:AxelAnderson88@outlook.com)

**From:** [Roxann Murray](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Non-interim regulations, public comment  
**Date:** Tuesday, October 5, 2021 1:27:08 PM

---

I do not support the proposed amendments which are redundant or which seek to create loopholes for further fossil fuel expansion. As the City's own Planning Commission points out, passing some of these amendments might be a violation of Washington's Growth Management Act.

Motion 4 from the Infrastructure, Planning and Sustainability Commission is very problematic - without mentioning it once by name, this amendment would allow Puget Sound Energy to expand their fracked gas LNG facility to full capacity even though they have yet to apply for this. As environmental law firm Earthjustice points out, this could be a violation of Washington's anti-bribery laws.

I also stand by the Puyallup Tribe, whose own council members have appeared before the city to ask for a ban on expansion to protect the health of their people and their treaty rights. What exactly was the point of putting their flag in the Tacoma council chambers if their input is not honored?

The sooner Tacoma embraces a renewable energy future, the better off it will be, both in terms of jobs and our environment. Fossil fuel facilities, even though they take up a huge part of our Port, provide around 250 jobs, or just 0.15% of those tallied by the Economic Development Board of Tacoma Pierce County. Why do they have such an outsized impact on our policies? Studies show that, for an equal investment, green energy creates three times as many jobs. Even some city and port representatives have suggested Tacoma manufacture and export wind turbine components and solar panels.

-Roxann Murray

Tacoma resident

**From:** [Barret Carpenter](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Tide-flats Regulations  
**Date:** Tuesday, October 5, 2021 1:38:02 PM

---

Good Evening Mayor Woodards, Deputy Mayor Blocker, and Tacoma City Council Members

My name is Barret Carpenter. I am a mother and I am an employee of a local business. I live and work within 10 minutes of the Tacoma Tideflats. The choices and decisions that you make directly affect me, my 3 children and my future.

I would like to thank you in advance for your outstanding leadership, for listening to research and recommendations of the Tacoma Planning commission, and for your commitment to serving the public and being a voice for the change we need. Please listen to The Findings of Fact provided by the Planning Commission. WE NEED A CLEAN ENERGY FUTURE.

You can literally determine my future by the use of carefully placed wording. Please leave no room for error in the interpretation of the Non-Interim Regulations. I urge you to strengthen and clarify any language used in amendments, so that no loop-hole remains to allow fossil fuel expansion and continued threat to the health of our community.

I respectfully ask the council to use all of the expert advice and knowledge at their disposal to protect public health as if their lives depend on it, which is in fact the case for many of us under the age of 60. My future is at risk. My children's future is completely unknown at this point. There's a reason that we are fighting so hard against fossil fuels continuing to operate on these lands and in our waters. We are fighting for our lives at this point. Every decision you make determines my future. Every word you write into law becomes a new reality. What does our future hold? The choices you make will determine the future events which affect the health and well-being of many beyond just Tacoma city limits. We need the City of Tacoma to pass a true ban on fossil fuel expansion for the Tideflats, free of any exemptions for polluting, toxic facilities.

- I request the council make a written amendment creating a distinction between different types of "renewable" fuels. There is a huge difference between r5 which is 5% renewable and r99 being 99% renewable..
- I request the council use specific language that clearly states no fossil fuel capacity expansions are permitted under the guise of maintenance, safety, security, or regulatory needs.



I urge the council to not allow exemptions for fossil fuels used as maritime fuel. The International Maritime Organization (IMO) has studied LNG and concludes LNG is not a climate solution for shipping. LNG is still a fossil fuel and as such has no long-term future if the Paris Agreement goals are to be met.

- Maersk, a global shipping giant, has recently [suggested the IMO ban the construction of new fossil fuel powered vessels](#)
- Allowing LNG to operate will produce ONE MILLION TONS OF GHGs EVERY YEAR for the life of the project. This effectively negates the intent and impact of the work Tacoma, the Port and other agencies have been doing to reduce emissions.

The people who argue we need fossil fuel expansion or there won't be enough jobs, or that the port or JBLM will suffer without certain amendments are just using fear tactics. Where are the official recommendations from JBLM? Where are the official recommendations of the Port? Science backed research shows that we must drastically cut GHG emissions if we are to have a livable planet for our children. Tacoma is geographically positioned perfectly to become a clean fuel hub, and with our port, workforce and technical colleges, we can do this if we set the stage for a clean fuel industry.

Just 2 days ago, my 12 year-old told me that she is scared for the future of the world, meanwhile City Council could possibly allow LNG to lock us in for 50 more years of polluting green-house gas emissions which affect communities world wide. I know that her fears are extremely valid. **What should I tell her?**

Being a member of our city's leadership means that you are trusted, it means that you are respected. THE CITY HAS BROAD POLICE POWER TO ENACT THE AMENDMENTS PROPOSED BY THE PLANNING COMMISSION. Also, The obligations of Tacoma City council's original contract with PSE in 2015 have already been fulfilled. The city is not legally bound to issue further permits to LNG because doing so would be a violation of **Washington State Anti- bribery Law**, which states ***"Bribery constitutes offering a pecuniary benefit with the intention to obtain" particular result in a particular matter involving the exercise of the public servant's vote, opinion, judgment, exercise of discretion, or other action in his or her official capacity.***

It is clear to me through the extensive research and advice of local and international organizations that any law or regulations set in place which the public's best interest in mind should have NO ROOM FOR ERROR OR INTERPRETATION ON WHETHER OR NOT FOSSIL FUELS WILL CONTINUE TO OPERATE IN OUR CITY.

Your INTEGRITY and PRIORITIES are being tested. and Future of my children is on the line. I TRUST you as public servants to represent the community as large and do us justice by standing up to special interests. I urge you to follow the recommendations of the Tacoma Planning Commission and end fossil fuel expansion in our backyard.

Thank you for your time,  
Barret Carpenter  
3742 28th Ave E Tacoma, WA 98404

**From:** Mark Vossler <mark@wpsr.org>  
**Sent:** Tuesday, October 5, 2021 1:59 PM  
**To:** City Clerk's Office  
**Subject:** Written Testimony for tonight's city council meeting.  
**Attachments:** Tideflats Testimony - Google Docs.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear City Clerk,

Please see attached comments that I will delivery at tonight's council meeting in regard to the non-interim tide flats regulations.

Sincerely,

**Mark R. Vossler, MD**

**President,** Washington Physicians for Social Responsibility  
(he/him)

**Email:** [mark@wpsr.org](mailto:mark@wpsr.org) | **Phone:** 425.894.8794

**Visit us:** [wpsr.org](http://wpsr.org) | **Join us:** [Become a member](#)

**Donate:** [Support our work](#) | **Learn more:** [Sign up for emails](#)

**WPSR:** *Empowered by Compassion - Undaunted by the Odds*



100%



Normal text



Arial



11



1

1

2

3

4

5

6

7

Thank you Mayor Woodards and Council Members.

I appreciate the opportunity to address you this evening. My name is Mark Vossler and I serve as the president of Washington Physicians for Social Responsibility. Thank you for setting permanent regulations in the tideflats. As you consider the proposals and amendments this month in creating a final rule, please do not allow exemptions for industry to expand their polluting activity. As these facilities expand and fossil fuel emissions in the tideflats increase, there are very serious health impacts on the local community. Hazardous chemicals like toluene, benzene, NOx, SOx, and PM 2.5 appear at dangerous concentrations in communities in and around the tideflats. We have medical data that links this exposure with increased rates of asthma, Alzheimer's dementia, heart disease and a host of other illnesses that cause not only physical harm but economic harm as well. Impacted Tacoma residents miss work days, and face high medical bills. Furthermore extreme heat and other climate impacts compound the effects of the pollution in the tideflats. It is beyond time to act on climate change, and over 20 leading medical journals are ringing the alarm bells. The health impacts from climate change are also felt by Tacoma residents, and those most vulnerable are already suffering from lack of meaningful action. Thank you for the chance to comment on the non-interim regulations and as health professionals we urge you to make them strong enough to truly protect our community and environment.

Mark R. Vossler, MD  
President  
Washington Physicians for Social Responsibility



**From:** Brian D. Amsbary <brian@rodaboughlaw.com>  
**Sent:** Tuesday, October 5, 2021 2:11 PM  
**To:** City Clerk's Office  
**Subject:** Heiberg Family comment | Port of Tacoma Transition Overlay District, Non-Interim Tideflats and Industrial Land Use Regulations  
**Attachments:** 2021 1005 Heiberg Comment Letter.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Attached is the Heiberg Family's comment on the proposed residential Port of Tacoma Transition Overlay District, part of the Non-Interim Tideflats and Industrial Land Use Regulations amendment process.

Best,

**Brian D. Amsbary | Of Counsel**  
Law Office of Samuel A. Rodabough PLLC  
direct: 206.790.3896 | [brian@rodaboughlaw.com](mailto:brian@rodaboughlaw.com)  
[www.rodaboughlaw.com](http://www.rodaboughlaw.com)

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



SAMUEL A. RODABOUGH  
ATTORNEY AT LAW  
13555 SE 36TH ST., STE. 100  
BELLEVUE, WA 98006  
(425) 395-4621

October 5, 2021

*Via email*

Tacoma City Council  
c/o City Clerk's Office  
733 Market Street, Room 11  
Tacoma, WA 98402  
cityclerk@cityoftacoma.org

**Re: Heiberg Family comment on the proposed residential Port of Tacoma  
Transition Overlay District | Non-Interim Tideflats and Industrial Land Use  
Regulations**

Dear Councilmembers:

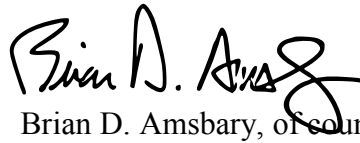
This firm represents four generations of the Heiberg Family, who have for over 70 years owned an 8.33-acre, residentially zoned parcel located at 5324 12th Street NE in Northeast Tacoma (Pierce County tax parcel no. 0321361036). We thank the IPS Committee and city staff for their time and careful consideration this summer concerning the residential Port of Tacoma Transition Overlay District along the Northeast Tacoma bluff, and urge the Council to approve the committee's recommendations on the overlay. *See* IPS Recommendations – Draft Code Amendments, pp. 22-24 (Aug. 30, 2021).

During the IPS Committee review process, there was an entire meeting specifically devoted to the residential overlay issue, separate and apart from the various other issues confronting the Council here. Councilmember Hunter and Director Huffman personally visited the Heiberg property afterwards, and we thank them for their extra effort. We were able to present the Heibergs' development proposal—which is based upon the existing baseline R-2 zoning—and to show how (1) it maintains and utilizes the bluff and the associated tree canopy to maintain a clear separation between the residential areas at the top of the bluff and the industrial uses below, and (2) it is fully consistent with the proposed overlay regulations, apart from the density limitation not applicable here.

Thank you again for your time and consideration, and do not hesitate to contact us if any questions concerning the Heiberg property or the proposed overlay arise as this process comes to a conclusion.

Sincerely,

LAW OFFICE OF SAMUEL A. RODABOUGH PLLC

A handwritten signature in black ink, appearing to read "Brian D. Amsbary". The signature is stylized with a large, looped "B" and a long, sweeping "y" at the end.

Brian D. Amsbary, of counsel  
brian@rodaboughlaw.com

Samuel A. Rodabough  
sam@rodaboughlaw.com

**From:** [Miranda Marti](#)  
**To:** [City Clerk's Office](#)  
**Subject:** 10/5 Tacoma City Council Meeting - public comment  
**Date:** Tuesday, October 5, 2021 2:27:45 PM

---

Good afternoon,

Please include the following testimony for tonight's Tacoma City Council Meeting as part of the public record:

I am testifying in support of the City of Tacoma passing a true ban on fossil fuel expansion for the Tideflats, free of any exemptions for maritime fuel. I work for a legal service that rents office space at The Fabulich Center at the Port of Tacoma, and my colleagues who work at that office and the clients who visit that office are impacted by the fossil fuel pollution from trucks, trains and ships, and are at risk by virtue of being within the blast zone of the PSE LNG facility.

I am also a volunteer with the 350 Seattle Maritime Solutions team, which supports climate and environmental justice for maritime workers and near port communities. I have family members who work in maritime and fishing industries, and their livelihoods are threatened by climate change directly and indirectly, due to global economic instability caused by the climate crisis.

The future of maritime is decarbonization. Ships will get more efficient and demand for maritime fossil fuel will fall. It is a matter of time and survival. LNG has been thoroughly discredited as a climate solution - even the IMO says that LNG is not a climate solution. There is no economic or practical sense to create an exemption for the expansion of PSE's LNG facility to supply maritime fuel. The City of Tacoma should not be supporting the construction of infrastructure to support new/converted LNG powered ships, but instead investing in non-fossil fuel solutions like green hydrogen and looking for ways to support industry efforts to increase fuel-efficiency and build more resilience into shipping and supply chains.

Sincerely,

Miranda Marti  
350 Seattle Volunteer



**From:** [Aimee Hamilton](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Subject: Reject expansion loophole amendments of Non-Interim Regulations  
**Date:** Tuesday, October 5, 2021 2:37:00 PM

---

Tacoma City Council:

I am a resident and home-owner in Tacoma. I am imploring you to reject amendments exempting facility expansions and pass strong regulations that are consistent with Tacoma's policy goals and protect our climate, health, and safety.

We see environmental degradation every day and see how horrific the cost when damage inevitably does occur. We have an opportunity to better protect ourselves and our region now before additional damage is done, and protect those who come after us. This should be foremost in your minds as City Council members and as you fulfill your obligations to your constituents. There is absolutely no reason whatsoever to leave a loophole open to fossil fuel capacity expansions.

The original intent of the Tideflats Non-Interim Regulations was to prevent fossil fuel expansion during the Subarea Planning process. The exemptions proposed by the IPS Committee create unacceptable loopholes that subvert the intent of the entire process and are incompatible with the spirit of Tacoma's Climate Emergency Declaration, the recent report by the IPCC, the wishes of the Puyallup Tribe, or prioritizing public health and safety.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

**New and Expanded Cleaner Fuel Facilities Permitted:** The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

**Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes:** It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

**National Security Petroleum Fuel Facilities:** This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

**Projects which have undergone Environmental Review and Mitigated Impacts:** The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate. Finally, Council should reject any further amendments introduced that would allow further expansions of existing facilities for any purpose, including marine fueling.

For years the Tacoma Tideflats have seen one dangerous fossil fuel project proposal after another, while the Interim Regulations have allowed existing fossil fuel facilities to expand unchecked. Passing Non-Interim Regulations that allow existing facilities to continue expanding through carve outs and exemptions — after over four years of public comment and engagement calling to close this dangerous loophole — is simply unacceptable.

We have seen the City Council repeatedly fail to take action: ignoring the overwhelming public testimony, the Puyallup Tribe's clear and persistent calls for action, two separate Planning Commission processes recommending closing this loophole, and the City's own existing policies that consider high risk fossil fuel facilities incompatible with the City's goals and priorities.

It is time to finally prohibit expansions of existing fossil fuel facilities and put Tacoma on the path to a clean energy economy.

Do the right thing.

Thank you.

**From:** Foti, Suzanne <SFoti@parpacific.com>  
**Sent:** Tuesday, October 5, 2021 2:58 PM  
**To:** City Clerk's Office  
**Subject:** US Oil Final Written Comments  
**Attachments:** US Oil Final Written Comments 10.5.21.pdf; Proposed Changes to IPS Code Amendments.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Ms. Sorum:

Attached please find U.S. Oil and Refining Co.'s written comments in regard to the Tideflats and Industrial Land Use Regulation public hearing on October 5<sup>th</sup>. Please let me know if you have any additional questions.

All the best,  
Suzanne



**Suzanne Foti**  
Director, Government and Public Affairs

Email: [sfoti@parpacific.com](mailto:sfoti@parpacific.com)  
Phone: 713-859-6673 | Mobile: 713-859-6673

825 Town & Country Lane, Suite 1500  
Houston, TX 77024

[www.parpacific.com](http://www.parpacific.com) .....

CONFIDENTIALITY NOTICE: This electronic transmission and any attached documents or other writings are intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. If you have received this communication in error, please immediately notify sender by return e-mail and destroy the communication. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication or any attachments by anyone other than the named recipient is strictly prohibited.

**U.S. Oil & Refining Co.**

3001 Marshall Avenue  
 Tacoma, Washington 98421  
 Tel: (253) 383-1651  
 Web: [www.usor.com](http://www.usor.com)

October 5, 2021

City of Tacoma City Council  
 747 Market St.  
 Room 345  
 Tacoma, WA 98402

VIA EMAIL: [cityclerk@cityoftacoma.org](mailto:cityclerk@cityoftacoma.org)

RE: Proposed Amendments to Titles 13 and 19 of the Municipal Code, entitled Land Use Regulatory Code and Shoreline Master Program

Dear Mayor Woodards and the Members of the Tacoma City Council:

Today, the City Council will consider public testimony regarding the proposed amendments recommended by the City Council's Infrastructure, Planning and Sustainability Committee (IPS Committee). U.S. Oil participated in full faith in the IPS Committee's discussions to find resolution to the outstanding issues in the Planning Commission's draft. Weeks of stakeholder work reflects hundreds of person-hours of necessary push-and-pull in the exchange of information, and most importantly, the willingness to have hard conversations aimed at solutions that benefit the city and the community.

Based on our participation in the dialogue, and our review of the available draft materials, I would like to use this opportunity to emphasize what is going well and where we are hopeful about common ground shared with city and community leaders.

The IPS Committee has worked tirelessly to evaluate and make recommendations that move toward balancing economic and environmental priorities. By recognizing the technical realities that are required to transition to cleaner fuels, recognition of the need to maintain and upgrade facilities, and a clear signal that fossil fuel expansion will be significantly curtailed, the committee has taken a very meaningful step to placing Tacoma at the forefront of the energy transition in the State of Washington.

We recognize the time and tension created for you, as elected leaders, to craft a meaningful resolution to a long-standing debate. We share your determination to do the right thing and will continue to offer solutions that align with the values of our community when it comes to cleaner, more efficient operations and the fuels of the future that will power our economy.

To find consensus, all parties must compromise. To that end, we have made many difficult compromises in order to land on Amendments that are both workable and agreeable. While this was not an easy process, now that we have come to what we understand as a consensus position across all stakeholders, it is critical that we lock in that agreement by drafting the high-level concepts into practicable, technically accurate land code. This is particularly challenging as the discussion around how to operationalize the Amendments. As one of the parties whose performance will be measured and assessed by a myriad of local, state, and federal agencies, we are particularly sensitive to the need for accuracy and clarity in the Code.



**Par Pacific**



**U.S. Oil & Refining Co.**

3001 Marshall Avenue  
Tacoma, Washington 98421  
Tel: (253) 383-1651  
Web: [www.usor.com](http://www.usor.com)

With the many meetings with stakeholders fresh in our minds, we believe there are a few issues in the draft code that does neither reflect the discussions, nor are technically implementable without significant unintended consequences.

Particularly:

- We spent a lot of time discussing how Expanded Cleaner Fuels Infrastructure may, by definition, include use of blend of petroleum and non-petroleum components. The code should clarify that across all facility assets as well as in the definition of Cleaner Fuels.
- Certain repair and replacement activities at existing facilities do not currently require a land use permit. When discussed during the IPS process, there seemed to be general agreement that these activities need not face additional consideration. However, as drafted, there is a potential that the amendments would create scope creep for application of regulatory processes for non-relevant activities.

We believe modest amendments to the code, attached, will address what appears to be scribing issues.

Thank you for the opportunity to comment. We remain committed to cooperation and transparency in this process and to the people of Tacoma and the surrounding region who are our customers, comprise our workforce and who deserve our steadfast participation toward solutions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Andrew Troske".

Andrew Troske  
Refinery Manager and VP, Manufacturing  
U.S. Oil and Refining Co.

## PROPOSED CHANGES TO CODE AMENDMENTS INCORPORATING IPS COMMITTEE RECOMMENDATIONS

(City changes accepted and then additional changes shown below)

September 29, 2021

**Under 13.010.060 (Page 2)**

“Cleaner Fuels.” Carbon-free fuels that generate no carbon emissions, including green hydrogen<sup>7</sup>. Cleaner fuels also include any credit generating fuel under the Washington Clean Fuel Standard, any blends of EPA approved and listed fuel pathways and alternatives under the federal Renewable Fuel Standard, any Renewable Diesel meeting the requirements of Washington State law, any Ethanol and E85 blends meeting the requirements of Washington State law, and any natural gas, propane, green hydrogen, or electricity, produced or stored for use as fuels in a motor vehicle that meeting the motor vehicle emission standards for Alternative Fuels in Washington State law.

**Under 13.06.080.G.5 and 6. Special Use Standards (Pages 29-30)****5. Petroleum Fuel Facilities.**

a. New “Petroleum Fuel Facilities” are prohibited.

b. Existing facilities, legally permitted at the time of adoption of this ordinance, shall be considered permitted uses, subject to the following limitations:

(1) Existing facilities shall not exceed the established baseline as of November \_\_, 2021 (the adoption date of this ordinance) except where specifically authorized in this section.

(2) Except as specifically authorized under 13.06.080.G.5.b.(3), (4), and (5), the following new improvements are prohibited:

- New driveways, private rail sidings, docks, piers, wharves and floats.
- Site or facility improvements that would increase the capacity of a driveway, private rail siding, dock, pier, wharf or float.
- New storage tanks, refining or processing facilities.

(3) Expansion of or addition to existing petroleum fuel facilities is allowed through the normal permitting process when the particular expansion would create the maximum proposed capacity of a facility that was the subject of an Environmental Impact Statement prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 as of November \_\_, 2021 (the adoption date of this ordinance) and for which the City has accepted on or before November \_\_, 2021 (the adoption date of this ordinance) all funds that fully mitigate the adverse environmental impacts of the facility’s maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.

(4) Expansion of production, storage, transportation and transshipment of petroleum fuels when requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director.

(5) Replacement of and improvements to existing petroleum infrastructure shall be allowed through ~~the~~ any required standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, in conjunction with any permit for maintenance, for improvement of the safety or security of the infrastructure, decrease air or water emissions, or to allow the infrastructure to meet new regulatory requirements.

(6) Where a “Petroleum Fuel Facility” provides direct-to-vessel fueling, new infrastructure that is necessary to support vessel fueling may be allowed so long as overall facility storage and refining does not exceed the established baseline.

(7) Improvements are limited to property owned or occupied by the use as of the adoption of this ordinance.

(8) Baseline monitoring. On an annual basis, Planning and Development Services will evaluate information from the U.S. Energy Information Administration, WA Department of Ecology, Puget Sound Clean Air Agency, as well as from local permits, to ensure compliance with the requirements herein.

#### 6. Cleaner Fuel Infrastructure.

a. New and Expanded Cleaner Fuel Infrastructure as defined in this chapter shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, and subject to the following requirements:

(1) New Cleaner Fuel Infrastructure permitted through this chapter shall not be used solely for the production, storage, transportation and transshipment of petroleum. Total or partial conversion of permitted New Cleaner Fuel Infrastructure for the purposes of production, storage, transportation, and transshipment of petroleum (except Cleaner Fuels) shall constitute grounds for permit revocation and civil enforcement.

(2) ~~Any Expanded~~ Cleaner Fuel Infrastructure Expanded, as defined in TMC 13.01.060, is permitted ~~through this chapter shall not if such expansion does not~~ exceed a cumulative total increase of fifteen percent (15%) more storage over the applicant’s total petroleum storage as of November \_\_\_\_, 2021 (the adoption date of this ordinance). Total or partial conversion of permitted Expanded Cleaner Fuel Infrastructure for the sole purposes of production, storage, transportation, and transshipment of petroleum fuels (except Cleaner Fuels) shall constitute grounds for permit revocation and civil enforcement. The limitation on cumulative petroleum storage does not apply to expansions allowed under TMC 13.06.080.G.5.b (3), (4), and (5) above.

**From:** [Aislinn Melchior](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Please ban all fossil fuel expansion at the Port of Tacoma  
**Date:** Tuesday, October 5, 2021 3:02:42 PM

---

I very much want to see the Port of Tacoma and the waters of Puget Sound protected from destructive and polluting industries. Fossil fuel is not affordable in terms of our climate, and in terms of its long term viability. We need to rethink the future and stop supporting industries that harm air, water, and land.

Please close all the loopholes that allow for the pollution of important breeding grounds for wildlife and affect the health of our waters.

With sincere thanks to those of you who recognize the deep importance of the actions you are taking and their impact on the future,

Aislinn Melchior

Aislinn Melchior  
Professor of Classics and Mediterranean Studies  
President, Archaeological Institute of America, Puget Sound Society  
President of Phi Kappa Phi, Puget Sound Chapter



**From:** [diane](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Climate Change, ban fossil fuel expansion at the Port  
**Date:** Tuesday, October 5, 2021 3:16:09 PM

---

Hello,

I'd like to ask the Tacoma city council members be more aggressive regarding climate change and our city's policies and direction. While growth is important, nothing is more important and urgent than climate change. We need to look at all contracts and future expansion through the lens of what will this do long-term to our environment.

Please, no more fossil fuel expansion at the Port. No exceptions.

Thank you,  
Diane Burke

**From:** [Kenzie Knapp](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Intergim Regulations Testimony  
**Date:** Tuesday, October 5, 2021 3:27:18 PM

---

Hello city clerk!

My name is Kenzie Knapp and here I am submitting testimony for the city council regarding Interim Regulations. Thank you.

Good evening mayor and city council. My name is Kenzie, I am 20 years old and a member of Sunrise Tacoma. I have taken so much pride in my hometown and home state for many reasons but more than anything I got to grow up in a place where I can breathe clean air, drink clean water, and live in community with the ferns, the cedar trees, the frogs, and the deer. However, I have never lived in a time without climate change. I learned about it as a child and saw how forest fire smoke has swallowed my hometown as a young adult and I live in climate anxiety for my future. Moving to Tacoma to start my young adult life at university was a fresh start and the community I found in climate justice has changed my life and become the reason that I was born. I testified to the city council to support declaring a climate emergency and that is why I am here to speak to you today to hold you accountable to that declaration. While emergency almost captures the words I can think to use and while I live in climate anxiety and grief, the non-interim regulations give me hope for the future because I know that Tacoma is a microcosm for the nation and has the opportunity to be a great leader for change. I believe this is one of the crucial steps we as a city need to make a positive change towards a greener and more just place to live and thrive as they will usher in a new wave of clean industry and manufacturing jobs. We know that these jobs are necessary for a just transition to a green economy and a liveable future. I implore you to be brave for the benefit of all of us to pass these non-interim regulations. Thank you.

**From:** [David McInturff](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 3:29:37 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

I have been following and commenting at public hearings on the issue of local fossil fuel expansion for a number of years now. Both nationally and locally, leaders have failed to address climate change and now we are reaping the rewards of our avoidance. Violent weather events, atmospheric warming, acidification of our oceans, colossal amounts of plastic waste are all problems that cannot be avoided any more. And what we do here locally has ripple effects regionally and nationally. We could, if we had the will, make a difference.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

David McInturff  
mcntrff@gmail.com  
4705 Memory Lane West  
University Place, Washington 98466

**From:** mike elliott <mike\_elliott99@hotmail.com>  
**Sent:** Tuesday, October 5, 2021 1:39 PM  
**To:** Hines, John; Thoms, Robert; Blocker, Keith; Ushka, Catherine; Beale, Chris; Hunter, Lillian; McCarthy, Conor; Walker, Kristina  
**Cc:** City Clerk's Office; mike elliott  
**Subject:** Tacoma Permits Application No. LU21-0046  
**Attachments:** Comment - Tacoma Permits Application LU21-0046 - Mike Elliott - 05October2021.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Tacoma City Council Members - Please find attached my comments for Tacoma Permits Application No. LU21-0046. I respectfully request a "NO" vote on this application. Thank you. Mike Elliott, 3301 N Shirley Street, Tacoma, WA. 98407

October 5, 2021

Dear Tacoma Mayor and Tacoma City Council,

I am a longtime resident and property owner in Tacoma, WA. Also, I am the president for the Orchard Park Homeowner's Association (see WA ST Secretary of State filing), which I believe gives me a unique perspective on denser housing complexes here in Tacoma.

I have participated in the permitting "process" associated with Tacoma Permits Application No. LU21-0046 over the past several months and found it to be inconsistent, non-sequitur and frustrating (to put it mildly). Rather than listen and heed feedback received from Tacoma citizens living in the existing neighborhood, city planning staff has done everything in their power to counter concerns the public has raised. In fact, they have taken to using the various USDOT regulations, the state SEPA, and other municipal codes to defend their reasoning as to why the up zone should be allowed. Granted, regulations are important, but Tacoma Permits staff has completely missed the most important information associated with this application: The views and opinions of the citizens living in this Tacoma neighborhood.

I just received an email from state Dept. of Ecology on Monday, October 4<sup>th</sup>, 2021, indicating they do not have jurisdiction over the "fast-tracked" SEPA that has apparently occurred with this application. Rather, Ecology indicates it is none other than the City of Tacoma that is behind the accelerated SEPA process. Okay, so where is the data on the Asarco soil samples for the parcels in question? According to Ecology, that information has yet to be made available (at least to them).

As previously stated, the issue of zoning for these and many other parcels in this and other Tacoma neighborhoods was examined and deliberated upon during the citywide comprehensive plan update in 2015-16. I recall receiving a notification postcard in the mail at my residence seeking input. All of my neighbors, including the property owner associated with LU21-0046, had an opportunity to provide input on a planning commission proposal to up zone raw land (including the LU21-0046 parcels) from R2 single-family to the denser multi-family R4-L. I'm told there was sufficient input from the citizens to convince the Tacoma Planning Commission to reconsider blanket up zones and, in the case of the parcels associated with this application, to settle on R3 zoning. The existing R3 zoning still allows a build-out of up to 44 housing units. More, in my opinion, than should be allowed for the size and shape of the parcels.

Fast forward to 2021, the "sky is falling" housing report by the think tank Puget Sound Regional Council, the unvetted Home in Tacoma idealists' concept, and the desire by some on the city council to seemingly "do something," even if it's wrong. To me, it is clear the City of Tacoma and quite possibly the majority of the city council supports any and all proposals, no matter how ill-conceived, inappropriate, or unvetted by the public that will add more housing units. While I agree there's a need for additional housing, where it is built and what type of housing is to be built should be in keeping with the existing, established neighborhoods and, most importantly, in keeping with the will of the residents who live here. The denser, multi-story housing developments, as proposed by the applicants in LU21-0046, may very well be appropriate in other locations around Tacoma, but certainly not at 5517 33<sup>rd</sup> Street.

As an example, there is a denser development just north of 19<sup>th</sup> Street and the State Route 16 N/B on-ramp (1500 Orchard Street Apartments) that seems to make sense for that specific location. Another location where denser housing may be appropriate is a proposed development on the former

K-Mart site near Orchard Street and 6<sup>th</sup> Avenue. That location may be where a Home in Tacoma concept might work. The idea the zoning changes along Tacoma bus routes is a viable plan is asinine. I own experience at Orchard Park Estates is that very, very few tenants ride the bus to/from work, to/from the grocery store, or to/from ANYWHERE. They drive their cars. And the parking situation at Orchard Park Estates is grossly inadequate. At a minimum, the calculation should be two vehicles per living unit. That's from my own direct observation here in Tacoma.

But what is really shameful about his application is the true motivation behind it. Namely, GREED. The property owner told me himself that if he can get the city to up zone the parcels to R4-L, he stands to double his profits. You know what? The property owner already stands to make enough profit with R3 zoning. I guess if someone sees an angle to make more money on a land sale, they are going to try exploiting it. But, for goodness' sake, how much more does one person need and why is the city helping with this type of profiteering scheme? The "greater good" here ought to be the will of the citizens living in the existing neighborhood, not one's man's desire for more. Guaranteed, the developer's plan is to plop five (5) two-story 4-plexes along the east boundary of the parcels, 20' from the west property boundary lines of several R2 homes, subdivide, and auction each one off separately to the highest bidder within three years of breaking ground - while laughing all the way to the bank. Guaranteed.

In closing, the communications I have had with my neighbors and the neighborhood association, no one, save the property owner and his developer, has come out in support of an "up zone" for the four parcels in this application (I guess we could count the city planning department as a big supporter of the up zone too, though). In my opinion, the R3 zoning on these four parcels should not be up zoned. If anything, they should be down zoned to R2 as it is more appropriate for the surrounding neighborhood. Also, this application is inextricably intertwined with the unvetted Home in Tacoma concept. If the application is not outright denied, at the very least, it should be tabled for one-full year to allow for additional public input on citywide zoning changes that, ultimately, allow for denser housing developments. The Asarco soil sample data also needs to be made available to the public, and then, there needs to be an appropriate period of time (I recommend one-full year) to allow for separate analysis and commenting on that data. Thank you.

Respectfully,

Mike Elliott  
3301 N Shirley Street  
Tacoma, WA 98407

**From:** Tawni Bailey <tyslas@ilwulocal23.org>  
**Sent:** Tuesday, October 5, 2021 3:13 PM  
**To:** City Clerk's Office  
**Cc:** Jared Faker  
**Subject:** Local 23 Letter RE Tideflats  
**Attachments:** 10-05-21 OUT L23 to Councilmembers RE Tideflats & Non-Interim Regulations.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please see the attached letter from ILWU Local 23.  
Thank you,

***Tawni Tyslas***  
ILWU Local #23  
(253) 272-6600 ext.3  
[TYslas@ilwulocal23.org](mailto:TYslas@ilwulocal23.org)

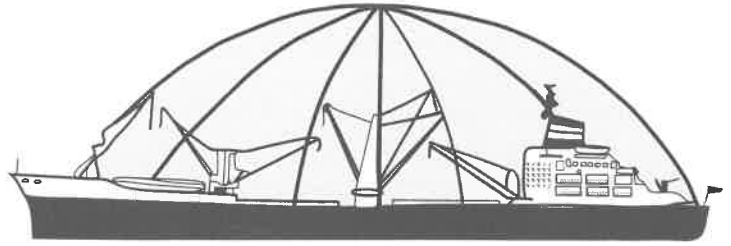


# International Longshore and Warehouse Union

LOCAL 23

(253) 383-2468

1306 ALEXANDER AVE. E.  
FIFE, WASHINGTON 98424



October 5, 2021

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we ask that in your review of the Tacoma Tideflats Non-Interim Regulations, you seriously consider the unintended consequences that these regulations will produce for this region. We are gravely concerned the regulations could jeopardize future investments and threaten thousands of jobs.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions of dollars in local tax revenue. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

We specifically call your attention to the increased use of Conditional Use Permitting which is highly subjective and discretionary, and subject to the political forces of the day. This regulatory uncertainty will likely foster an unfriendly business climate in the area that will hurt current operators. This could jeopardize any new business interest in our area. Ironically, it could also result in unintended negative impacts on our environment.

Finally, we are concerned that the Non-Interim Regulations are simply an attempt to short-cut the Subarea Plan process by making some of the most economically destructive proposed elements of the Subarea Plan permanent now. Thank you for your consideration.

Sincerely,

Jared Faker

President- ILWU Local 23

**From:** Holli Johnson <hjohnson@wspace.org>  
**Sent:** Tuesday, October 5, 2021 3:21 PM  
**To:** Woodards, Victoria; Hines, John; Thoms, Robert; Blocker, Keith; Ushka, Catherine; Beale, Chris; Hunter, Lillian; McCarthy, Conor; Walker, Kristina; Pauli, Elizabeth; City Clerk's Office  
**Cc:** Wille, Tadd; City Manager  
**Subject:** Western States Petroleum Association (WSPA) comments on Tideflats and Industrial Land Use Regulations  
**Attachments:** WSPA Comment re City of Tacoma Oct 5.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear City of Tacoma City Council,

Please find attached Western States Petroleum Association (WSPA) comments regarding the proposed Tideflats Industrial Land Use Regulations. If you have any questions, or would like to discuss any of our issues further, please contact me via email or cell at 360-239-2248.

Sincerely,

Holli Johnson  
SENIOR MANAGER, NW REGION

**PLEASE NOTE OUR NEW ADDRESS**



P.O. Box 6069, Olympia, WA 98507  
P 360.239.2248 [wspace.org](http://wspace.org)



Holli Johnson  
Senior Manager NW Region

October 5, 2021

City of Tacoma City Council  
747 Market St.  
Room 345  
Tacoma, WA 98402

RE: Proposed Tideflats and Industrial Land Use Regulations

The Honorable Mayor Victoria Woodards and Members of the City Council:

Western States Petroleum Association ("WSPA") is writing to offer additional comments in the record on the City of Tacoma's proposed amendments to land use regulations that apply to fossil and renewable fuel facilities in the M-2 Heavy Industrial and Port of Tacoma Manufacturing and Industrial Center Districts ("Proposed Amendments"). WSPA has previously addressed comments to the City Council and the City's Planning Commission and submitted a letter to the Planning and Development Services Department regarding the Preliminary Determination of Environmental Nonsignificance issued for the Proposed Amendments. A copy of this correspondence is included in the record and incorporated into this letter by reference.

WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport, and market petroleum and petroleum products in five western states, including Washington. WSPA members have operated in Tacoma for decades. WSPA members that operate in Tacoma provide key energy and emergency infrastructure, which contributes to Tacoma serving as a regional hub for energy production and distribution. As reflected in the City's One Tacoma Comprehensive Plan, the presence of WSPA members' facilities has many positive impacts on the economy, the community, and provides sustaining family-wage jobs.

WSPA appreciates the City forming the Infrastructure, Planning and Sustainability Committee to consider and recommend modifications to the Planning Commission's version of the Proposed Amendments. WSPA is mostly supportive of the IPS Committee's recommendations. However, WSPA continues to have serious concern that the City's current code amendments do not include limited capacity increase to address future fuel demands.

WSPA is requesting the Council address capacity increase as well as the following edits to the proposed amendments based on the IPS Committee's recommendations:

- The definition of Cleaner Fuels is clarified to reflect the IPS committees' recommendations.

- Certain repairs and replacement of existing facilities may currently not require a permit and if currently exempt, no additional permitting should be required through the amendments.
- Expanded Cleaner Fuels Infrastructure may, by definition, include a hybrid of fuels and if provided, should not be considered a violation under the code.

See attached proposed edits.

Again, WSPA appreciates the Council's willingness to consider the points of view of all interested parties and adopt amendments that balance the needs of industry with the protection of the environment.

Sincerely,



cc: Jodie Muller, WSPA  
Jessica Spiegel, WSPA

**PROPOSED CHANGES TO CODE AMENDMENTS INCORPORATING IPS COMMITTEE  
RECOMMENDATIONS**

(City changes accepted and then additional changes shown below) October 5, 2021

**Under 13.010.060 (Page 2)**

“Cleaner Fuels.” Carbon-free fuels that generate no carbon emissions, including green hydrogen, ~~Cleaner fuels also include any~~ credit generating fuel under the Washington Clean Fuel Standard, any blends of EPA approved and listed fuel ~~pathways and alternatives~~ under the federal Renewable Fuel Standard, any Renewable Diesel meeting the requirements of Washington State law, any Ethanol and E85 blends meeting the requirements of Washington State law, ~~and~~ any natural gas, propane, ~~green~~ hydrogen, or electricity, produced or stored for use as fuels in a motor vehicle that meeting the motor vehicle emission standards for Alternative Fuels in Washington State law.

**Under 13.06.080.G.5 and 6. Special Use Standards (Pages 29-30)**

**5. Petroleum Fuel Facilities.**

a. New “Petroleum Fuel Facilities” are prohibited.

b. Existing facilities, legally permitted at the time of adoption of this ordinance, shall be considered permitted uses, subject to the following limitations:

(1) Existing facilities shall not exceed the established baseline as of November \_\_, 2021 (the adoption date of this ordinance) except where specifically authorized in this section.

(2) Except as specifically authorized under 13.06.080.G.5.b.(3), (4), and (5), the following new improvements are prohibited:

- New driveways, private rail sidings, docks, piers, wharves and floats.
- Site or facility improvements that would increase the capacity of a driveway, private rail siding, dock, pier, wharf or float.
- New storage tanks, refining or processing facilities.

(3) Expansion of or addition to existing petroleum fuel facilities is allowed through the normal permitting process when the particular expansion would create the maximum proposed capacity of a facility that was the subject of an Environmental Impact Statement prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 as of November, 2021 (the adoption date of this ordinance) and for which the City has accepted on or before November \_\_, 2021 (the adoption date of this ordinance) all funds that fully mitigate the adverse environmental impacts of the facility’s maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.

(4) Expansion of production, storage, transportation and transshipment of petroleum fuels when requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs shall be allowed through the standard

permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director.

(5) Replacement of and improvements to existing petroleum infrastructure shall be allowed through ~~the~~ any required standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, in conjunction with any permit for maintenance, for improvement of the safety or security of the infrastructure, decrease air or water emissions, or to allow the infrastructure to meet new regulatory requirements.

(6) Where a “Petroleum Fuel Facility” provides direct-to-vessel fueling, new infrastructure that is necessary to support vessel fueling may be allowed so long as overall facility storage and refining does not exceed the established baseline.

(7) Improvements are limited to property owned or occupied by the use as of the adoption of this ordinance.

(8) Baseline monitoring. On an annual basis, Planning and Development Services will evaluate information from the U.S. Energy Information Administration, WA Department of Ecology, Puget Sound Clean Air Agency, as well as from local permits, to ensure compliance with the requirements herein.

## **6. Cleaner Fuel Infrastructure.**

a. New and Expanded Cleaner Fuel Infrastructure as defined in this chapter shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, and subject to the following requirements:

(1) New Cleaner Fuel Infrastructure permitted through this chapter shall not be used solely for the production, storage, transportation and transshipment of petroleum. Total or partial conversion of permitted New Cleaner Fuel Infrastructure for the purposes of production, storage, transportation, and transshipment of petroleum (except Cleaner Fuels) shall constitute grounds for permit revocation and civil enforcement.

(2) ~~Any Expanded~~ Cleaner Fuel Infrastructure Expanded, as defined in TMC 13.01.060, is permitted ~~through this chapter shall not if such expansion does not~~ exceed a cumulative total increase of fifteen percent (15%) more storage over the applicant’s total petroleum storage as of November, 2021 (the adoption date of this ordinance). Total or partial conversion of permitted Expanded Cleaner Fuel Infrastructure for the sole purposes of production, storage, transportation, and transshipment of petroleum fuels (except Cleaner Fuels) shall constitute grounds for permit revocation and civil enforcement. The limitation on cumulative petroleum storage does not apply to expansions allowed under TMC 13.06.080.G.5.b (3), (4), and (5) above.

**From:** John Stuhlmiller <JStuhlmiller@wsfb.com>  
**Sent:** Tuesday, October 5, 2021 3:29 PM  
**To:** City Clerk's Office  
**Cc:** Tom Davis; Breanne Elsey  
**Subject:** Comments on Tacoma Tideflats Regulations  
**Attachments:** Tacoma Tideflats comments.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please see our comments attached to this message regarding comments for the hearing on the Tacoma Tideflats Regulations tonight.

John Stuhlmiller  
Chief Executive Officer



Cell: 360.870.6017  
Office: 360.528.2903

### **Ensuring that our family farms continue to feed the world**

This e-mail message may contain privileged and/or confidential information, and is intended to be received only by persons entitled to receive such information. If you have received this e-mail in error, please notify the sender immediately. Please delete it and all attachments from any servers, hard drives or any other media. Other use of this e-mail by you is strictly prohibited.

**For business, agriculture and educational resources, visit: <https://wsfb.com/covid-19-resources/>**

-



975 Carpenter Rd NE, Suite 301  
Lacey, WA 98516

October 5, 2021

Tacoma City Council  
% City Clerk's Office,  
733 Market Street, Room 11  
Tacoma, WA 98402

Dear Councilmembers:

Thank you for considering my comments regarding issues related to the Tacoma Tideflats regulations.

I am submitting the following comments on behalf of our more than 48,000 member families of the Washington Farm Bureau. Our members have a major stake in the competitiveness of Washington's trade-based economy. Agriculture is Washington's second largest industry, and we depend on a robust trade infrastructure, especially at our ports, to move bulk products across the state and to the global marketplace.

Therefore, it is concerning that the City Council is interested in adding new regulatory hurdles for businesses currently operating at the Tideflats and the Port of Tacoma. The unprecedented regulatory hurdles you are contemplating would set a bad precedent for companies that come into the area and use private investments to help modernize our state's current infrastructure. This is the very same system agricultural producers use to move commodities across the country and globally. We cannot cut the knees out from under the businesses that support the trade of our agricultural commodities.

As an organization focused on sustainability, we agree that we must work together to enact carefully thought out regulations that protect our region's environment, but not at the expense of economic forces that provide crucial family-wage jobs and needed investment. With some extra time, you can work with all applicable community stakeholders to craft regulations that balance job growth, encourages future economic investment, all while addressing concerns about the environment and climate change.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Stuhlmiller'.

John Stuhlmiller  
Chief Executive Officer  
Washington Farm Bureau



**From:** [Connie Landis](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Ban fossil fuel expansion, no exceptions  
**Date:** Tuesday, October 5, 2021 3:43:16 PM

---

Dear City Clerk Sorum,

I am a Tacoma resident and while the following are not my words, they express my sentiments exactly:

My family and neighbors support the non-interim regulations as proposed by the Planning Commission. **We want to ban fossil fuel expansion, no exceptions.**

We do not support the proposed amendments which are redundant or which seek to create loopholes for further fossil fuel expansion. As the City's own Planning Commission points out, passing some of these amendments might be a violation of Washington's Growth Management Act.

We find Motion 4 from the Infrastructure, Planning and Sustainability Commission to be very problematic - without mentioning it once by name, this amendment would allow Puget Sound Energy to expand their fracked gas LNG facility to full capacity even though they have yet to apply for this. As environmental law firm Earthjustice points out, this could be a violation of Washington's anti-bribery laws.

We also stand by the Puyallup Tribe, whose own [council members have appeared before the city](#) to ask for a ban on expansion to protect the health of their people and their treaty rights.

We believe that the sooner Tacoma embraces a renewable energy future, the better off we will be, both in terms of jobs and our environment. Fossil fuel facilities, even though they take up a huge part of our Port, provide around 250 jobs, or just 0.15% of those tallied by the Economic Development Board of Tacoma Pierce County. Why do they have such an outsized impact on our policies?

Studies show that, for an equal investment, green energy creates three times as many jobs. Even some city and port representatives have suggested Tacoma manufacture and export wind turbine components, or invest in green hydrogen technology.

Sincerely,

Connie L. Landis

**From:** [Nancy Ferree-Clark](#)  
**To:** [City Clerk's Office](#)  
**Subject:** comments re: Oct. 5 council meeting  
**Date:** Tuesday, October 5, 2021 3:49:24 PM

---

Dear Tacoma City Council,

I understand that tonight's Council meeting will include a discussion about establishing "non-interim" regulations regarding the expansion of existing fossil fuel facilities in the Port of Tacoma area. As a local United Methodist pastor with 38 years experience in parish ministry and college chaplaincy, I implore you to vote against any regulation that would allow new fossil fuels at the Port of Tacoma. As we learn more and more about the ways climate change is posing a menacing threat to the health of our planet, I sense that more people are becoming increasingly concerned that we do all we can as soon as we can to limit global warming.

As we have surely learned from the ongoing Covid-19 pandemic, there is an inextricable connection between human health, the environment, and the economy. Fossil fuels clearly contribute to an increase in pollution and related health issues. Yet to have a strong community we need healthy people. We must stop sacrificing the health of many for the wealth of a few. I believe we have a moral obligation to cut emissions now in order to create a just economy and a healthier world.

I encourage you to take this opportunity to vote for a healthy future for our city by supporting sustainable economic development and environmental justice. Please do not submit our beautiful port to the detrimental impact of the increasing presence of fossil fuels. We need your wise leadership to help us learn from past mistakes and guide us toward a bright future that includes green jobs and a clean environment both for current and future generations.

Thank you,

Rev. Nancy Ferree-Clark

**From:** [Bradley Thompson](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Comments for 10/05/21 meeting re: non-interim regulations  
**Date:** Tuesday, October 5, 2021 4:00:29 PM

---

Please include these comments in tonight's meeting. Thank you.

October 5, 2021

Good evening Council Members and Madam Mayor,

My name is Bradley Thompson. I'm a Psychiatric Clinical Nurse Specialist and I live in Councilmember Blocker's district in the Hilltop neighborhood.

As a nurse who works in psychiatric care, I see the toll that the events of the last year and a half have taken on people's mental health. While virtually no one has escaped unscathed, young people in particular are facing extraordinary stressors and many of them are really struggling.

That's why the results of a [recent study](#) caught my eye. A very large, global scientific study undertaken by British researchers surveyed 10,000 young people between 16 and 25 about climate change, and the results were sobering.

Three-quarters of young people surveyed said they thought the future was frightening. Over half (56%) say they think humanity is doomed. Two-thirds reported feeling sad, afraid, and anxious. Many felt fear, anger, despair, grief, and shame.

Many of those questioned perceive that they have no future, because governments are failing to respond adequately to the threat posed to their generation by the climate crisis. Many feel betrayed, ignored, and abandoned by politicians and adults.

One 16 year-old said: "It's different for young people - for us, the destruction of the planet is personal."

And, in fact, he is exactly right.

In [another recent study](#), published in the journal Science, researchers attempted to quantify what lead author Wim Thiery calls the "intergenerational inequality" of climate change.

If the planet continues to warm on its current trajectory, the average 6-year-old will live through roughly three times as many climate disasters as their grandparents, the study finds. They will see twice as many wildfires, 1.7 times as many tropical cyclones, 3.4 times more river floods, 2.5 times more crop failures and 2.3 times as many droughts as someone born in 1960.

This is just one injustice among many at the heart of the climate crisis.

The urgency of the climate crisis is not only [clear from the science](#), but the impacts are now visible to all of us -- extreme heat events, historic droughts, floods, forest fires, hurricanes, famines, climate-related migration, rising sea levels, etc -- and they will continue to worsen.

That's why the decision before you tonight, to permanently close the door on fossil fuel expansion in Tacoma, is both meaningful and impactful. Young people don't have the time or luxury to wait until they are in positions of power to take action. By then it will be too late. They are literally begging you to take meaningful action on their behalf.

Please also center the voices of the Puyallup Tribe, whose tribal treaty territory originally included all of the Tacoma Tideflats (now known as the Port of Tacoma) before it was stolen from them. They have suffered disproportionately from dirty polluting industry in the Port of Tacoma and are asking for justice and meaningful consultation.

Please accept the non-interim regulations as originally proposed by the Planning Commission. We need to ban all fossil fuel expansion, without exceptions.

The amendments under consideration are simply carve-outs for specific businesses, loopholes, and delay tactics that seek to undermine the original purpose of these regulations.

If you care about young people, environmental justice, and future generations, you will pass clear and permanent regulations that ban fossil fuel expansion in Tacoma. Bellingham recently passed such regulations. We can do the same in Tacoma, and become a leader in the green economy with good jobs and a cleaner environment that protects all of us.

Thank you.

Bradley Thompson  
[bradleythomp@gmail.com](mailto:bradleythomp@gmail.com)  
2314 S Ainsworth Ave  
Tacoma, WA 98405

**From:** [Linda Cohan](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Protect The Tacoma Tideflats, By Stopping Fossil Fuel Expansions  
**Date:** Tuesday, October 5, 2021 4:06:33 PM

---

Council Tacoma City ,

Madam Mayor, and Tacoma City Council,

Tacoma stands at a crossroads. Will we continue to live in fear to protect fossil fuel industry profits, or will we stand up to corporate polluters and demand a livable future and low carbon economy?

For over 4 years now, your constituents have weighed in time and time again that something has to change.

Whether it was members of the council, the Puyallup Tribe of Indians, The Planning Commission, or hundreds if not thousands of advocates, the message has been clear, it is time to stop fossil fuel expansions in Tacoma. We have known this moment was coming for decades.

No more loopholes, no carve outs, no more profits over people. We must ban expansions that are not in service of true renewable fuels, and incentivize clean industries to set up shop in Tacoma.

Tacoma has been passed over before, we cannot keep wasting time while other cities began to expand into a cleaner and greener economy.

The Council must reject any amendments that allow expansion of existing fossil fuel facilities for anything other than clean fuels and clarify and strengthen the definition of clean fuels to ensure it is consistent with federal and state standards and create the incentives necessary for Tacoma to transition to truly clean energy. Specifically, I request that:

-New and Expanded Cleaner Fuel Facilities Permitted: The definition of clean fuels should be linked to the EPA standard and credit-generating standards under the Washington Clean Fuel Standard, once established, rather than permanently allow certain fuel types even as they may become ineligible to generate credits under the CFS over time. Including fuels that are barely incrementally cleaner than the status quo won't advance Tacoma's clean energy goals and is inappropriate to be outright permitted under the updated code.

-Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: It should be made clear in the code that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

National Security Petroleum Fuel Facilities: This motion is redundant with the Federal Defense Production Act. Council should clarify that any infrastructure built under the direction of this

motion cannot be later converted for commercial uses.

-Projects which have undergone Environmental Review and Mitigated Impacts: The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA. Allowing a significant expansion of the LNG facility completely undermines the intent of the regulations and further endangers our health, safety, and climate.

Please strengthen the Tideflats Regulations to end the loopholes, and allow us to kick off a decade of clean energy transformation.

Thank you,

Linda Cohan  
lcohan1234@msn.com  
4932 N. Visscher St.  
Tacoma, Washington 98407

**From:** Jaimini Parekh <jparekh@earthjustice.org>  
**Sent:** Tuesday, October 5, 2021 3:47 PM  
**To:** City Clerk's Office; Woodards, Victoria; Hines, John; Thoms, Robert; Blocker, Keith; Ushka, Catherine; Beale, Chris; Hunter, Lillian; McCarthy, Conor; Walker, Kristina  
**Cc:** jhasselman@earthjustice.org; anna@wecprotects.org  
**Subject:** Comments on Tideflats Regulations  
**Attachments:** 2021-10-5 Earthjustice Letter Regarding Tideflats Regulations.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Council Members,

Please see the attached comment letter regarding the proposed amendments to restrict fossil fuel infrastructure development in the City of Tacoma.

Best regards,

Jaimini Parekh  
Senior Associate Attorney  
Earthjustice  
810 Third Avenue, Suite 610  
Seattle, WA 98104  
T: 206-701-7613  
F: 206.343.1526  
[earthjustice.org](http://earthjustice.org)  
[facebook.com/earthjustice](https://facebook.com/earthjustice)  
[twitter.com/earthjustice](https://twitter.com/earthjustice)

*\*\*\*Working remotely, and email is the preferred means of contact. Thank you.*



*The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.*



October 5, 2021

*Via email to cityclerk@cityoftacoma.org*  
Tacoma City Council  
747 Market Street  
Tacoma, WA 98402

RE: Comment Regarding Proposed Regulations for the Tidelands to Allow Expansion of Cleaner Fuel Infrastructure

Dear Tacoma City Council:

Earthjustice submits this letter on behalf of Advocates for a Cleaner Tacoma (“ACT”), Washington Environmental Council (“WEC”), Sierra Club Washington Chapter, Washington Physicians for Social Responsibility (“WPSR”), and Stand.earth.<sup>1</sup> Earthjustice represents these organizations in litigation pending before the Pollution Control Hearings Board challenging the Notice of Construction permit issued by the Puget Sound Clean Air Agency for the Tacoma LNG Project, which is owned and operated by Puget Sound Energy.

**While we applaud the City of Tacoma (“City”) for its commitment to restrict fossil fuel development in the Tacoma tide flats, we are writing to express serious concern that the revisions proposed by the Infrastructure, Planning, and Sustainability Committee (“IPS Committee”)<sup>2</sup> would allow for a significant expansion of fossil fuel infrastructure.** First, the IPS Committee revisions would allow for the construction and expansion of “cleaner fuels facilities.” The definition of “cleaner fuels” includes fossil fuels such as natural gas, propane, and petroleum-blended fuels. Thus, this revision proposed by the IPS Committee could allow a significant expansion of fossil fuel infrastructure. These revised amendments are inconsistent with the determination of non-significance previously issued by the City for the Planning Commission’s proposed amendments.<sup>3</sup> Second, the IPS Committee recommendations

<sup>1</sup> ACT is a Tacoma-based nonprofit focused on ensuring and improving clean air, water, and land in Tacoma. WEC is non-profit, statewide advocacy organization that has been driving positive change to solve Washington’s most critical environmental challenges. The Sierra Club is a national nonprofit organization dedicated to enjoying, and protecting wild places; to practicing and promoting the responsible use of the earth’s ecosystems; to educating and enlisting humanity to protect and restore the natural and human environment. WPSR is a healthcare professional-led advocacy organization working to create a healthy, just, peaceful and sustainable world. Lastly, the mission of Stand.earth is to challenge corporations and governments to treat people and the environment with respect, because our lives depend on it.

<sup>2</sup> **Attachment 1**, IPS Committee, Tacoma City Council, *Letter to City Council*, Aug. 30, 2021, (hereinafter “*IPS Committee Recommendations*”).

<sup>3</sup> City of Tacoma, Preliminary Determination of Environmental Non-significance, Feb. 19, 2021, <https://cms.cityoftacoma.org/Planning/Tidelands/Permanent%20Regulations/SEPA%20DNS%20and%20Checklist.pdf>.



would allow facilities that have previously undergone SEPA review to escape scrutiny or prohibition under the new proposed law. This broad exemption is not necessary or required.

We strongly encourage the City Council to more closely align its code amendments with the proposal put forth by the Planning Commission to limit expansion of fossil fuel infrastructure in the Tacoma tide flats.

## I. THE CITY PLANNING COMMISSION PROPOSED BANNING FOSSIL FUEL INFRASTRUCTURE EXPANSION IN THE CITY OF TACOMA.

The City Planning Commission conducted an extensive stakeholder analysis and evaluation that culminated in a comprehensive report that was published in April this year. That report recommended prohibiting the expansion of fossil fuel facilities and proposed specific amendments to the zoning code that would achieve this purpose.<sup>4</sup> The Planning Commission also recommended allowing construction and expansion of renewable fuels infrastructure, but defined this term to only refer to fuels that cut GHG emissions by 50% or more.

This section explains the code amendments proposed by the Planning Commission in its April report, and how they proposed to prohibit fossil fuel infrastructure expansion. As discussed in Section II, the Planning Commission's proposed amendments are significantly different from the revisions put forward by the IPS Committee in its letter submitted to the City Council on August 30, 2021—which would allow for an expansion of fossil fuel infrastructure.

### A. Prohibition on New and Expanded Fossil Fuel Facilities.

Due to the significant adverse public safety and climate impacts of fossil fuel facilities, the Planning Commission recommended prohibiting further expansion of these facilities. It proposed achieving this by adding the term “fossil fuel facility” to the zoning code as a land use, and prohibiting further expansion of that land use. The Planning Commission proposed defined the term “fossil fuel facility” as any fossil fuel refinery, terminals engaging in the bulk movement of fuels, natural gas processing facilities, and bulk storage and processing of fossil fuels.<sup>5</sup> It defined fossil fuels as follows: “Fossil fuel includes coal, petroleum, crude oil, natural gas, oil shales, bitumens, tar sands, propane, butane, and heavy oils. All contain carbon and were formed as a result of geologic processes acting on the remains of organic matter. Renewable fuels are not fossil fuels.”<sup>6</sup>

---

<sup>4</sup> Tacoma Planning Commission, *Findings and Recommendations: Tideflats and Industrial Land Use Amendments*, at 2-3, (Apr. 7, 2021), <https://cms.cityoftacoma.org/Planning/tideflats/InterimRegulations/Noninterim/Planning%20Commission%20Findings%20of%20Fact%20and%20Recommendations%20Report%20April%207%202021.pdf> (herein after “*Planning Commission Report*”).

<sup>5</sup> *Planning Commission Report* at 64.

<sup>6</sup> *Id.*

The Planning Commission's proposed code amendments would have made fossil fuel facilities a non-conforming use, because they would have prohibited construction of new facilities and prohibit expansion of existing facilities.<sup>7</sup> The Planning Commission proposed prohibiting fossil fuel facilities in residential and commercial districts.<sup>8</sup> In industrial districts, the Planning Commission proposed designating fossil fuel facilities as "P\*/N" meaning new fossil fuel facilities are prohibited, but existing fossil fuel facilities are permitted to continue operating subject to special use restrictions.<sup>9</sup> Those special use conditions include that existing facilities are prohibited from exceeding the storage baseline capacity. This baseline capacity is calculated by evaluating facility's refining and storage capacity on the effective date the code amendment is adopted into law.<sup>10</sup>

The Planning Commission's approach is consistent with Washington State Supreme Court precedent. As we explained in our last letter, protected nonconforming status generally grants the right to continue the existing use, but does not allow a facility to significantly change, alter, extend, or enlarge the existing use.<sup>11</sup> The City has authority pursuant to its police power to adopt the Planning Commission's proposed ban on new fossil fuel facilities, and expansion of fossil fuel facilities.<sup>12</sup>

B. Renewable fuels facilities would require a 50% reduction in GHGs

The Planning Commission also recommended allowing "renewable fuel facilities" to operate in industrial districts subject to a conditional use permit.<sup>13</sup> The Planning Commission defined renewable fuels as "[f]uels that are synthesized from renewable energy sources, such as wind and solar, those approved by the US Environmental Protection Agency (EPA) Renewable Fuels Standard Program and hydrogen fuels (when produced with renewable processes), that result in a lifecycle greenhouse gas emission reduction of at least 50% or more under the Federal Clean Air Act[.]"<sup>14</sup> The Planning Commission noted that this definition could be revised once Washington adopted its own definition of renewable fuels.<sup>15</sup>

The U.S. EPA's Renewable Fuel Standard Program incentivizes and regulates the production of biofuels as an alternative transportation fuel to gasoline or diesel. There are three

---

<sup>7</sup> See **Attachment 2**, Earthjustice, *Comment Letter to the IPS Committee*, at 3 (Aug. 21, 2021) (describing the authority of the City to prohibit non-conforming uses pursuant to the City's police power).

<sup>8</sup> *Planning Commission Report* at 94, 102.

<sup>9</sup> *Id.* at 125 (explaining that "P\*/N" means "Facilities legally permitted at the time of adoption of this ordinance are permitted, subject to special use standards in Section 13.06.080.G. Otherwise prohibited.").

<sup>10</sup> *Id.* at 131-132.

<sup>11</sup> *Rhod-A-Zalea & 35th, Inc. v. Snohomish Cty.*, 136 Wn. 2d 1, 7 (Wash. 1998).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 67, 74, 96, 103, 111, 126.

<sup>14</sup> *Id.* at 67

<sup>15</sup> *Id.*

fuel pathways under the program – renewable fuels, advanced biofuels and biodiesel, and cellulosic biofuel.<sup>16</sup> These terms are defined by statute in the federal Clean Air Act.<sup>17</sup> Renewable fuels include conventional biofuels, such as ethanol, that are produced from corn and achieve a 20% reduction in GHG emissions compared with petroleum combustion. Advanced biofuels and biodiesel achieve a 50% reduction in GHG emissions.<sup>18</sup> Finally, cellulosic biofuels would achieve a 60% reduction in GHG emissions.<sup>19</sup>

The Planning Commission’s proposal defined “renewable fuels” to only include fuels that that qualify for a 50% or higher reduction in GHG emissions compared to conventional petroleum. Thus, advanced biofuels, biodiesel, and cellulosic biofuels would qualify as “renewable fuels,” but corn-based conventional biofuels would not. The Planning Commissions’ definition incentivizes building out infrastructure for fuels that will leapfrog to higher GHG emissions reductions. Given the drastic consequences climate changes poses to the planet and the great State of Washington, the Planning Commission correctly recommended adopting a strict definition for “renewable fuels” to encourage a buildout of infrastructure for fuels that will make steep cuts in GHG emissions, not piecemeal reductions.

Lastly, the Planning Commission’s proposal recognized that the State of Washington could adopt its own clean fuels program. At the time the Planning Commission developed its recommendations, the legislature had not yet adopted the Clean Fuels Program.

Unlike the federal program, the Washington Cleaner Fuels program does not define the term “biofuels.”<sup>20</sup> Instead, the state legislature defined the term “credit” generating fuels, which are fuels that exceed the GHG reduction targets even by a single ton of GHGs.<sup>21</sup> Credit

---

<sup>16</sup> U.S. Env’t Prot. Agency, *Overview for Renewable Fuel Standard*,

<https://www.epa.gov/renewable-fuel-standard-program/overview-renewable-fuel-standard>.

<sup>17</sup> “The term ‘conventional biofuel’ means renewable fuel that is ethanol derived from corn starch. 42 U.S.C. § 7545(o)(1)(F). “The term ‘advanced biofuel’ means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions.” *Id.* § 7545(o)(1)(B). “The term “biomass-based diesel” means renewable fuel that is biodiesel as defined in section 13220(f) of this title and that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions.” *Id.* § 7545(o)(1)(D). “The term ‘cellulosic biofuel’ means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the Administrator, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.” *Id.* § 7545(o)(1)(E).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See Cleaner Fuels Program Sec. 2, <https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1091-S3.SL.pdf#page=1>.

<sup>21</sup> *Id.*

generating fuels are not synonymous with biofuels, because they the need not achieve the same steep cuts in GHG emissions.

Instead of only incentivizing biofuel production, the new state law seeks to reduce end-use transportation sector emissions by reducing the carbon intensity of all fuels sold within the state.<sup>22</sup> Under the state program, Ecology must ratchet down the carbon intensity of transportation fuels sold in-state to achieve a 20% reduction in transport sector GHG emissions by 2038.<sup>23</sup> However, Ecology is prohibited from ratcheting down the carbon intensity of fuels sold in-state, unless in-state bio-fuel production exceeds the requisite benchmarks.<sup>24</sup>

## II. THE IPS COMMITTEE RECOMMENDATIONS WOULD ALLOW FOR SIGNIFICANT FOSSIL FUEL EXPANSION IN THE CITY OF TACOMA UNDER THE GUISE OF “CLEANER FUELS.”

In its August 30 Letter, the IPS Committee made several revisions to the proposed code amendment that may allow for significant expansion of fossil fuel infrastructure in the City of Tacoma. First, the committee eliminated the term “renewable fuels” and replaced it the term “cleaner fuels,” which it capaciously defined to include fossil fuels such as natural gas and propane. The IPS Committee also eliminated the term “fossil fuel” and replaced it with the term “petroleum fuels,” and removed language that could prohibit the build out of natural gas and propane infrastructure. As a consequence of these revisions, there is significant overlap between the definitions of “fossil fuel” and “cleaner fuels” in the IPS Committee revisions of the proposed code amendment. By changing these key definitions, the committee revisions could allow for the expansion of fossil fuel infrastructure in the City of Tacoma, under the exemption for “cleaner fuels facilities.”

**First**, the IPS Committee recommended eliminating the term “renewable fuel facilities,” and instead has proposed new definitions for the terms “cleaner fuels” and “cleaner fuels facilities.” The definition for “cleaner fuels” is inconsistent and confusing. In its letter to the City Council, the IPS Committee defines cleaner fuels as “carbon-free” fuels that “generate no carbon emissions.”<sup>25</sup> However, in the committee’s revised code amendments, “cleaner fuels” is defined broadly to include “ethanol and E85 blends,” “natural gas,” and “propane.”<sup>26</sup> The term “E85 blends” refers to petroleum fuels that are blended with ethanol, thus, they do not even achieve the 20% reduction in GHG emissions that ethanol itself would achieve. All of these fuels, natural gas, propane, and E85 blends, contain carbon, and would emit large quantities of GHG emissions, in some carbon dioxide in some cases in even greater quantities compared to petroleum fuels.

---

<sup>22</sup> See Clean Fuels Program, Sec. 3(1).

<sup>23</sup> Cleaner Fuels Program, Sec. 5(a).

<sup>24</sup> *Id.* at Sec. 6(b).

<sup>25</sup> **Attachment 1**, IPS Committee Recommendations at 3.

<sup>26</sup> *Id.* at 6.

For example, throughout its life cycle natural gas emits equivalent or greater amounts of GHG pollution than diesel and petroleum fuels. Natural gas is used as a vehicle fuel in trucks, cars, and marine vessels. The carbon reduction benefits of natural gas are minimal to non-existent.<sup>27</sup> Promoting a buildout of natural gas infrastructure to fuel vehicles would worsen climate harms, not make them better. Natural gas can have a worse impact on climate than liquid petroleum fuels because methane is the principal component of natural gas, and it has a high global warming potential.

In our prior letter, we provided an extensive analysis showing that natural gas would likely have minimal if not worse GHG pollution impacts compared to diesel or heavy fuel oil in marine vessel transportation.<sup>28</sup> In the Supplemental EIS for the Tacoma LNG facility, the Puget Sound Clean Air Agency (“PSCAA”) found that overall the natural gas storage facility would only reduce GHG emissions compared to conventional fuels by less than 2 percent.<sup>29</sup> These faulty conclusions were challenge. At the trial challenging the air permit issued by PSCAA, climate expert Pete Erickson testified that the climate harms of the Tacoma LNG project are much higher than PSCAA estimated.<sup>30</sup>

**Second**, the IPS Committee eliminated the terms “fossil fuels” and “fossil fuel facilities” and instead proposed the new terms, “petroleum fuels” and “petroleum facility” that confusingly overlap with the definition of “cleaner fuels.” The IPS Committee defined “petroleum fuels” as “[c]rude oil, petroleum products and byproducts, and gaseous hydrocarbons and byproducts.”<sup>31</sup> However, natural gas is a common byproduct of oil extraction. Likewise, propane is produced from raw gas, which is also a byproduct of oil extraction.<sup>32</sup>

The significant overlap between the terms “cleaner fuels” and “petroleum fuels” renders the distinction between the two terms meaningless. Allowing new “cleaner fuel facilities” and allowing existing facilities to expand could result in an expansion of fossil fuel infrastructure because of the way the committee revisions define the term “cleaner fuels.” To make matters worse, the IPS Committee recommends allowing a 15% increase in existing petroleum tankage, if that petroleum is used for the production of “cleaner fuels.” Thus, the proposed IPS Committee amendments could allow for a significant expansion of fossil fuel facilities in the tide flats.

---

<sup>27</sup> See U.S. Dep’t of Energy, *Natural gas Vehicle Emissions*, [https://afdc.energy.gov/vehicles/natural\\_gas\\_emissions.html](https://afdc.energy.gov/vehicles/natural_gas_emissions.html).

<sup>28</sup> See **Attachment 2**, Earthjustice Coment letter, Ex. A, Direct Testimony of P. Erickson.

<sup>29</sup> PSCAA, Proposed Tacoma LNG Final Supplemental Environmental Impact Statement, at 4-12 (Mar. 29, 2019) (hereinafter “*Tacoma LNG SEIS*”), <https://psccleanair.gov/DocumentCenter/View/3616/Tacoma-LNG-FSEIS-032919?bidId=>.

<sup>30</sup> See *supra* note 28.

<sup>31</sup> **Attachment 1**, IPS Committee Recommendations at 8.

<sup>32</sup> “Natural gas withdrawn from natural gas or crude oil wells is called wet natural gas because, along with methane, it usually contains NGL—ethane, propane, butanes, and pentanes—and water vapor.” U.S. Energy Info. Admin, *Natural Gas Explained*, <https://www.eia.gov/energyexplained/natural-gas/>.

In summary, the revisions put forth by the IPS Committee significantly change the Planning Commission's proposal in a way that could adversely affect the climate. The code amendments described in the Planning Commission Report would have made major strides toward avoiding catastrophic climate change and public health and safety dangers, by clearly prohibiting further build out of fossil fuel infrastructure, while allowing for innovative new and innovative biofuel facilities. In contrast, the IPS Committee revisions are confusing, create overlapping definitions between "cleaner fuels" and "petroleum fuels," and could allow for the construction and expansion of carbon-intensive fossil fuel infrastructure in the Tacoma tide flats.

### III. IPS COMMITTEE RECOMMENDATIONS ARE INCONSISTENT WITH THE CITY'S SEPA DETERMINATION.

Pursuant to the State Environmental Policy Act ("SEPA"), government agencies, including municipalities, must consider and disclose the potential adverse environmental impacts associated with any major proposed government action. Proposals for legislation that could significantly adversely affect the quality of the environment require preparation of a detailed environmental impact statement. RCW 43.21C.030(2)(C). "An environmental impact statement ... shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact." RCW 43.21C.031(1).

For this legislative process, the City of Tacoma prepared a determination of non-significance which it published on February 19, 2021.<sup>33</sup> The City's determination states that the SEPA environmental checklist was reviewed.<sup>34</sup> The Planning Commission in its report prepared a detailed analysis of the harms caused by fossil fuel facilities. The Planning Commission recommended averting those harms by prohibiting new and expanded fossil fuel facilities.<sup>35</sup>

However, the IPS Committee recommendations depart from these prior findings because they would allow for an expansion of fossil fuel infrastructure, as described above. Allowing for the expansion of fossil fuel infrastructure in the Tacoma tide flats would likely have a significant adverse impact on the environment and climate. The Tacoma LNG facility by itself would add nearly 700,000 tonnes of GHG emissions per year, even operating at the lower output level of 250,000 gallons of LNG per day.<sup>36</sup> Allowing all of the fossil fuel facilities in the Tacoma tide

---

<sup>33</sup> City of Tacoma, *Preliminary Determination of Environmental Non-Significance*, SEPA File Number: LU21-0035, <https://cms.cityoftacoma.org/Planning/Tideflats/Permanent%20Regulations/SEPA%20DNS%20and%20Checklist.pdf>.

<sup>34</sup> The notice issued by the City appears to note that the SEPA determination is already final, but this is incorrect. A SEPA determination becomes final and appealable at the time the government action is taken. In this case, the SEPA determination will become final when the City Council officially adopts the proposed code amendments. *See* RCW 43.21C.075.

<sup>35</sup> Planning Commission Recommendations at 56-57.

<sup>36</sup> PSCAA, Tacoma LNG SEIS at 4-8, <https://psccleanair.gov/DocumentCenter/View/3616/Tacoma-LNG-FSEIS-032919?bidId=>.

flats to expand could add hundreds of thousands, if not millions of tons of GHG emissions to the environment.

Given this significant shift in focus, we encourage the City Council to more closely align any zoning code amendments with what the Planning Commission previously evaluated and recommended in its report to prohibit the expansion of fossil fuel infrastructure including by adopting a strong definition of “cleaner fuels.” Doing so would avoid the need for additional SEPA review.

#### IV. PREVIOUS SEPA REVIEW DOES NOT MERIT GRANTING AN EXEMPTION FROM DEVELOPMENT RESTRICTIONS.

Lastly, the IPS Committee Recommendations would create a loophole in the zoning amendments for projects previously reviewed under SEPA, but this loophole is unnecessary. The committee recommends amending the code to exempt facilities that have previously undergone SEPA review, and which have previously executed a mitigation agreement.<sup>37</sup> However, as explained extensively in our last comment letter, neither SEPA nor the mitigation itself would create any vested rights that would require this broad exemption.<sup>38</sup>

Washington courts have soundly rejected the notion that SEPA review creates any vested rights. The State Environmental Policy Act (“SEPA”) is an information disclosure law that was enacted with the purpose of informing decisionmakers and the public about the environmental consequences of any proposed government action, including whether the City should issue a permit. *See Norway Hill Preserv. & Prot. Ass’n v. King Cnty. Council*, 87 Wn.2d 267, 272 (1976); WAC 197-11-400. “The primary function of an EIS is to identify adverse impacts to enable the decision-maker to ascertain whether they require either mitigation or denial of the proposal.” *Victoria Tower P’ship v. City of Seattle*, 59 Wn. App. 592, 601 (1990); WAC 197-11-400(2).

However, preparation of an environmental review document that evaluates a project expansion scenario does not create any vested rights that would allow a developer to use its property in accordance with the project evaluated in a SEPA review document. The Court of Appeals resoundingly rejected this argument, finding that SEPA review does not create any vested rights to develop. *Deer Creek Devs., LLC v. Spokane Cty.*, 157 Wn. App. 1, 12 (2010) (“Deer Creek’s arguments that the vested rights doctrine should be expanded to include site plan applications or a SEPA report for a multipermit project are unpersuasive.”).

#### V. CONCLUSION

For all the reasons described in this letter, we strongly encourage the City Council to more closely align its code amendments to the proposal put forth by the Planning Commission by establishing a clearer definition of clean energy and limiting the expansion of fossil fuels.

---

<sup>37</sup> **Attachment 1**, IPS Committee Recommendations at\_\_.

<sup>38</sup> **Attachment 2**, Earthjustice Comment Letter at \_\_.

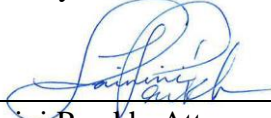
Tacoma City Council

October 5, 2021

Page 9

Doing so would be a tremendous step toward protecting public health and safety, and reducing the City's contribution to catastrophic global climate change.

Sincerely,



---

Jaimini Parekh, Attorney

Earthjustice

*Counsel for Washington Environmental Council, Stand.Earth, Advocates for a Cleaner Tacoma,  
Sierra Club, Washington Physicians for Social Responsibility*



**From:** Erin Dilworth <edilworth@healthybay.org>  
**Sent:** Tuesday, October 5, 2021 4:00 PM  
**To:** City Clerk's Office; Ushka, Catherine; Beale, Chris; McCarthy, Conor; Blocker, Keith; Hunter, Lillian; Woodards, Victoria; Thoms, Robert; Hines, John; Walker, Kristina  
**Cc:** Victor, Steve(Legal); Huffman, Peter; Harding, Melanie; Atkinson, Stephen  
**Subject:** Citizens for a Healthy Bay Tideflats Regulations Comments  
**Attachments:** CHB-Non-Interim-Regs-Comments\_10-05-2021.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mayor Woodards, Deputy Mayor Blocker, and Council,

Thank you for the opportunity to comment on the 2021 Tideflats Non-Interim Regulations Amendments. Please find attached comments and recommendations from Citizens for a Healthy Bay.

Thank you,

**Erin Dilworth, MS** | Policy & Technical Program Manager  
[Citizens for a Healthy Bay](#) | Tacoma, WA  
253-383-2429 x3  
*She/Her/Hers*

Connect with us: [Facebook](#) | [Twitter](#) | [Instagram](#)  
[LinkedIn](#) | [Subscribe to our enews](#)



Citizens for a  
Healthy  
Bay

October 5, 2021

Tacoma City Council  
747 Market Street  
Tacoma, WA 98402

*Submitted electronically to [cityclerk@cityoftacoma.org](mailto:cityclerk@cityoftacoma.org)*

535 Dock Street  
Suite 213  
Tacoma, WA 98402  
Phone (253) 383-2429  
[chb@healthybay.org](mailto:chb@healthybay.org)  
[www.healthybay.org](http://www.healthybay.org)

Re: 2021 Tideflats Non-Interim Regulations Amendments

Mayor Woodards, Deputy Mayor Blocker, and Council,

Thank you for the opportunity to comment on the 2021 Tideflats Non-Interim Regulations Amendments. Citizens for a Healthy Bay staff has spent countless hours reviewing and analyzing potential impacts to regulations in the Tideflats for the past four years. We dedicated a considerable amount of time reviewing and participating in the Planning Commission's recommendation process earlier this year (recommendations we supported), and even more time reviewing and providing recommendations on the draft amendments that are being considered for a vote later this month.

Tacoma should be a clean fuel hub – clean fuels and technologies are the future of economic growth and key to meeting the emissions reductions needed to address climate change. Tacoma is geographically positioned perfectly to become a clean fuel hub, and with our port, workforce and technical colleges, we can do this if we set the stage for clean fuel industry. Below are our comments on each of the fossil fuel amendments that came out of the Infrastructure, Planning, and Sustainability Committee, which you will be voting on later this month.

At the end of this letter are our recommended edits to the draft code language. Significant changes are needed for these amendments to meet the desired intent of reducing greenhouse gas (GHG) emissions and air pollution, while protecting the health and safety of residents. We are first providing a brief summary of the issues we see with each draft amendment:

#### **MOTION 1 Must allow the growth of clean, renewable fuels and not fossil fuels**

This amendment is the first step towards setting the stage, and literally creating room for the clean fuel industry we want. We must say no to what we don't want, and yes to what we do want, and being clear about this is vitally important.

Including natural gas and propane in this amendment makes it meaningless because they are heavy polluters. Further, "Renewable fuels" aren't always "cleaner," so this definition needs to be significantly strengthened. For example, R5 is a type of renewable diesel that is comprised of 5% renewables and 95% traditional diesel. Investment in this fuel type won't advance our goals, and the amendment as written does not make a distinction between R5, and R99 (99% renewable 1% traditional diesel).

**Executive Director**  
Melissa Malott

**Board of Directors**  
Desiree Wilkins Finch  
Barry Goldstein  
Anders Ibsen  
Jennifer Keating  
Candice Ruud  
Anne Taufen  
Sheri Tonn  
Alan Varsik  
Raeshawna Ware

**A tax-exempt**  
501(c)(3) Washington  
nonprofit corporation

For Motion 1, the City should not allow propane, natural gas, or any fuels that don't meet the federal or state standard for clean or renewable fuels.

Specifically, the city should allow the following fuels:

- a. Any credit generating fuel under the Washington Clean Fuel Standard.
- b. Any US Environmental Protection Agency-approved and listed fuel under the Renewable Fuel Standard.

Using the EPA renewable fuel standard is important because those fuels have been studied and are known to significantly reduce greenhouse gas emissions in alignment with global climate goals. So as different fuel technologies advance, we can rely on that list for known clean fuels. Some of fuels that would be allowed would be green hydrogen, bio-fuels like cottonseed and algae, R99, ethanol from low-impact production processes, natural gas from wastewater treatment plants and landfills, for example. Please see our attached markup for how the drafted amendment should be changed.

#### **MOTION 2 Should not allow expansions of existing fossil fuel facilities**

It should be clear that no fossil fuel capacity expansions are permitted under maintenance, safety, security, or regulatory needs.

#### **MOTION 3 Is redundant and unnecessary**

This motion is redundant with the Federal Defense Production Act. We recommend adding a clause that any infrastructure built under the direction of this motion cannot be later converted for commercial uses.

#### **MOTION 4 Would allow expansion of a fossil fuel facility and should be deleted**

The City has no legal obligation to allow PSE LNG to expand to the full capacity reviewed under SEPA because SEPA review does not create a vested interest in developing a property, nor does agreed-upon mitigation activities create a vested interest in developing a property. Further, if this amendment passes, allowing PSE LNG to reach their full refining capacity will result in an additional one million tons of GHGs every year for the life of the project. Passing this amendment will effectively negate the intent and impact of Motion 1.

#### **MOTION 5 Should be kept as-is**

Thank you for including this amendment for consideration – this is a common-sense mechanism to protect the health and safety of our community

---

### **RECOMMENDED CODE LANGUAGE**

#### **MOTION 1**

I move to allow through the normal permitting process, including SEPA review where applicable, infrastructure for the production, storage, transportation and transshipment of fuels that are carbon-free and generate no carbon emissions and fuels that are approved by the US Environmental Protection Agency under the federal Renewable Fuel Standard program, or under Washington State Law, including credit generating fuels under the Clean Fuel Standard (CFS) program, this includes infrastructure for:

- c. Any credit generating fuel under the Washington CFS.
- d. Any EPA approved and listed fuel under the RFS.
- e. Any credit generating Renewable diesel under the Washington CFS or approved and listed fuel under the RFS meeting Washington State requirements.

- f. Any credit generating Ethanol and E85 blends under the Washington CFS or approved and listed fuel under the RFS ~~meeting Washington State requirements.~~
- g. ~~natural gas, propane, carbon free~~ hydrogen, or ~~carbon free~~ electricity, produced or stored for use as fuels in a motor vehicle that meet California motor vehicle emission standards as described in Washington State law.

## Definitions

“Cleaner Fuels” shall mean carbon-free fuels that generate no carbon emissions ~~through their lifecycle~~ including hydrogen, any credit generating fuel under the Washington Clean Fuel Standard, any ~~blends of~~ EPA approved and listed fuel under the federal Renewable Fuel Standard, any ~~credit generating~~ Renewable Diesel ~~under the Washington CFS or approved and listed fuel under the RFS meeting the requirements of Washington State law,~~ any credit generating Ethanol and E85 blends ~~under the Washington CFS or approved and listed fuel under the RFS meeting the requirements of Washington State law,~~ any ~~natural gas, propane, carbon free~~ hydrogen, or ~~carbon free~~ electricity, produced or stored for use as fuels in a motor vehicle that meeting the motor vehicle emission standards for Alternative Fuels in Washington State law. “Cleaner fuels” shall not include products produced from palm oil or other feedstocks that cannot be proven to reduce GHG emissions utilizing accepted methods of the Washington State Department of Ecology or US EPA.

“Enhanced SEPA Review” shall mean additions to the standard SEPA review process and checklist for project proposals governed by this chapter to be promulgated and updated from time by time by the Director. Such additions to the SEPA review process and checklist shall include but not be limited to; a public meeting for a SEPA application, which occurs after SEPA determination that an application is complete but prior to issuance of a preliminary threshold determination; an expanded Notice Distribution List to include direct mailing to taxpayers and occupants, consistent with Land Use Permits; expanded Public Notification Distance for Direct Mailing to 2500’ from the Manufacturing and Industrial Center, consistent with Land Use Permits; expanded Notification Period and Comment Period for SEPA to 30 days for Consistency with Land Use Permits, and a ~~supplemental checklist specific to SEPA review of fuel production and or chemical manufacturing.~~ To ensure application of this Enhanced SEPA review, the City of Tacoma shall be SEPA lead agency for all fuel-related projects permitted under this chapter.

~~“Supplemental checklist specific to SEPA review of fuel production and or chemical manufacturing” shall mean an expert evaluation or Worksheet that provides detailed information required to evaluate impacts to air, land and water during review of a SEPA environmental checklist. The form of the worksheet shall be prepared and updated as needed by the SEPA Responsible Official in consultation with the Planning Commission and the City Council. The expert evaluation or Worksheet shall analyze the “significance” of direct, indirect, and cumulative impacts arising from:~~

- ~~1. Windborne transport of fossil or renewable fuel emissions across City of Tacoma and across the reservation of the Puyallup Tribe;~~
- ~~2. Lifecycle greenhouse gas emissions for the project’s incremental change for renewable facilities and fossil fuel facilities;~~
- ~~3. Transits of tankers or barges and their support vessels that have the potential to create risks of spills or explosion or interfere with commercial and treaty tribe fishing areas;~~
- ~~4. Releases of stormwater and wastewater to groundwater, marine waters, intertidal wetlands, streams within the shorelines, and to their headwaters; and~~
- ~~5. Potential for loss of life and/or property related to risks from spills or explosions associated with refining and transport of renewable or fossil fuels or related feedstocks within City of Tacoma and within the Puyallup Tribe reservation.~~

~~In determining whether possible impacts are “significant” and “probable,” the Responsible Official shall determine whether the information in the expert evaluation or the Worksheet accurately analyze the severity of potential harm, independently from analysis of probability of occurrence, in compliance with WAC 197-11-330.~~

Also, as provided in WAC 197-11-794, “the severity of an impact should be weighed along with the likelihood of its occurrence” and “an impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.” The information provided in the expert evaluation or Worksheet required for fossil and renewable fuel facilities shall be considered procedures and criteria added to City of Tacoma’s SEPA policies and procedures pursuant to WAC 197-11- 906(1)(c) and are deemed necessary to be consistent with the provisions of SEPA contained in RCW 43.21C.020, RCW 43.21C.030 and RCW 43.21C.031. However, the expert evaluation or Worksheet may not be required if an environmental impact statement is prepared.

“Expanded Cleaner Fuel Infrastructure” shall mean the expansion of storage infrastructure including tankage constructed prior to effective date of this chapter to store petroleum, where the expansion of such petroleum storage infrastructure is for the sole purpose of blending petroleum with biomass and other cleaner fuels in the production of cleaner fuels.

“New Cleaner Fuel Infrastructure” shall mean new infrastructure for the production, storage, transportation and transshipment of Cleaner Fuels as defined herein, including infrastructure for blending biomass and other cleaner fuels with petroleum. New Cleaner Fuel Infrastructure shall not include new tankage for petroleum storage.

“Petroleum” shall mean crude oil, petroleum products and byproducts, and gaseous hydrocarbons and byproducts.

“Storage Capacity” shall be defined as gallons of petroleum capable of being stored within the entirety of the applicant’s facility for purposes of measuring expansion as allowed herein.

#### Draft Code

New and Expanded Cleaner Fuel Infrastructure as defined in this chapter shall be allowed through the standard permitting process, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, and subject to the following requirements.

1. Any New or Expanded Cleaner Fuel Infrastructure permitted through this chapter shall not be repurposed for production, storage, transportation and transshipment of petroleum. Total or partial conversion of permitted Cleaner Fuel Infrastructure shall constitute grounds for permit revocation and civil enforcement.
2. Any Expanded Cleaner Fuel Infrastructure permitted through this chapter, in combination with any other expansion of petroleum storage allowed under this chapter, shall not exceed a cumulative total increase of **fifteen five** percent (~~15~~%) more storage over the applicant’s total petroleum storage on the effective date of this chapter.

#### MOTION 2

I move to allow through the normal permitting process, including SEPA review where applicable, replacements and improvements to existing petroleum fuel facilities which, maintain, or improve the safety or security of the facility, or allow the facility to meet new regulatory requirements including the State Clean Fuel Standard, including infrastructure which reduces air emissions and storm water runoff. **Replacements and improvements under this code may not result in a storage capacity, production capacity, refining capacity, or transshipment capacity increase.**

#### Draft Code

Replacement of and improvements to existing petroleum infrastructure shall be allowed through the standard permitting process, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, for maintenance, for improvement of the safety or security of the infrastructure, decrease air or water

emissions, or to allow the infrastructure to meet new regulatory requirements. Any replacement of and improvements to existing petroleum infrastructure permitted through this chapter, in combination with any other expansion of petroleum storage allowed under this chapter, shall not ~~result in a storage capacity, production capacity, refining capacity, or transshipment capacity increase. exceed a cumulative total increase of fifteen five percent (15%) more storage over the applicant's total petroleum storage on the effective date of this chapter.~~

### MOTION 3

I move to allow expansion, modifications and additions to existing petroleum fuel facilities through the normal permitting process, including SEPA review where applicable, where the project is requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs.

#### Definition

"Department of Defense" shall mean the United States Department of Defense ("DOD") and any subdivision including the Defense Logistics Agency.

#### Code

Expansion of production, storage, transportation and transshipment of petroleum fuels when requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs shall be allowed through the standard permitting process, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director. ~~Any infrastructure built under the direction of this motion cannot be later converted for commercial uses.~~

### MOTION 4

~~I move to allow additions to existing petroleum fuel facilities which would create the maximum proposed capacity of a facility that was the subject of an EIS prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 on or before June 2, 2021 and for which the City has accepted on or before June 2, 2021, all funds that fully mitigate the adverse environmental impacts of the facility's maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.~~

### DRAFT CODE

~~Expansion of or addition to existing petroleum fuel facilities is allowed through the normal permitting process when the particular expansion would create the maximum proposed capacity of a facility that was the subject of an Environmental Impact Statement prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 on or before June 2, 2021, and for which the City has accepted on or before June 2, 2021, all funds that fully mitigate the adverse environmental impacts of the facility's maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.~~

### MOTION 5. Financial Assurances

I move to add a financial assurance requirement that an applicant must provide proof of financial assurance sufficient to comply with the financial responsibility requirements set forth in any State and federal law applicable to their project.

#### MOTION 5. Draft Code

An applicant must provide proof of financial assurance (such as trust funds, letters of credit, insurance, self-insurance, financial tests, corporate guarantees, payment bonds or performance bonds) sufficient to comply with the financial responsibility requirements set forth in any State and federal law applicable to their proposed project. If the applicant

relies on an insurance policy for compliance with a State or federal financial assurance requirement, the applicant must add the City of Tacoma as an additional insured as a condition of permit issuance.

Thank you again for the opportunity to comment on the 2021 Tideflats Non-Interim Regulations Amendments. If we can clarify any of our comments, please do not hesitate to contact us by email at [mmalott@healthybay.org](mailto:mmalott@healthybay.org) and [edilworth@healthybay.org](mailto:edilworth@healthybay.org) or by phone at 253-383-2429.

Sincerely,



Melissa Malott  
Executive Director  
Citizens for a Healthy Bay



Erin Dilworth  
Policy and Technical Program Manager  
Citizens for a Healthy Bay

# **ATTACHMENT 1**





## City of Tacoma

Council Member Conor McCarthy  
*At-Large Position 7*

Mayor Woodards and Members of the City Council,

The Infrastructure Planning and Sustainability (IPS) Committee of the City Council has completed the work referred to it by City Council Ordinance 28759, by the date set in the Ordinance of August 31, 2021. The IPS Committee recommends the eight amendments summarized below to the Non-Interim Tideflats and Industrial Land Use Regulations as proposed by the Planning Commission for consideration by the full City Council. The IPS Committee approved these amendments at a Special Meeting on 8/30/2021.

To develop these proposed amendments, the IPS Committee, held nine publicly noticed meetings over the past three months. At the meetings, the IPS Committee reviewed the Planning Commission recommendations, considered amendments forwarded by the full Council, consulted with stakeholders impacted by the proposed regulations, reviewed written comment submitted by the public, and worked with staff to develop and refine amendments to the planning commission's recommendations.

In addition to the full IPS Committee meetings, four separate breakout meetings were conducted with stakeholders from the environmental community and energy industry to specifically discuss fossil fuel regulations. While these breakout meetings did not result in a clear consensus or agreement amongst the various stakeholders, the conversations were substantive and constructive, and several concepts arising from the discussions are incorporated into the IPS Committee's proposed amendments.

The IPS Committee understands that the next steps in the City Council review and consideration process will include at a minimum: (1) Formal consultation with the Puyallup Tribe; (2) a Public Hearing on the IPS proposed amendments; (3) Additional staff work; (4) Full City Council consideration of the IPS amendments to the Non-Interim Tideflats and Industrial Land Use Regulations proposed by the Planning Commission.

The amendments enclosed are summarized below, with the full proposed text attached:

1. New and Expanded Cleaner Fuel Facilities Permitted. Allows new and expanded Cleaner Fuel Infrastructure with Enhanced SEPA review. New Cleaner Fuel Infrastructure shall not include new tankage for petroleum storage. Existing petroleum tankage may be expanded solely for production of Cleaner Fuels, and may not be increased more than 15% for that purpose. Repurposing or partial/total conversion of any permitted Cleaner Fuel infrastructure constitutes a violation of regulations and grounds for permit revocation and civil enforcement.

2. Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes: Allows existing Petroleum fuel infrastructure improvements which are for the sole purpose of maintenance, safety, security, or to meet regulatory changes, and including infrastructure which reduces air emissions and storm water runoff.
3. National Security Petroleum Fuel Facilities. Allows expansion of petroleum fuel facilities for national security when requested in writing by the Department of Defense.
4. Projects which have undergone Environmental Review and Mitigated Impacts. Allows completion of infrastructure in petroleum fuel facilities where that infrastructure has been previously identified, studied under SEPA and fully mitigated via a completed mitigation agreement.
5. Financial Assurance: Requires all applicants governed by the Non-Interim Tideflats and Industrial Land Use Regulations to prove that they comply with any financial assurance requirements imposed by State or federal law for their project, and if the applicant relies on a insurance policy to meet any requirements, the applicant will add the City of Tacoma as an additional insured.
6. Residential – Northeast Tacoma Slope: Removing CBRE property from Port of Tacoma’s Transition Overlay District and exempting the Heiberg property from the overlay’s residential density limitations.
7. Residential Use in the M-1 District: Scrivener error correction to retain prohibition on small-scale residential uses in the M-1 District within the Port of Tacoma M/IC.
8. High Impact Uses. Removal from code.

Please do not hesitate to contact myself, Vice Chair Walker, or staff regarding the IPS Committee’s amendments or our committee process.

As Chair, I would like to extend my sincere gratitude to my fellow Committee members, as well as Claire Goodwin, Peter Huffman, Steve Victor, and the City Clerk’s office, for their tremendous support throughout the course of the IPS Committee process.

Very Truly Yours,



Conor McCarthy, Chair  
Infrastructure Planning and Sustainability Committee

**From:** Eagan, Sean <seagan@portoftacoma.com>  
**Sent:** Tuesday, October 5, 2021 4:18 PM  
**To:** City Clerk's Office; Woodards, Victoria; Hines, John; Thoms, Robert; Blocker, Keith; Ushka, Catherine; Beale, Chris; Hunter, Lillian; McCarthy, Conor; Walker, Kristina  
**Cc:** Victor, Steve(Legal); Huffman, Peter; Johnson, Eric  
**Subject:** Non-Interim Tideflats Regulation- POT Comment letter  
**Attachments:** Non-Interim Tideflats Regulation-- POT Comment letter of 10052021.pdf

Please see attached.

**Sean Eagan**

Government Affairs Director

**PORT OF TACOMA**

C: 253.223.5117

[www.portoftacoma.com](http://www.portoftacoma.com)



---

All e-mail communications with the Port of Tacoma are subject to disclosure under the Public Records Act and should be presumed to be public.



People. Partnership. Performance.

P.O. Box 1837  
Tacoma, WA 98401-1837  
[www.portoftacoma.com](http://www.portoftacoma.com)

October 5, 2021

Tacoma City Council  
747 Market Street  
Tacoma, WA 98402

RE: IPS Committee Recommendation for Non-Interim Tideflats and Industrial Land Use Regulations

Dear Members of the Tacoma City Council:

Thank you for this opportunity to provide comment on the behalf of the Port of Tacoma on the Infrastructure, Planning and Sustainability Committee's recommendations for the Non-Interim Tideflats and Industrial Land Use Regulations.

The Port of Tacoma makes strategic investments in our harbor and community to promote prosperity, trade and jobs, while protecting and enhancing our environment. Marine cargo flowing through the Port, along with industrial leases, support more than 42,100 jobs, generates more than \$3 billion in economic activity, and produces more than \$100 million annually in state and local tax revenue.

The Port of Tacoma has a longstanding commitment to environmental leadership. We protect and enhance the environment of Commencement Bay and the Puyallup River by continuing to clean up contaminated land, improve habitat and water quality, and minimize air emissions from Port operations. For example, the Port has:

- cleaned up legacy contamination to return more than 420 acres of property to productive use under protective measures,
- restored more than 215 acres of fish and wildlife habitat and preserved more than 70 acres of open space to serve as a natural buffer between industrial operations and residential areas, and
- aims to recycle 90% from demolition projects, and continually seek ways to conserve energy and resources.

In 2008, the Port of Tacoma entered into the Northwest Ports Clean Air Strategy with the ports of Seattle and Vancouver, B.C.—one year before Washington State's adoption of the State Agency Climate Leadership Act. Since then, the Port has reduced diesel emissions by 80% and carbon emissions by 20%. The Port's latest update to its clean air strategy has also set a target to phase out emissions from seaport-related activities by 2050 and the Port is finalizing its implementation strategy.

We would note that in reviewing the published code language, we remain confused as to whether what the Council is considering is a replacement of the Planning Commission recommendation in its entirety, or modification of that proposal. If the later, then the proposed changes appear incomplete. For example, not all of the references to High Impact Uses proposed by the Planning Commissioner were deleted (most notably, in land use tables not specifically addressed by the IPS Committee). We believe that additional staff work is needed to provide the technical changes to clean this up. If they

are not addressed before final passage, then the final work product will contain inconsistencies that will create compliance problems for the regulated community.

With that in mind, we offer the following comments:

#### Environmental wins

The IPS Committee recommendation marks a significant increase in environmental protections for the City of Tacoma. While some in the community may argue the proposal does not go far enough, it is worth noting that it includes:

- A ban on new fossil fuel, coal, smelting, mining facilities;
- A prohibition on significant increases in existing fossil fuel facilities for traditional fuel production;
- A new requirement for written evidence from the Department of Defense for the triggering of the national security exemption;
- New regulations that encourage production of biofuels as a replacement for fossil fuels;
- Enhanced State Environmental Policy Act (SEPA) review;
- Outright prohibitions on several categories of dangerous chemical manufacturing categories;
- Conditional use permits required for all other chemical manufacturing;
- Buffers between industrial and residential neighborhoods, improving the quality of life for residents; and
- Tribal consultation.

#### Fossil fuels

- As noted above, the Port is working to phase out emissions from seaport-related activities by 2050. We recognize, however, that certain aspects of the supply chain will achieve that goal more quickly than others. As such, the Port talks about the importance of managing the transition to zero emissions. We believe that ship emissions, while in transit, will likely be one of the last hurdles to be overcome. This is why we were disappointed that the maritime fuel amendment was not included in the IPS Committee recommendation. We believe its exclusion weakens the goal of promoting continued growth and vitality of port-activity and managing the transition to zero emissions for ships, which will take time. As a part of stakeholder negotiations convened by the IPS Committee, the Port repeatedly offered language changes to this amendment to accommodate the desires of members of the environmental community, only to be told they were not prepared to agree on this or any topic in these conversations.
- The Port supports the IPS Committee's recommended alternative fuels definition. Members of the community have called on the City to be a leader in alternative fuels, but it cannot do so unless it defines and adopts land use regulation to encourage low carbon fuel technology, development, and manufacturing in industrial zones.
- The Port supports the IPS Committee's recommended national security exemption. We would note that the Committee, in acknowledgement of demands by some in the environmental

community, included a requirement for written evidence from the Department of Defense before such an exemption could be triggered.

### Conditional use permits

Conditional use permits can be a useful tool in land use permitting, provided they are used in a limited—and appropriate— fashion. The Port believes that conditional use permits should not be used as a mechanism to create a *de facto* denial of an otherwise permitted use; if the City wishes to prohibit a use, it should outright do so. If the City has concerns about health and safety standards for a facility, there are other regulatory mechanisms the City can use to ensure these are addressed (e.g., the fire code); the City should regulate operations through these mechanisms rather than the land use code.

As such:

- The Port appreciates the elimination by the IPS Committee of the proposed high impact use category. This concept, first introduced by the Planning Commission, created confusion as to whether regulatory mechanisms specific to operations or the land use code should prevail.
- The Port is disappointed that use of conditional use permits for chemical manufacturing were not addressed. The Planning Commission recommendation adds a conditional use permit (CUP) as a requirement for many uses, including all chemical manufacturing, and, in some instances adds new review criteria – in addition to existing conditional use permit review criteria. \*New\* Section 13.05.010.A.23 imposes specific CUP standards for “Chemical Manufacturing, Processing, and Wholesale Distribution.” The additional permit review time and uncertainty of the CUP process and associated conditions will potentially result in businesses choosing to look elsewhere to site industrial uses. This result would be inconsistent with both Port and City economic development goals.

### Residential

- The Port supports the IPS Committee’s recommendation to resolve the scrivener’s error in the use tables that included single family, duplex, triplex and townhouses as uses allowed in the industrial areas.
- The Port supports the proposed overlay between industrial uses and residential neighborhoods. This represents implementation of a portion of the Container Port Element of the City’s comprehensive plan—a state requirement of the City.

### Consultation

- Tribal consultation must be consistent with, where it exists, any federally approved settlement to which the Tribe, city and port district are parties.
- As a practical matter, the Port notes that additional notice requirements in the proposal seem unnecessary given that the Port and the Tribe will receive notice of specific applications as well as the underlying planning processes authorizing uses that would be allowed with a CUP.

Overall, the Port of Tacoma believes that the IPS Committee made several sensible improvements to the original recommendation that came out of the Planning Commission. The Port is not happy with everything in the IPS Committee recommendation but could live with it if the Council were to approve it as is. We

would note that even if the Council were to adopt the proposal, the City of Tacoma will still not have fully implemented all aspects of the Container Port Element. As the measure moves to final passage, we hope the Council would avoid amendments that would weaken the goal to promote continued growth and vitality of port and port related industrial activity. The City Council has debated Tideflats land use issues for nearly five years. It is time for the Council to vote and put this whole question to rest.

Thank you again for the opportunity to submit comments.

Sincerely,

A handwritten signature in black ink, reading "Eric Johnson". The signature is written in a cursive style with a large, stylized "E" and "J".

Eric Johnson  
Executive Director

## **IPS Proposed Amendments**

### **MOTION: 1. New and Expanded Cleaner Fuel Facilities Permitted**

I move to allow through the normal permitting process, infrastructure for the production, storage, transportation and transshipment of fuels that are carbon-free and generate no carbon emissions including green hydrogen and other carbon-free fuels produced with renewable electricity such as hydroelectric power, and fuels that are approved by the US Environmental Protection Agency under the federal Renewable Fuel Standard program, or under Washington State Law, including credit generating fuels under the Clean Fuel Standard (CFS) program, this includes infrastructure for:

- a. Any credit generating fuel under the Washington CFS.
- b. Any EPA approved and listed fuel under the RFS.
- c. Renewable diesel meeting Washington State requirements.
- d. Ethanol and E85 blends meeting Washington State requirements.
- e. natural gas, propane, green hydrogen, or electricity, produced or stored for use as fuels in a motor vehicle that meet California motor vehicle emission standards as defined in Washington State law.

### **MOTION 2. Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes**

I move to allow through the normal permitting process, replacements and improvements to existing petroleum fuel facilities which, maintain, or improve the safety or security of the facility, or allow the facility to meet new regulatory requirements including the State Clean Fuel Standard, including infrastructure which reduces air emissions and storm water runoff.

### **MOTION 3. National Security Petroleum Fuel Facilities**

I move to allow expansion, modifications and additions to existing petroleum fuel facilities through the normal permitting process, where the project is requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs.

### **MOTION 4. Projects which have undergone Environmental Review and Mitigated Impacts**

I move to allow additions to existing petroleum fuel facilities which would create the maximum proposed capacity of a facility that was the subject of an EIS prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 on or before June 2, 2021 and for which the City has accepted on or before June 2, 2021, all funds that fully mitigate the adverse environmental impacts of the facility's maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.



**MOTION 5. Financial Assurances**

I move to add a financial assurance requirement that an applicant must provide proof of financial assurance sufficient to comply with the financial responsibility requirements set forth in any State and federal law applicable to their project.

**MOTION 6: NE Tacoma Slope (Port of Tacoma Transition Overlay District)**

I move to amend the proposed Port of Tacoma Transition Overlay District in the Commission's recommendation to remove the CBRE property from the boundaries of the district, and to exempt the Heiberg property from the overlay's residential density limitations.

**MOTION 7: Residential Uses in the M-1 District**

I move to correct the identified scrivener's error in the Commission's recommendation regarding residential uses in the M-1 District, so that we retain the prohibition on small-scale residential uses in the M-1 District within the Port of Tacoma M/IC.

**MOTION 8: High-Impact Uses**

I move to eliminate the proposed "High Impact Use" use category from the Planning Commission's recommendation.

Note: The following document identifies the amendments made to the Planning Commission’s proposed Tideflats and Industrial Land Use Amendments, as recommended by the Infrastructure, Planning and Sustainability (IPS) Committee to the City Council. This document includes only those sections modified by the IPS Committee. Please refer to the Planning Commission Findings of Fact and Recommendations Report at [www.cityoftacoma.org/tideflatsinterim](http://www.cityoftacoma.org/tideflatsinterim) for those code sections that have not been modified by the IPS Committee. The modifications herein will likewise be applied to the appropriate sections of Title 19 Shoreline Master Program.

Planning Commission recommendations are identified by blue text and IPS Committee amendments are shown as red text. Underlined text represents text insertions and ~~strikethrough~~ represents text deletions.

# TITLE 13

## LAND USE REGULATORY CODE

\* \* \*

### CHAPTER 13.01 DEFINITIONS

#### 13.01.010 Purpose.

For the purposes of this title, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years. For the purpose of each indicated chapter, certain words and terms are defined as follows.

(Ord. 28613 Ex. G; passed Sept. 24, 2019)

#### 13.01.060 Zoning Definitions.<sup>1</sup>

For the purposes of Chapter 13.06, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years.

\* \* \*

#### 13.01.060.C

\* \* \*

“Cemetery and internment services.” Property used for the interring of the dead. This property may include support facilities, such as funeral homes and/or chapels.

“Chemical Manufacturing.” The production, processing, and wholesale distribution of chemicals and allied products, including:

1. “Production and processing.” Establishments primarily engaged in the transformation of organic and inorganic raw materials by a chemical process and the formulation of products. This subsector distinguishes the production of basic

<sup>1</sup> Code Reviser’s note: Previously codified as 13.06.700 (Definitions and illustrations); relocated to 13.01.060 per Ord. 28613 Ex. G; passed Sept. 24, 2019.

chemicals that comprise the first industry group from the production of intermediate and end products produced by further processing of basic chemicals that make up the remaining industry groups.

2. “Wholesaling:” Establishments primarily engaged in the merchant wholesale distribution of chemicals and allied products (except agricultural and medicinal chemicals, paints and varnishes, fireworks, and plastics materials and basic forms and shapes).

3. “Petrochemical Manufacturing:” Establishments primarily engaged in (1) manufacturing acyclic (i.e., aliphatic) hydrocarbons such as ethylene, propylene, and butylene made from refined petroleum or liquid hydrocarbons, (2) manufacturing cyclic aromatic hydrocarbons such as benzene, toluene, styrene, xylene, ethyl benzene, and cumene made from refined petroleum or liquid hydrocarbons, and/or (3) manufacturing methyl alcohol (methanol) from natural gas, coal, or other petroleum based feedstock.

4. “Explosives Manufacturing:” Establishments primarily engaged in manufacturing explosives.

5. “Fertilizer Manufacturing:” Establishments primarily engaged in one or more of the following: (1) manufacturing nitrogenous or phosphatic fertilizer materials; (2) manufacturing nitrogenous or phosphatic materials and mixing with other ingredients into fertilizers; and (3) formulating and preparing pesticides and other agricultural chemicals.

These use classifications exclude uses that are otherwise defined herein as ~~“Fossil Fuel Facilities—Major,” or “Renewable Fuel Facilities—Major.”~~ “Cleaner Fuels” and “Petroleum Fuel Facilities.”

“Clean construction/demolition/land-clearing (CDL) wastes.” CDL wastes are solid wastes produced from construction, remodeling, demolition, or land-clearing operations that have been source separated so that the material is principally composed of asphalt, concrete, brick, or other forms of masonry; non-chemically treated wood (i.e., creosote, paint, preservatives); land-clearing wastes; or other materials approved by the Tacoma-Pierce County Health Department. Yard wastes (i.e., leaves, grass, prunings, and sod), plaster (sheet rock or plasterboard), or any materials other than wood that are likely to produce gases or a leachate during the decomposition process and asbestos wastes are specifically excluded from this definition of clean CDL wastes, unless otherwise approved by the Tacoma-Pierce County Health Department.

“Cleaner Fuels.” Carbon-free fuels that generate no carbon emissions, including green hydrogen, any credit generating fuel under the Washington Clean Fuel Standard, any blends of EPA approved and listed fuel under the federal Renewable Fuel Standard, any Renewable Diesel meeting the requirements of Washington State law, any Ethanol and E85 blends meeting the requirements of Washington State law, any natural gas, propane, green hydrogen, or electricity, produced or stored for use as fuels in a motor vehicle that meeting the motor vehicle emission standards for Alternative Fuels in Washington State law.

“Cleaner Fuel Infrastructure – Expanded.” The expansion of storage infrastructure including tankage constructed prior to effective date of this chapter to store petroleum, where the expansion of such petroleum storage infrastructure is for the sole purpose of blending petroleum with biomass and other cleaner fuels in the production of cleaner fuels.

“Cleaner Fuel Infrastructure – New.” New infrastructure for the production, storage, transportation and transshipment of Cleaner Fuels as defined herein, including infrastructure for blending biomass and other cleaner fuels with petroleum. New Cleaner Fuel Infrastructure shall not include new tankage for petroleum storage.

“Climate-adapted Plant Species.” Climate adapted plants include both native and non-native plant species which are able to thrive in the local climate and soil conditions of the City of Tacoma. The two most authoritative references on climate adaptation for plants are the USDA Plant Hardiness Zones and the Sunset Climate Zones.

“Coal facilities.”

- Bulk coal storage: any structure, group of structures, equipment, or device that stores or transfers coal for use in the production of electricity or power, or for wholesale distribution.
- Coal power plant: a thermal power station which burns coal to generate electricity or other usable power.

“Collocation.” The use of a wireless communication facility or cell site by more than one wireless communication provider.

13.01.060.D

\* \* \*

“Decorative grille.” An open framework of metal, wood, or other material arranged in a pattern that effectively obscures the views of parked cars located in an off-street parking structure from the public right-of-way.

“Department of Defense.” The United States Department of Defense (“DOD”) and any subdivision including the Defense Logistics Agency.

“Design (wireless communication facility).” The appearance of wireless communication facilities, including such features as materials, colors, and shapes.

\* \* \*

13.01.060.E

\* \* \*

“Emergency medical care.” Facilities providing emergency medical service on a 24-hour basis with no provision for continuing care on an inpatient basis.

“Enhanced SEPA Review.” Additions to the standard SEPA review process and checklist for project proposals governed by this chapter to be promulgated and updated from time to time by the Director. Such additions to the SEPA review process and checklist shall include but not be limited to; a public meeting for a SEPA application, which occurs after SEPA determination that an application is complete but prior to issuance of a preliminary threshold determination; an expanded Notice Distribution List to include direct mailing to taxpayers and occupants, consistent with Land Use Permits; expanded Public Notification Distance for Direct Mailing to 2500’ from the Manufacturing and Industrial Center, consistent with Land Use Permits; expanded Notification Period and Comment Period for SEPA to 30 days for Consistency with Land Use Permits, and a supplemental checklist specific to SEPA review of fuel production and or chemical manufacturing. To ensure application of this Enhanced SEPA review, the City of Tacoma shall be SEPA lead agency for all fuel-related projects permitted under this chapter.

“Equipment enclosure.” A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

\* \* \*

13.01.060.G

\* \* \*

“Grade.” The elevation of the ground surface around a building.

“Greenhouse gas emissions.” Gases that trap heat in the atmosphere. "Greenhouse gas," "greenhouse gases," "GHG," and "GHGs" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and any other gas or gases designated by the federal clean air act (United States Code Title 42, Chapter 85), state clean air act (Chapter 70.94 RCW) or state limiting greenhouse gas emissions law (Chapter 70.235 RCW).

“Greenhouse gas emissions – Facility emissions.” Means greenhouse gas emissions associated with fossil fuel refineries, processing, or fossil fuel transshipment facilities based upon the refining and processing of fossil fuels located within the Port of Tacoma Manufacturing and Industrial Center.

“Greenhouse gas emissions – Lifecycle emissions.” The aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions), related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Green Hydrogen.” Hydrogen produced through electrolysis powered by renewable electricity, specifically including hydroelectric power.

“Green roof.” See Vegetated roof.

\* \* \*

## 13.01.060.H

\* \* \*

“Heliport.” An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

~~“High Impact Use.” Means any Type H Occupancy when the primary use classification is allowed in the base zone, excluding uses otherwise classified as “Chemical Manufacturing, Processing, and Wholesaling,” “Fossil Fuel Facility—Major,” or “Renewable Fuel Facility—Major.”~~

“Home occupation.” A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a building accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

\* \* \*

“Microbrewery/winery.” An establishment primarily engaged in the production and distribution of beer, ale, or other malt beverages, or wine, and which may include accessory uses such as tours of the microbrewery/winery, retail sales, and/or on-site consumption, e.g., “taproom.” This classification allows a microbrewery to sell beer/wine at retail and/or act as wholesaler for beer/wine of its own production for off-site consumption with appropriate state licenses.

“Mining and Quarrying.” The Mining, Quarrying, and Oil and Gas Extraction sector comprises establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity. This use category includes all industry sectors identified under NAICS Code 21 Mining, Quarrying, and Oil and Gas Extraction as well as surface mining as defined in TMC 13.01.060.S.

“Mixed-rate housing.” Includes both affordable and market-rate housing units in the same housing or mixed-use development.

“Mobile home/trailer court” or “mobile home park.” Any real property which is rented or held out for rent to others for the placement of two or more mobile homes/trailers for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

\* \* \*

## 13.01.060.P

\* \* \*

“Personal services.” Provision of recurrently needed services of a personal nature. This classification includes services such as barber and beauty shops, tanning, seamstresses, tailors, shoe repair, dry cleaning agencies (excluding plants), photocopying, and self-service laundries; provision of instructional services or facilities such as photography, fine arts, crafts, dance or music studios, driving schools, diet centers, reducing salons, and fitness studios.

“Petroleum.” Crude oil, petroleum products and byproducts, and gaseous hydrocarbons and byproducts.

“Fossil fuels.” Fossil fuel includes coal, petroleum, crude oil, natural gas, oil shales, bitumens, tar sands, propane, butane, and heavy oils. All contain carbon and were formed as a result of geologic processes acting on the remains of organic matter. Renewable fuels are not fossil fuels.

“Fuel Refinery.” A facility that converts crude oil and other liquids into petroleum products including but not limited to gasoline, distillates such as diesel fuel and heating oil, jet fuel, petrochemical feedstocks, waxes, lubricating oils, and asphalt. Activities that support refineries include but are not limited to: bulk storage, manufacturing, or processing of fossil fuels or by products. This definition excludes Small Fossil or Renewable Storage and Distribution Facilities.

“Petroleum Fossil Fuel Facility—Major.” This definition includes the following facilities:

- Petroleum Fossil-fuel refinery;
- Terminals engaged in the bulk movement of petroleum fossil fuels (excluding railyards and marine fueling facilities);

- Natural gas processing: any facility which (i) separates natural gas components to recover usable natural gas liquids (i.e., liquefied petroleum or natural gas), or (ii) produces natural gas suitable for transport (i.e., pipeline quality dry natural gas), or (iii) processes natural gas to create methanol or other chemical products.
- Bulk storage and processing of one type of ~~petroleum fossil~~ fuel, or a combination of multiple types of ~~petroleum fossil~~ fuels, in excess of one million gallons.

~~“Petroleum – Storage Capacity.” Gallons of petroleum capable of being stored within the entirety of the applicant’s facility for purposes of measuring expansion as allowed herein.~~

“Religious assembly.” Facilities where persons regularly assemble for religious worship, such as churches, temples, and synagogues, that are maintained and controlled by a religious body, together with their customary accessory buildings and uses, such as incidental religious education, but not including private schools.

~~“Renewable Fuel.” Fuels that are synthesized from renewable energy sources, such as wind and solar, those approved by the US Environmental Protection Agency (EPA) Renewable Fuels Standard Program and hydrogen fuels (when produced with renewable processes), that result in a lifecycle greenhouse gas emission reduction of at least 50% or more under the Federal Clean Air Act, until such time as a state renewable fuel standard is adopted. Upon adoption of a state or regional standard, the standard most directly sealed to Tacoma will be used to define the use classification. Renewable fuels shall not include products produced from palm oil or other feedstocks that cannot be proven to reduce greenhouse gas emissions utilizing accepted methods of the Washington State Department of Ecology or US EPA.~~

~~“Renewable Fuel Facilities – Major.”~~

~~This use classification applies to the following:~~

- ~~• A Renewable Fuel Refinery: a facility that processes or produces renewable fuels.~~
- ~~• Shipment and Trasshipment facilities: the process of off-loading of fuel materials, refined or unrefined, refinery feedstocks, products or by-products, from one transportation facility and loading it onto another transportation facility for the purposes of transporting such products into or out of the City of Tacoma. Examples of transportation facilities include ship, truck, or freight car.~~
- ~~• Bulk storage of one type of renewable fuel, or a combination of multiple types of renewable fuels, in excess of one million gallons.~~

~~For existing “Fossil Fuel Facilities – Major” or “Renewable Fuel Facilities – Major” this use definition only applies when new facilities are proposed that would exceed the established storage or refining baseline.~~

“Repair services.” Establishments providing repair services for personal items and small equipment, such as appliance and office machine repair or building maintenance services. This classification excludes maintenance and repair of vehicles, including lawnmowers (see “vehicle service and repair”). Repair and storage (including display and sales) shall be located entirely within the building.

\* \* \*

“Sign, window.” A sign painted on, affixed to, or installed inside a window for purposes of viewing from outside the premises.

“Smelting.” Smelting is a process of applying heat to ore in order to extract a base metal. It is a form of extractive metallurgy. It is used to extract many metals from their ores, including silver, iron, copper, and other base metals. This use category includes all smelting activities identified in NAICS codes 331411, 331313, and 331410.

“Special needs housing.” A broad term that includes adult family homes, confidential shelters, emergency and transitional housing, extended care facilities, continuing care retirement communities, intermediate care facilities, residential chemical dependency treatment facilities, residential care facilities for youth, retirement homes, and staff residential homes.

## CHAPTER 13.05

### LAND USE PERMITS AND PROCEDURES <sup>1</sup>

\* \* \*

#### 13.05.010 Land Use Permits.

##### A. Conditional Use Permits.<sup>2</sup>

##### 1. Purpose.

In many zones there are uses that may be compatible but because of their size, operating characteristics, potential off-site impacts and/or other similar reasons warrant special review on a case-by-case basis. The purpose of the conditional use permit review process is to determine if such a use is appropriate at the proposed location and, if appropriate, to identify any additional conditions of approval necessary to mitigate potential adverse impacts and ensure compatibility between the conditional use and other existing and allowed uses in the same zoning district and in the vicinity of the subject property. The zoning district use tables identify which uses require a conditional use permit. These uses may be authorized by the Director or Hearing Examiner in accordance with the procedures established in this Chapter and the applicable criteria outlined below.

\* \* \*

#### 23. Chemical Manufacturing, Processing, and Wholesale Distribution

##### a. Decision: Hearing Examiner

b. In addition to the general conditional use criteria, Chemical manufacturing, processing, and wholesale distribution must demonstrate the following when a conditional use permit is required:

##### (1) Consultation:

- Planning and Development Services staff will seek input from the Tacoma Fire Department, Tacoma-Pierce County Health Department, Tacoma Community and Economic Development Department, Puyallup Tribe of Indians, and any other subject matter expert necessary to determine the potential risks and impacts of the proposed facility, as well as appropriate mitigation measures.

##### (2) Public health and safety:

- The property on which the proposed facility is to be located must not expose large concentrations of people, particularly in residential and commercial areas, to unreasonable adverse impacts. In applying this criteria the City shall consider impacts to employee-dense businesses in the Tideflats as well as to detention/correctional facilities and people detained within those facilities.
- The lot is located, or the use can be appropriately mitigated, to avoid any adverse impacts on receipt or utilization of federal funding for affordable housing and community development in adjacent residential and mixed-use areas, with particular attention given to Trust Lands of the Puyallup Tribe of Indians. The City will consider the current methodology for Acceptable Separation Distances as published by the Department of Housing and Urban Development in determining appropriate separation distances and on-site mitigation measures for this purpose.
- The applicant shall submit a management plan. The City will determine the level of detail to be disclosed in the plan based on the probable impacts and/or the scale of the effects. Discussion of materials handling and storage, odor control, transportation, spill prevention, and other factors may be required.

<sup>1</sup> Code Reviser's note: Section 13.05.005 (Definitions), was repealed and relocated to the new Chapter 13.01 per Ord. 28613 Ex. G. See 13.01.050.

<sup>2</sup> Code Reviser's note: Previously codified as 13.06.640 (Conditional use permit); relocated to 13.05.010 per Ord. 28613 Ex. G. Prior legislation: Ord. 28613 Ex. E; passed Sept. 24, 2019: Ord. 28611 Ex. B; passed Sept. 24, 2019: Ord. 28491 Ex. A; passed Feb. 20, 2018: Ord. 28429 Ex. B; passed May 9, 2017: Ord. 28376 Exs. D, E; passed Aug. 16, 2016: Ord. 28336 Exs. B, C; passed Dec. 1, 2015: Ord. 28109 Ex. O; passed Dec. 4, 2012: Ord. 28077 Ex. C; passed Jun. 12, 2012: Ord. 28050 Ex. C; passed Feb. 14, 2012: Ord. 27995 Ex. D; passed Jun. 14, 2011: Ord. 27818 Ex. A; passed Jul. 28, 2009: Ord. 27771 Ex. C; passed Dec. 9, 2008: Ord. 27539 § 19; passed Oct. 31, 2006: Ord. 27432 § 17; passed Nov. 15, 2005: Ord. 27296 § 28; passed Nov. 16, 2004: Ord. 27245 § 21; passed Jun. 22, 2004: Ord. 27079 § 49; passed Apr. 29, 2003: Ord. 26966 § 22; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002.

- The City may impose conditions of approval limiting the nature of the materials produced and/or the scale of manufacturing operations in order to minimize the degree and severity of risks to public health and safety.

(3) Emergency services and risk management:

- The project shall not result in any increased risk of spill within the waters of Puget Sound and Commencement Bay. Updated spill response and emergency response plans shall be provided with the application, for review by all appropriate agencies;
- Plans and sufficient, realistic performance bonding for decommissioning and failure incidents are provided to ensure that the site will be rehabilitated after the use or activity is completed, terminated, or abandoned;
- Permit applicant to provide proof of insurance naming City of Tacoma as additional insured.
- Any adverse impacts to emergency services or increased demands for emergency services necessary to ensure the health and safety of employees and surrounding communities shall be mitigated concurrently with the proposed use or development.

(4) Shoreline Resources and Shorelines of Statewide Significance.

For uses within the shoreline, with a shoreline facility, or that propose to transport products and materials via marine vessel, the following criteria apply, with consideration given to the potential off-site impacts resulting from transport:

- There will be no likely long-term significant adverse impacts to shoreline resources or uses, or shorelines of statewide significance;
- All feasible steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
- All feasible steps are taken to avoid and minimize adverse impacts to fish and wildlife, including impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands. All impacts that cannot be avoided can be sufficiently mitigated or compensated so as to achieve no net loss of ecological functions over time.

24. High Impact Uses

a. Decision: Hearing Examiner

b. In addition to the general conditional use criteria, the following apply:

(1) The lot is located, or the use can be appropriately mitigated, to avoid any adverse impacts on receipt or utilization of federal funding for affordable housing and community development in adjacent residential and mixed-use areas, with particular attention given to Trust Lands of the Puyallup Tribe of Indians. The City will consider the current methodology for Acceptable Separation Distances as published by the Department of Housing and Urban Development in determining appropriate separation distances and on site mitigation measures for this purpose.

(2) The property on which the proposed facility is to be located must not expose large concentrations of people, particularly in residential and commercial areas, to unreasonable adverse impacts. In applying these criteria the City shall consider impacts to Trust Lands of the Puyallup Tribe of Indians, employee dense businesses in the Tideflats, as well as detention/correctional facilities and people detained within those facilities:

- A management plan may be required. The Hearings Examiner may determine the level of detail to be disclosed in the plan based on the probable impacts and/or the scale of the effects. Discussion of materials handling and storage, odor control, transportation, and other factors may be required;
- The finished product as packaged for sale or distribution shall be in such a form that product handling and shipment does not constitute a significant public health risk; and
- The City may impose conditions of approval limiting the nature of the materials produced and/or the scale of manufacturing operations in order to minimize the degree and severity of risks to public health and safety.

25. Renewable Fuel Facilities—Major:

a. Decision: Hearing Examiner

b. In addition to the general conditional use criteria, Renewable Fuel Facilities must demonstrate the following when a conditional use permit is required:



(1) Consultation:

- Planning and Development Services staff will seek input from the Tacoma Fire Department, Tacoma Pierce County Health Department, City of Tacoma Community and Economic Development Department, Puyallup Tribe of Indians, and any other subject matter expert necessary to determine the potential risks and impacts of the proposed facility, as well as appropriate mitigation measures.

(2) Public health and safety:

- The property on which the proposed facility is to be located must not expose large concentrations of people, particularly in residential and commercial areas, to unreasonable adverse impacts. In applying this criteria the City shall consider impacts to employee dense businesses in the Tideflats as well as to detention/correctional facilities and people detained within those facilities.
- The lot is located, or the use can be appropriately mitigated, to avoid any adverse impacts on receipt and utilization of federal funding for affordable housing and community development in adjacent residential and mixed use areas, with particular attention given to Trust Lands of the Puyallup Tribe of Indians. The City will consider the current methodology for Acceptable Separation Distances as published by the Department of Housing and Urban Development in determining appropriate separation distances and on-site mitigation measures for this purpose.
- The Applicant shall submit a management plan. The City will determine the level of detail to be disclosed in the plan based on the probable impacts and/or the scale of the effects. Discussion of materials handling and storage, odor control, transportation, spill prevention, and other factors may be required.
- The City may impose conditions of approval limiting the nature of the materials produced and/or the scale of manufacturing operations in order to minimize the degree and severity of risks to public health and safety.
- The proposed facility shall meet a minimum 50% reduction in lifecycle GHG per Clean Air Act at the time of occupancy and 80% reduction by 2050;

(3) Emergency services and risk management:

- The project shall not result in any increased risk of spill within the waters of Puget Sound and Commencement Bay. Updated spill response and emergency response plans shall be provided with the application, for review by all appropriate agencies;
- Plans and sufficient, realistic performance bonding for decommissioning and failure incidents are provided to ensure that the site will be rehabilitated after the use or activity is completed, terminated, or abandoned;
- Permit applicant to provide proof of insurance naming City of Tacoma as additional insured.
- Any adverse impacts to emergency services or increased demands for emergency services necessary to ensure the health and safety of employees and surrounding communities shall be mitigated concurrently with the proposed use or development.

(4) Shoreline Resources and Shorelines of Statewide Significance:

For uses within the shoreline, with a shoreline facility, or that propose to transport products and materials via marine vessel, the following criteria apply, with consideration given to the potential off-site impacts resulting from transport:

- There will be no likely long term significant adverse impacts to shoreline resources or uses, or shorelines of statewide significance;
- All feasible steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
- All feasible steps are taken to avoid and minimize adverse impacts to fish and wildlife, including impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands. All impacts that cannot be avoided can be sufficiently mitigated or compensated so as to achieve no net loss of ecological functions over time.

246. Non-Industrial Uses in the Port of Tacoma Manufacturing and Industrial Centera. Decision: Hearing Examiner

b. In addition to the general conditional use criteria in TMC 13.05.010.A, non-industrial conditional uses in the Port of Tacoma Manufacturing and Industrial Center shall meet the following criteria. In considering conditional use permit applications, the City will consult with the Puyallup Tribe of Indians and Port of Tacoma to determine potential off-site impacts on port/industrial facilities and operations, and to identify appropriate mitigation measures.

(1) The location will not significantly interfere with container shipping facilities. Mitigation may be required to avoid and minimize disruptions to nearby industrial activity.

(2) The location is buffered from potentially high-impact industrial facilities.

(3) The use will incorporate design elements to reduce impact on employees and customers from adjacent or nearby industrial activities.

\* \* \*

### 13.05.070 Notice process.<sup>1</sup>

H. Notice and Comment Period for Specified Permit Applications.

Table H specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

Table H – Notice, Comment and Expiration for Land Use Permits

Permit Type	Preapplication Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Interpretation of code	Recommended	100 feet for site specific	For general application	Yes	14 days	Director	No	No	None
Uses not specifically classified	Recommended	400 feet	Yes	Yes	30 days	Director	No	No	None
Boundary line adjustment	Required	No	No	No	No	Director	No	No	5 years <sup>3</sup>
Binding site plan	Required	No	No	No	No	Director	No	No	5 years <sup>3</sup>
Environmental SEPA DNS* (see <a href="#">TMC 13.05.070.I</a> )	Optional	Same as case type	Yes if no hearing required	No	Same as case type	Director	No	No	None
Environmental Impact Statement (EIS)* (see <a href="#">TMC 13.05.070.I</a> )	Required for scoping, DEIS and FEIS	1000 feet	Yes	Yes	Minimum 30 days	Director	No, unless part of associated action. Public scoping meeting(s) required	No	None
Variance, height of main structure	Required	400 feet	No	Yes	30 days	Director	No <sup>1</sup>	No	5 years
Open space classification	Required	400 feet	No	Yes	2	Hearing Examiner	Yes	Yes	None
Plats 10+ lots	Required	1000 feet	Yes	Yes	21 days SEPA <sup>2</sup>	Hearing Examiner	Yes	Final Plat	5 years <sup>6</sup>
Rezones	Required	400 feet; 1000 feet for public facility site	No; Yes for public facility site	Yes	21 days SEPA <sup>2</sup>	Hearing Examiner	Yes	Yes	None

<sup>1</sup> Code Reviser's note: Previously codified as 13.05.020 (Notice process); relocated to 13.05.070 per Ord. 28613 Ex. G; passed Sept. 24, 2019.

Tacoma Municipal Code

Permit Type	Preapplication Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Shoreline/CUP/ variance* (see <a href="#">TMC 13.05.070.I</a> )	Required	400 feet	No	Yes	30 days <sup>5</sup>	Director	No <sup>1</sup>	No	2 years/ maximum <sup>6</sup>
Short plat (2-4 lots)	Required	No	No	No	No	Director	No	No	5 years <sup>3</sup>
Short plat (5-9 lots)	Required	400 feet	No	Yes	14 days	Director	No <sup>1</sup>	No	5 years <sup>6</sup>
Site approval	Required	400 feet	No	Yes	30 days <sup>5</sup>	Director	No	No	5 years
Conditional use* (see <a href="#">TMC 13.05.070.I</a> )	Required	400 feet; 1000 feet for development sites over 1 acre in size	No	Yes	30 days <sup>5</sup>	Director	No	No	5 years <sup>4</sup>
Conditional use, correctional facilities (new or major modification)	Required	2,500 feet from the edge of the zone	Yes	Yes	30 days <sup>2</sup>	Hearing Examiner	Yes	No	5 years
Conditional use, detention facilities (new or major modification)	Required	2,500 feet from the edge of the zone	Yes	Yes	30 days <sup>2</sup>	Hearing Examiner	Yes	No	5 years
Conditional use, large-scale retail	Required	1,000 feet	Yes	Yes	30 days <sup>2</sup>	Hearing Examiner	Yes	No	5 years
Conditional use, master plan	Required	1000 feet	Yes	Yes	30 days <sup>2</sup>	Director	Yes	No	10 years
Conditional Use, Minor Modification	Optional	No	No	No	No	Director	No	No	5 years
Conditional Use, Major Modification	Required	400 feet; 1000 feet for public facility sites and master plans	No	Yes	14 days <sup>5</sup>	Director	No	No	5 years
Temporary Shelters Permit	Required	400 feet	Yes	Yes	14 days	Director	No	No	1 year
Minor Variance	Optional	100 feet <sup>7</sup>	No	No	14 days	Director	No <sup>1</sup>	No	5 years
Variance	Optional	100 feet	No	Yes	14 days	Director	No <sup>1</sup>	No	5 years
Wetland/Stream/ FWHCA development permits	Required	400 feet	No	Yes	30 days	Director	No <sup>1</sup>	No	5 years*
Wetland/Stream/ FWHCA Minor Development Permits	Required	100 feet	No	Yes	14 days	Director	No <sup>1</sup>	No	5 years*
Wetland/Stream/ FWHCA verification	Required	100 feet	No	Yes	14 days	Director	No <sup>1</sup>	No	5 years

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

\* \* \*

I. Expanded Notification for Heavy Industrial ~~Permits~~ Uses.

1. Applicability. The following expanded notification standards apply to ~~all~~ the following permit applications and SEPA determinations:

a. Uses classified as “heavy industry” where a shoreline permit, conditional use permit, or variance is required.

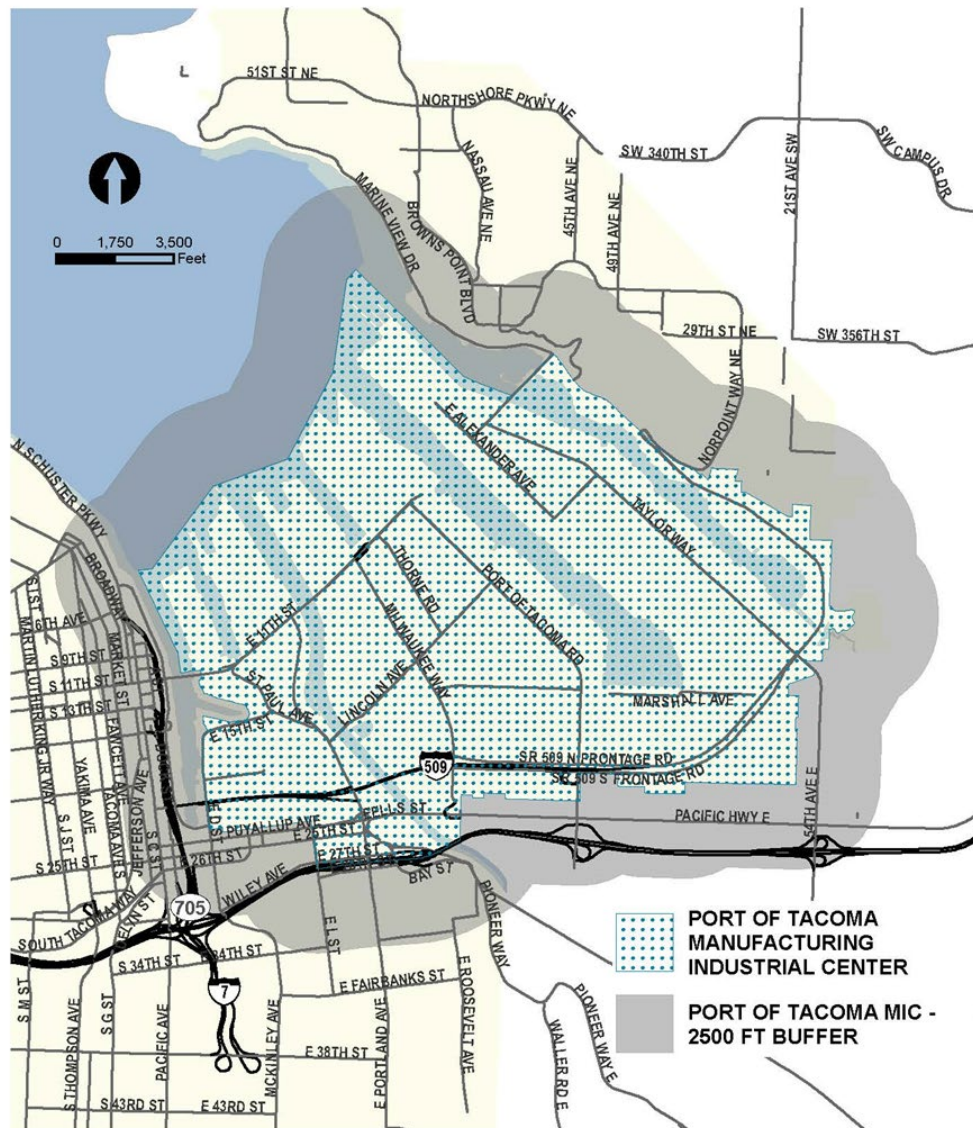
b. SEPA determinations for uses classified as “Petroleum Fuel Facility,” “Cleaner Fuel Infrastructure (new and expanded),” and “Chemical Manufacturing.”

2. Notice for designated projects will be emailed to all Neighborhood Councils and Business Districts, as well as the Community Council. In addition, notice will be sent to the SEPA contact for all adjacent jurisdictions (Federal Way, Fife, Fircrest, Lakewood, Pierce County, and University Place). This is in addition to all typically-notified parties and the Puyallup Tribe of Indians.

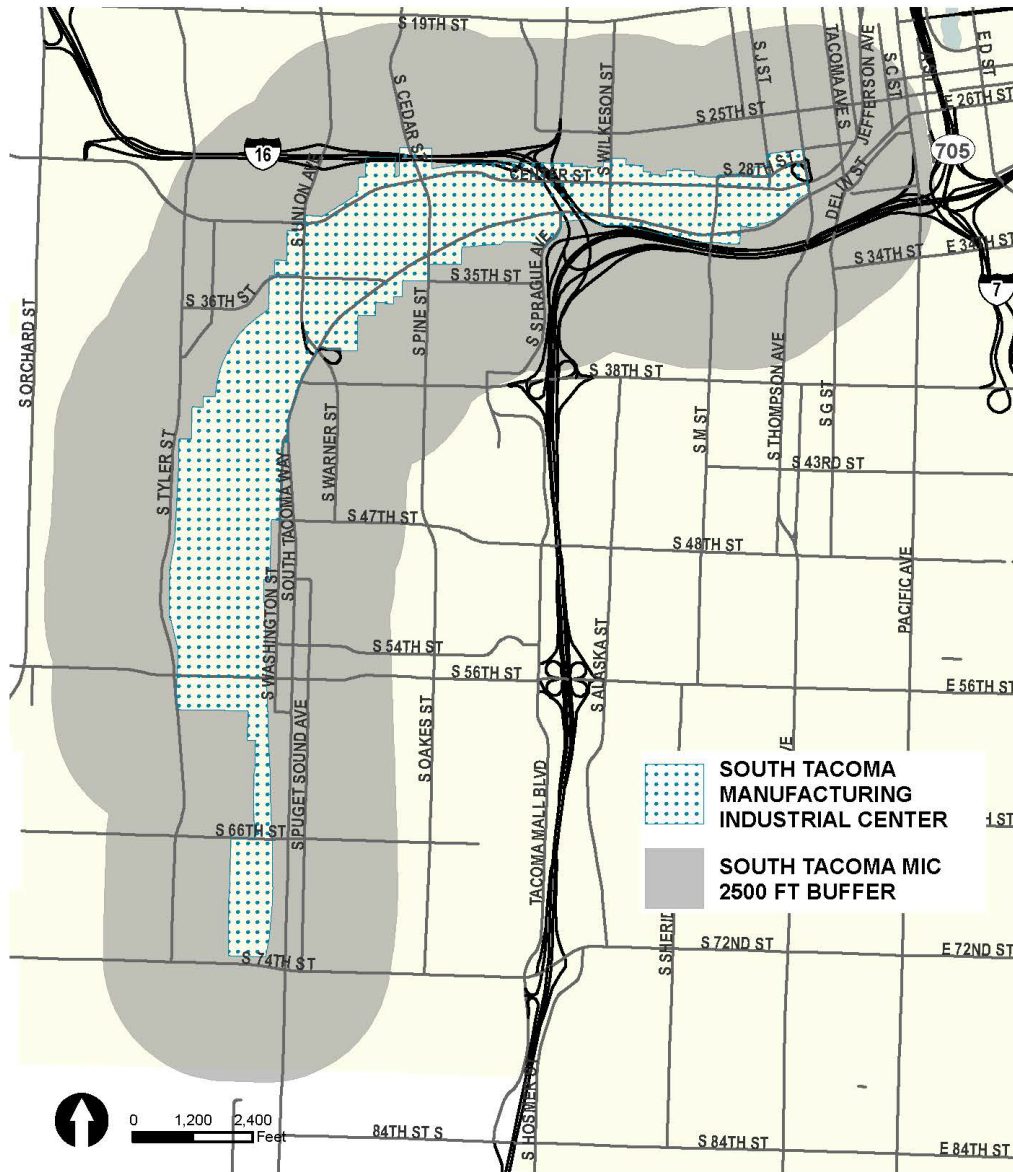
3. Notification of designated projects will be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils and business districts; qualified neighborhood or community organizations; the Puyallup Tribe of Indians; Local Governments in Pierce County; and to owners of property and/or taxpayers of record, as indicated by the records of the Pierce County Assessor/Treasurer.

4. Notification distance.

(a) The notification distance for a project within the Port of Tacoma Manufacturing/Industrial Center (M/IC) shall extend to 2,500 feet from the boundaries of that center, as generally depicted in the following map:



[\(b\) Notification distance for a project within the South Tacoma Manufacturing/Industrial Overlay District shall extend to 2,500 feet from the boundaries of the Overlay District as generally depicted in the following map:](#)



(c) Notification distance for a qualifying industrial project in any other zoning district, outside either of the above areas, will be 2,500 feet from the boundaries of the project site.

5. Upon determination of a Complete Application, the City will hold a public meeting to provide notification that a significant project has been applied for. Further, the meeting will provide clarity on the public process (from all permitting agencies) and opportunities for public review and comment.

(a) For projects with an associated land use permit and public notice, this meeting will take place approximately two weeks after the start of the public notice period. Public notice will be extended to 30 days in the rare case that the TMC-required notice period is not already 30 days.

(b) For projects not associated with a land use permit, the meeting will take place after determination that a SEPA application is complete, but prior to issuance of a preliminary SEPA determination. The meeting will include a proposed SEPA timeline, including issuance of the preliminary determination, opportunity for comment, and the appeal process for this type of SEPA determination.

(c) This required public meeting is in lieu of the optional public meeting in Subsection F above.

6. Upon determination of a Complete Application, the City will post the permit package and all relevant studies on the City's permitting website.



[7. Additional notification may be done as necessary \(i.e., social media posts or separate project web pages\) or as appropriate for the project type.](#)

## CHAPTER 13.06 ZONING <sup>1</sup>

\* \* \*

### 13.06.060 Industrial Districts.<sup>2</sup>

#### A. Applicability.

The following tables compose the land use regulations for all districts of Section 13.06.060. All portions of Section 13.06.060 apply to all new development of any land use variety, including additions and remodels. Explicit exceptions or modifications are noted. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

\* \* \*

#### 3. Use table abbreviations.

P	=	Permitted use in this district.
CU	=	Conditional use in this district. Requires conditional use permit consistent with the criteria and procedures of Section 13.05.010.A.
TU	=	Temporary Uses allowed in this district subject to specified provisions and consistent with the criteria and procedures of Section 13.06.080.P.
N	=	Prohibited use in this district.

#### 4. District use table.

Uses		M-1	M-2	PMI	Additional Regulations <sup>1</sup>
<b>Agriculture and Natural Resources</b>					
	Agricultural uses	<a href="#">CUN</a>	<a href="#">CUN</a>	<a href="#">CUN</a>	<del>Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area.</del>
-	<a href="#">Mining and quarrying</a> <a href="#">Surface mining</a>	<a href="#">P*/N</a>	<a href="#">P*/N</a>	<a href="#">P*/N</a>	<a href="#">*Surface mines, legally permitted at the time of adoption of this ordinance, are permitted, subject to standards in Section 13.06.080.O.</a>
	Urban horticulture	P	P	P	
<b>Residential Uses</b>					
Dwelling Types					
	Dwelling, accessory (ADU)	P/ <del>CUN</del> */N ~	N	N	Subject to additional requirements contained in 13.06.150. ~Not permitted within the South Tacoma M/IC Overlay District <a href="#">or the Port of Tacoma M/IC.</a> <del>*Conditional use in the Port of Tacoma M/IC.</del>

<sup>1</sup> Code Reviser's note: Various sections were reorganized, relocated, or renumbered per Ord. 28613 Ex. G; passed Sept. 24, 2019. In addition, previously repealed sections were removed from the body of Chapter 13.06. See footnotes for relocated and renumbered Section references; see end of this Chapter for a list of previously repealed sections and prior legislation.

<sup>2</sup> Code Reviser's note: Previously codified as 13.06.400 (Industrial Districts); relocated to 13.06.060 per Ord. 28613 Ex. G; passed Sept. 24, 2019.

	Dwelling, single-family detached	P/ <del>CU**/</del> N*~	N*	N*	In M-1 districts, single-, two- and three-family and townhouse dwellings are prohibited, except for residential uses in existence on December 31, 2008, the effective date of adoption of this provision.
	Dwelling, two-family	P/ <del>CU**/</del> N*~	N*~	N*~	In M-1 districts, new multi-family residential dwellings are permitted only within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.
	Dwelling, three-family	P/ <del>CU**/</del> N*~	N*~	N*~	*In all districts, quarters for caretakers and watchpersons are permitted as is temporary worker housing to support uses located in these districts.
	Dwelling, multiple-family	P/ <del>CU**/</del> N*~	N*~	N*~	~Not permitted within the South Tacoma M/IC Overlay District <u>or Port of Tacoma M/IC</u> , except for quarters for caretakers and watchpersons and temporary worker housing, as noted above, <u>and except where allowed as a conditional use in the Port of Tacoma M/IC.</u>
-	<u>Dwelling, townhouse</u>	<u>P/<del>CU**/</del> N*~</u>	<u>N*~</u>	<u>N*~</u>	<u>**Conditional use in the Port of Tacoma M/IC.</u>
Other Residential					
	Adult family home	P/ <u>CU**/</u> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District <u>**Conditional use in the Port of Tacoma M/IC.</u> See Section 13.06.535.
	Day care, family	P/N*	N	N	*Not permitted within the South Tacoma M/IC Overlay District.
	Foster home	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District.
	Group housing	P/ <u>CU**/</u> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <u>**Conditional use in the Port of Tacoma M/IC.</u>
	Home occupation	P	P	P	Subject to additional requirements contained in Section 13.06.100.E
	Live/Work	P/ <u>CU*</u>	N	N	Projects incorporating live/work in new construction shall contain no more than 20 live/work units.



					<a href="#">*Conditional use in the Port of Tacoma M/IC.</a>  Subject to additional requirements contained in Section 13.06.570.
	Mobile home/trailer court	N	N	N	
	Short-term rental	N	N	N	
	Staffed residential home	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a> See Section 13.06.535.
	Student housing	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a>
	Retirement home	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a> See Section 13.06.535.
<b>Medical and Health Services</b>					
	Continuing care retirement community	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a> See Section 13.06.080.N.
	Detoxification center	CU	CU	N	
	Hospital	P/CU*	P/N~	N	*Conditional use within the South Tacoma M/IC Overlay District <a href="#">and Port of Tacoma M/IC.</a>

				~Not permitted within the South Tacoma M/IC Overlay District <a href="#">or Port of Tacoma M/IC.</a>
Intermediate care facility	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a> See Section 13.06.535.
Residential care facility for youth	P/ <a href="#">CU**/</a> N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a> See Section 13.06.535.
Residential chemical dependency treatment facility	P/ <a href="#">CU**/</a> N*	N	N	See Section 13.06.535.  *Not permitted within the South Tacoma M/IC Overlay District. <a href="#">**Conditional use in the Port of Tacoma M/IC.</a>
<b>Community and Civic Facilities</b>				
Assembly facility	P	P	N	
Cemetery/ Internment services	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Confidential shelter	P/N*	N	N	See Section 13.06.535.  *Not permitted within the South Tacoma M/IC Overlay District.
Correctional facility	P	P	P	
Cultural institution	P/CU*	P/CU*	N	*Conditional use within the South Tacoma M/IC Overlay District <a href="#">and Port of Tacoma M/IC</a> , unless an accessory use.
Detention facility*	CU	N	N	Modifications or expansions to existing facilities that increase the inmate/detainee capacity shall be processed as a major modification (see Section 13.05.130).  A pre-application community meeting is also required (see Section 13.05.010.A.16).  This CU is only available in the M-1 zones in place as of January 1, 2018.

				The notification distance for a project within the M-1 zone will be 2,500 feet from the boundaries of that zone.
Juvenile community facility	P/ <u>CU**</u> / N*	P/N*	<u>PN</u>	See Section 13.06.530 for resident limits and additional regulations. <u>**Conditional use within the Port of Tacoma M/IC.</u> *Not permitted within the South Tacoma M/IC Overlay District <u>or in the M-2 District of the Port of Tacoma M/IC.</u>
Parks, recreation and open space	P/ <u>CU*</u>	P/ <u>CU*</u>	P/ <u>N~</u>	Subject to the requirements of Section 13.06.560.D. <u>*High intensity/destination facilities are a conditional use in the Port of Tacoma M/IC. In the M-2 District, the use must be located indoors.</u> <u>~ High intensity/destination facilities are prohibited in the Port of Tacoma M/IC.</u>
Public safety and public service facilities	P	P	P	
Religious assembly	P	P	P	
School, public or private	P/ <u>CU~</u> /N*	P/N*	P/N*	<u>~Conditional use permit in the Port of Tacoma M/IC.</u> *General K through 12 education not permitted in the PMI <u>and M-2 District of the Port of Tacoma M/IC</u> or in the South Tacoma M/IC Overlay District.
Work release center	CU	CU/ <u>N*</u>	<u>PN</u>	Subject to development standards contained in Section 13.06.550. <u>*Not permitted within the Port of Tacoma M/IC</u>
<b>Commercial Uses</b>				
Craft Production	P	P	P	
Hotel/Motel	P/N*	N	N	*Not permitted within the South Tacoma M/IC Overlay District.
Office				
Work/Live	P	N	N	Projects incorporating live/work in new construction shall contain no more than 20 work/live units. Subject to additional requirements contained in Section 13.06.570.
Eating and Drinking Establishments				
Brewpub	P	P	P	
Eating and drinking	P	P	P	
Microbrewery/winery	P	P	P	
Entertainment and Recreation				
Adult retail and entertainment	P	P	P	Subject to development standards contained in Section 13.06.525.
Carnival	P/TU*	N	N	*Temporary use only within the South Tacoma M/IC Overlay District

	Commercial recreation and entertainment	P/CU*	P/CU*~	N	*Within the South Tacoma M/IC Overlay District <a href="#">and Port of Tacoma M/IC</a> , a conditional use permit is required for facilities over 10,000 square feet of floor area in the M-2 district and over 15,000 square feet in the M-1 district. <a href="#">~Within the Port of Tacoma M/IC, only indoor facilities are permitted in the M-2 District.</a>
	<a href="#">Golf Courses</a>	<a href="#">P/N*</a>	<a href="#">P/N*</a>	<a href="#">N</a>	<a href="#">Not permitted within the Port of Tacoma M/IC.</a>
	Theater	P/N*	N	N	*Not permitted within the South Tacoma M/IC Overlay District.
Retail		P~	P~/ CU*~	<a href="#">P~N</a>	~ Size limitations: Limited to 7,000 square feet of floor area, per development site, in the <a href="#">PMI District and JBLM Airport Compatibility Overlay District</a> .  Within the South Tacoma M/IC Overlay District <a href="#">and Port of Tacoma M/IC</a> , unless an accessory use, limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district.  Outside of the South Tacoma M/IC Overlay District and Port of Tacoma M/IC, limited to 65,000 square feet per use, unless approved with a conditional use permit.  *Conditional use within the Port of Tacoma M/IC.
	Marijuana retailer	P~	P~/CU*	N	~Within the South Tacoma M/IC Overlay District <a href="#">and Port of Tacoma M/IC</a> , limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district. <a href="#">*Conditional use within the Port of Tacoma M/IC. Size limitations apply as noted above.</a> See additional requirements contained in Section 13.06.565.
	Nursery	P	P	N	
Services					
	Ambulance services	P	P	P	
	Animal sales and service	P	P	N	
	Building material and services	P	P	P	
	Business support services	P	P	P	
	Day care center	P	P	N	Subject to development standards contained in Section 13.06.155.
	Funeral home	P	P	N	
	Personal services	P	P	P	

	Repair services	P	P	P	
Storage Uses					
	Warehouse/ storage	P	P	P	Storage and treatment facilities for hazardous wastes are subject to the state locational standards adopted pursuant to the requirements of Chapter 70.105 RCW and the provisions of any groundwater protection ordinance of the City of Tacoma, as applicable.
	Wholesale or distribution	P	P	P	
	Self-storage	P	P	P	See specific requirements in Section 13.06.503.B.
Vehicle Related Uses					
	Drivethrough with any permitted use	P	P	P	Subject to the requirements of TMC 13.06.090.A.
	Vehicle rental and sales	P	P	P	Subject to development standards contained in Section 13.06.080.S.
	Vehicle service and repair	P	P	P	Subject to development standards contained in Section 13.06.080.S.
	Vehicle storage	P	P	P	Subject to development standards contained in Section 13.06.080.S.
<b>High Impact Use</b>					
	<u>High Impact Use*</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>*This use category applies only to uses that are otherwise permitted but are determined to be a Type H occupancy per Washington State Fire Code. See conditional use criteria in TMC 13.05.010.A.24.</u>
<b>Industrial</b>					
	Industry, heavy	N	P	P	Animal slaughter, fat rendering, acid manufacture, <del>smelters</del> , and blast furnaces allowed in the PMI District only.
	<u>Coal facility</u>	<u>N</u>	<u>N</u>	<u>N</u>	
	<u>Chemical manufacturing, processing and wholesale distribution</u>	<u>N</u>	<u>CU/N~</u>	<u>P/CU*/N~</u>	<u>*A conditional use permit is required for the manufacture, processing, and wholesaling of hazardous materials, subject to conditional use criteria in Section 13.05.010.A.23.</u> <u>~Explosives, fertilizer, and petrochemical manufacturing prohibited in all districts.</u>
	<u>Petroleum Fossil fuel facility—major</u>	<u>N</u>	<u>P*/N</u>	<u>P*/N</u>	<u>*Facilities legally permitted at the time of adoption of this ordinance are permitted, subject to special use standards in Section 13.06.080.G. Otherwise prohibited.</u>

	Port, terminal, and industrial; water-dependent or water-related (as defined in Chapter 13.10)	N	N	P*	*Preferred use.
	<del>Cleaner Renewable fuel infrastructure facility – major</del>	<del>N</del>	<del>P CU*</del>	<del>P CU*</del>	<del>*Subject to conditional use criteria in 13.05.010.A.25 and special use standards in TMC 13.06.080.G.</del>
	<del>Smelting</del>	<del>N</del>	<del>N</del>	<del>N</del>	
Industry, light		P	P	P	
	Vehicle service and repair, industrial	P	P	P	Subject to development standards contained in Section 13.06.510.
	Research and development industry	P	P	N	
	Marijuana processor, producer, and researcher	P	P	P	See additional requirements contained in Section 13.06.565
Utilities, Transportation and Communication Facilities					
Airport		<del>CU</del> N	<del>CU</del> N	<del>CU</del> N	
Communication facility		P	P	P	
Heliport		CU	CU	CU	
Passenger terminal		P	P	P	
Transportation/ freight terminal		P	P	P	
Utilities		P	P	P	
Wireless communication facility		P*/	P*/	P*/	*Wireless communication facilities are also subject to Section 13.06.545.D.1.
		CU**	CU**	CU**	**Wireless communication facilities are also subject to Section 13.06.545.D.2.
Accessory and Temporary Uses					
Seasonal sales		TU	TU	TU	Subject to development standards contained in Section 13.06.635.
Temporary uses		P	P	P	Subject to development standards contained in Section 13.06.635.
Unlisted Uses					
Uses not prohibited by City Charter and not prohibited herein		N	N	<del>P</del> CU	
Footnotes:					
1. For historic structures and sites, certain uses that are otherwise prohibited may be allowed, subject to the approval of a conditional use permit. See Section 13.06.640.F for additional details, limitations and requirements.					

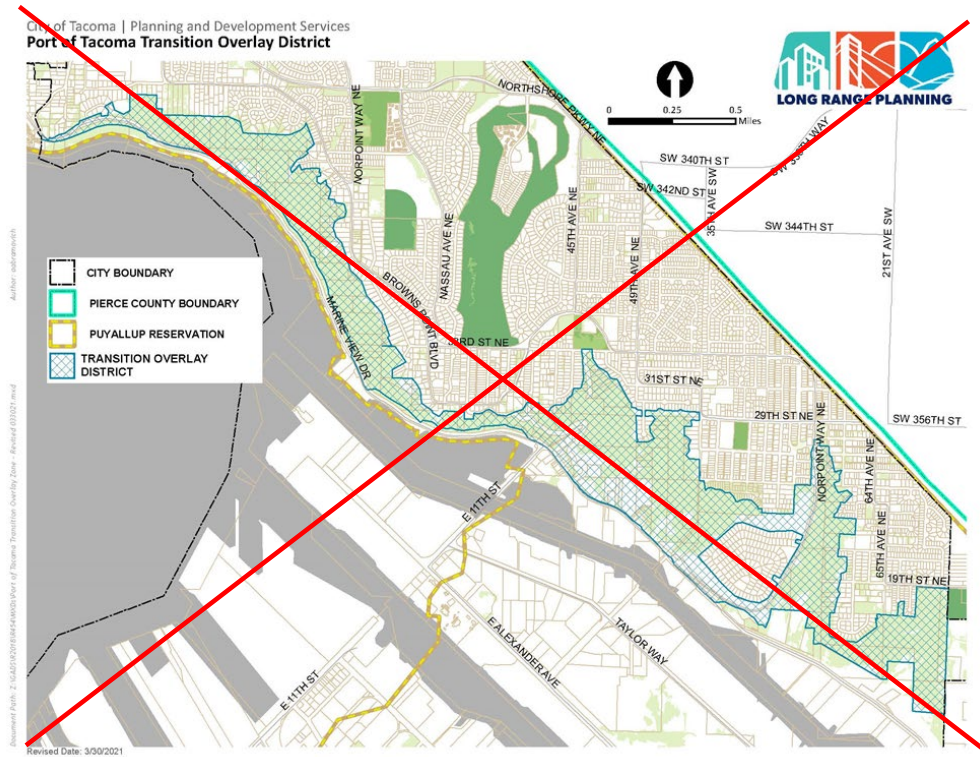
### **13.06.070 Overlay Districts.**

\* \* \*

## G. Port of Tacoma Transition Overlay District

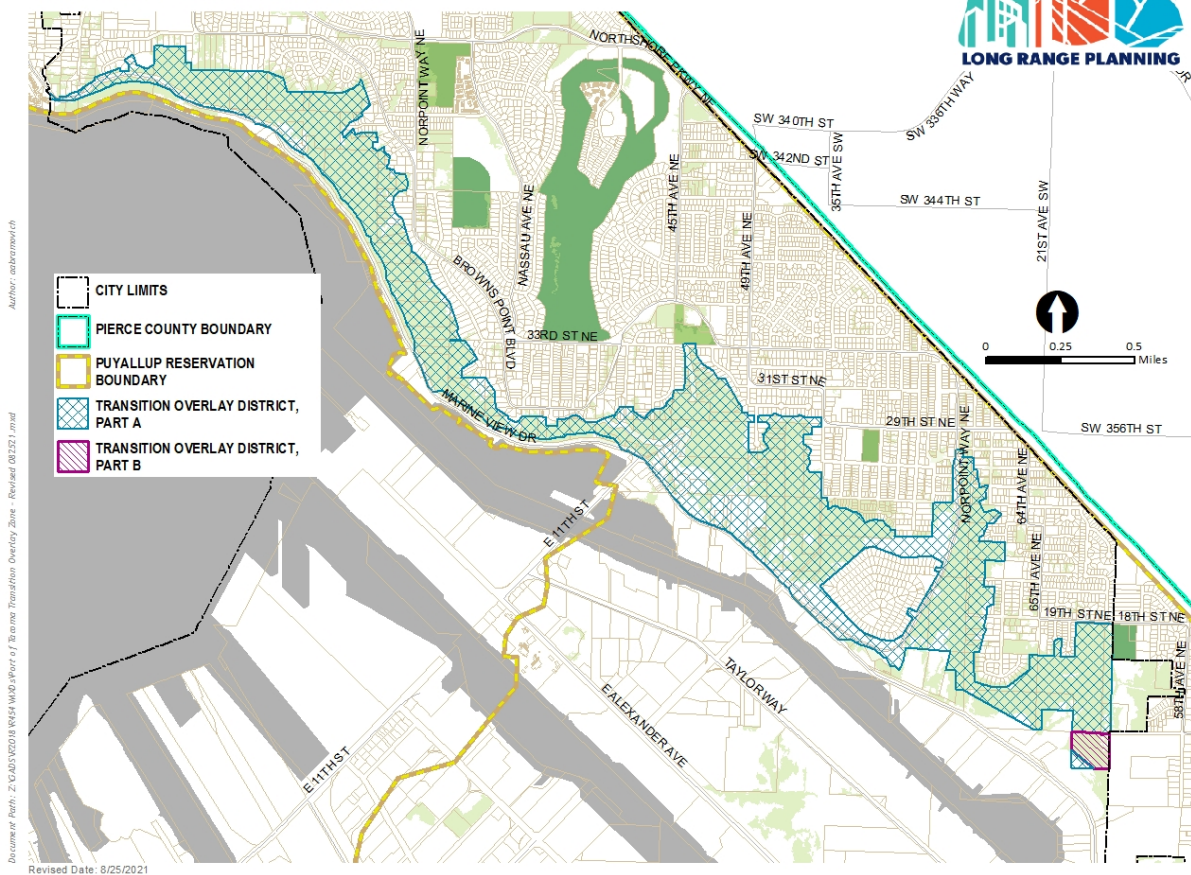
### 1. Applicability.

a. The Port of Tacoma Transition Overlay District applies to all residential platting, subdivision, and land uses within the district boundaries established herein:





City of Tacoma | Planning and Development Services  
**Port of Tacoma Transition Overlay District**



b. Standards established through the overlay zone are in addition to the requirements of the underlying zone. In all cases, where the overlay district imposes more restrictive standards than the underlying zone, these shall apply. Unless specifically noted otherwise, all of the standards herein apply within both Parts A and B of the overlay district, as identified on the map above.

2. Purpose. The purpose of the Port of Tacoma Transition Overlay Zone is to maintain an appropriate separation between port/industrial activity in the Port of Tacoma Manufacturing and Industrial Center and residential neighborhoods, to avoid and minimize off-site impacts on residential areas, and to minimize disruption to port operations and associated industrial activity resulting from residential encroachment, consistent with the Container Port Element of the One Tacoma Plan and the Growth Management Act.

### 3. District Development Standards

a. Prohibited uses. Multifamily dwelling units, including duplex, triplex, cottage housing, and fourplex, are prohibited as stand-alone primary uses or as part of a mixed-use development.

b. Maximum density. Subdivision of existing lots shall not average less one lot per acre. This maximum density shall not apply within Part B of the Port of Tacoma Transition Overlay District, as shown on the map above.

c. Use and Maximum Density Exception: A Planned Residential Development (PRD) for a lot that abuts the northern edge of the overlay district and has access from the top of the slope may utilize the dwelling type allowances and density bonuses provided in TMC 13.06.070.C. In this Overlay District the base density used for PRD density bonus calculations will be one unit per acre.

d. Location. Residential development shall be located the greatest distance from the boundaries of the Port of Tacoma Manufacturing and Industrial Center as is feasible.

e. Site Development Standards. Residential development shall be designed to minimize disruptions to Port/industrial operations, including minimizing clearing and grading, driveways, and vegetation/tree canopy removal.



f. Building Design Standards. Residential buildings will incorporate design elements to reduce, to the greatest extent practicable, impacts on occupants from noise and light impacts from nearby port/industrial activity.

g. Accessory uses and structures. Uses and structures accessory to a single dwelling unit are permitted in the Overlay district consistent with established development standards for accessory uses in the base zone.

h. Notice on Title. As a condition of subdivision approval or residential building permit issuance for properties within the Overlay Zone, the Applicant shall record a notice on title which attests that (1) the property is located within the Port of Tacoma Manufacturing and Industrial Center Overlay Zone, (2) Port of Tacoma industrial activities, including container terminal facilities, are operating and will continue to operate and may expand in the future. The Notice on Title shall include the specific distance of the property from the closest boundary of the Port of Tacoma Manufacturing and Industrial Center.

### 13.06.080 Special Use Standards

\* \* \*

#### G. ~~Major Fossil Fuel Facilities and Renewable~~ Fuel Facilities.<sup>[1]</sup>

1. Applicability: The following standards apply to all “~~Petroleum Fossil Fuel Facilities—Major~~” and “~~Renewable Cleaner Fuel Infrastructure Facilities—Major~~.”

2. Purpose: The purpose of these standards is to minimize the risk of spill or discharge of fuels into the Puyallup River or marine waters; to support a reduction in greenhouse gas emissions and a transition to renewable fuel and energy production consistent with Federal, state and local targets; to avoid and minimize any impacts to adjacent communities from fire, explosion, or increased air emissions resulting from facility expansion; and to protect and preserve fish and wildlife habitat areas to ensure viable Tribal fisheries consistent with Treaty fishing rights.

3. Baseline established.

a. The baseline for refining, storage, transportation, and transshipment facilities is established by the following information available as of November , 2021 (the adoption date of this ordinance.)

(1) Crude oil refining baseline capacity shall be established by the U.S. Energy Information Administration Refinery Capacity Report as measured in atmospheric crude distillation barrels per day (<https://www.eia.gov/petroleum/refinerycapacity/>) or comparable. The baseline for other product refining, including liquefied natural gas, shall be based on the documented refining capacity in the most recent local permits issued for the facility.

(2) Storage baseline capacity shall be established using Washington Department of Ecology industrial section permits and oil spill prevention plans.

(3) Transshipment and transportation facility baseline is established through the most recent spill prevention plans approved by the Department of Ecology or where a local permit documenting such facilities has been approved more recently.

(4) If an existing facility does not have an established refining or storage baseline from a past industrial section permit or spill prevention plan, the baseline must be established as part of a permit application.

4. New facilities or expansion of existing facilities beyond the established baseline shall meet the following special use standards:

a. Mitigation for local greenhouse gas impacts calculated consistent with the definition of facility emissions in TMC 13.01.060:

(1) Assessment: Greenhouse gas emissions impacts shall be assessed using current valid modeling techniques.

(2) Mitigation: Greenhouse gas emissions that create specific adverse environmental impacts may be offset through mitigation projects that provide real and quantifiable greenhouse gas mitigation.

(3) Location: Greenhouse gas emissions offsets for local impacts shall be located in the following order of preference:

- Within the City of Tacoma;

<sup>[1]</sup> Code Reviser’s note: Previously codified as 13.06.580 (Interim Industrial Use Restrictions); relocated to 13.06.080 per Ord. 28613 Ex. G; passed Sept. 24, 2019. Prior legislation: Ord. 28470 Ex. D; passed Nov. 21, 2017.

- Within the Puyallup River Watershed;
- Within Pierce County;
- Within the Central Puget Sound region, including Pierce County, Kitsap County, Snohomish County, and King County.

b. The applicant shall provide annual reporting of the following:

- The number of vessel transfers of renewable fuel, both inbound and outbound from the site, the type and quantity of products transferred, and the product destination.
- The number of rail cars transporting renewable fuels, both to and from the site, including a description of the product, volume, and destination.
- The number of trucks transporting renewable fuel, both to and from the site, including a description of the product, volume, and destination.
- A description of on-site storage capacity including the number of tanks, tank volumes, and products.
- A description of all facility emissions for previous five years and a three year forecast.

c. An applicant must provide proof of financial assurance (such as trust funds, letters of credit, insurance, self-insurance, financial tests, corporate guarantees, payment bonds or performance bonds) sufficient to comply with the financial responsibility requirements set forth in any State and federal law applicable to their proposed project. If the applicant relies on an insurance policy for compliance with a State or federal financial assurance requirement, the applicant must add the City of Tacoma as an additional insured as a condition of permit issuance.

#### 5. Petroleum ~~Fossil~~ Fuel Facilities —~~Major~~

a. New “Petroleum ~~Fossil~~ Fuel Facilities —~~Major~~” are prohibited.

b. Existing facilities, legally permitted at the time of adoption of this ordinance, shall be considered permitted uses, subject to the following limitations:

(1) Existing facilities shall not exceed the established baseline as of November , 2021 (the adoption date of this ordinance.) except where specifically authorized in this section.

(2) Except as specifically authorized under 13.06.080.G.5.b.(3), (4), and (5), the following new improvements are prohibited: ~~Prohibited improvements:~~

- New driveways, private rail sidings, docks, piers, wharves and floats.
- Site or facility improvements that would increase the capacity of a driveway, private rail siding, dock, pier, wharf or float.
- New storage tanks, refining or processing facilities.

(3) Expansion of or addition to existing petroleum fuel facilities is allowed through the normal permitting process when the particular expansion would create the maximum proposed capacity of a facility that was the subject of an Environmental Impact Statement prepared and published by the City under RCW 43.21C and TMC Ch. 13.12 as of November , 2021 (the adoption date of this ordinance) and for which the City has accepted on or before November , 2021 (the adoption date of this ordinance) all funds that fully mitigate the adverse environmental impacts of the facility’s maximum capacity pursuant to a Mitigation Agreement between the City and the facility proponent.

(4) Expansion of production, storage, transportation and transshipment of petroleum fuels when requested in writing by the Department of Defense supporting Joint Base Lewis McChord, Naval Region Northwest Installations or other national defense needs shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director.

(5) Replacement of and improvements to existing petroleum infrastructure shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, for maintenance, for improvement of the safety or security of the infrastructure, decrease air or water emissions, or to allow the infrastructure to meet new regulatory requirements. ~~Except for those improvements prohibited in Subsection G.4.b.(1) above, existing uses may address existing deficiencies, conduct repairs, improvements, maintenance, modifications, and remodeling, including changes to fuel products stored or refined on-site, provided that a conditional use permit is not otherwise required.~~

(6) Where a “~~Petroleum Fossil Fuel Facility—Major~~” provides direct-to-vessel fueling, new infrastructure that is necessary to support vessel fueling may be allowed ~~subject to a conditional use permit (TMC 13.05.010.A General Criteria)~~ so long as overall facility storage and refining does not exceed the established baseline.

(7) Improvements are limited to property owned or occupied by the use as of the adoption of this ordinance.

(5) Change of Use:

(a) The addition of renewable fuel refining or storage facilities to an existing “~~Fossil Fuel Facility—Major~~” that exceeds the established fuel baseline shall be permitted as a new “~~Renewable Fuel Facility—Major~~” per the requirements of Subsection ~~G.5 Renewable Fuel Facility—Major~~.

(b) A change of use of a “~~Renewable Fuel Facility—Major~~” to a “~~Fossil Fuel Facility—Major~~” is prohibited.

(8) Baseline monitoring. On an annual basis, Planning and Development Services will evaluate information from the U.S. Energy Information Administration, WA Department of Ecology, Puget Sound Clean Air Agency, as well as from local permits, to ensure compliance with the requirements herein.

6. ~~Cleaner Renewable Fuel Infrastructure Facility—Major~~.

a. “~~Renewable Fuel Facilities—Major~~” a Conditional Use Permit and the criteria in 13.05.010.A.25.—New and Expanded Cleaner Fuel Infrastructure as defined in this chapter shall be allowed through the standard permitting process with the City of Tacoma acting as SEPA lead agency, subject to an enhanced SEPA checklist to be implemented and updated from time to time by the Director, and subject to the following requirements:

(1) New Cleaner Fuel Infrastructure permitted through this chapter shall not be used for production, storage, transportation and transshipment of petroleum. Total or partial conversion of permitted New Cleaner Fuel Infrastructure for the purposes of production, storage, transportation, and transshipment of petroleum shall constitute grounds for permit revocation and civil enforcement.

(2) Any Expanded Cleaner Fuel Infrastructure permitted through this chapter shall not exceed a cumulative total increase of fifteen percent (15%) more storage over the applicant’s total petroleum storage as of November , 2021 (the adoption date of this ordinance). Total or partial conversion of permitted Expanded Cleaner Fuel Infrastructure for the purposes of production, storage, transportation, and transshipment of petroleum fuels shall constitute grounds for permit revocation and civil enforcement. The limitation on cumulative petroleum storage does not apply to expansions allowed under TMC 13.06.080.G.5.b (3), (4), and (5) above.

# **ATTACHMENT 2**



August 21, 2021

*Via email to IPSTideflats@cityoftacoma.org*  
Infrastructure, Planning and Sustainability Committee  
Tacoma City Council  
747 Market Street  
Tacoma, WA 98402

RE: Comment Regarding Proposed Non-Interim Regulations for the Tideflats to Restrict Further Fossil Fuel Development

Dear Infrastructure, Planning and Sustainability Committee:

Earthjustice submits this letter on behalf of Advocates for a Cleaner Tacoma (“ACT”), Washington Environmental Council (“WEC”), Sierra Club Washington Chapter, Washington Physicians for Social Responsibility (“WPSR”), and Stand.earth.<sup>1</sup> Earthjustice represents these organizations in litigation pending before the Pollution Control Hearings Board challenging the Notice of Construction permit issued by the Puget Sound Clean Air Agency for the Tacoma LNG Project, which is owned and operated by Puget Sound Energy.

We applaud the City of Tacoma (“City”) for its interim moratorium on fossil fuel development and encourage the City to enact strong protections to prevent construction of new fossil fuel facilities and expansion of existing fossil fuel facilities. We urge the City Council to adopt amendments to its zoning code that are proposed in the April 27, 2021 report from the City Planning Commission.<sup>2</sup> As described further below, the City has broad authority under its police power to enact the Planning Commission’s proposed amendments to the municipal code. Passage of such amendments would not infringe upon any constitutionally protected rights.

Further, the proposed amendments are necessary to protect the public from climate disaster, to protect air quality and to protect public safety in the City of Tacoma. Even a single

---

<sup>1</sup> ACT is a Tacoma-based nonprofit focused on ensuring and improving clean air, water, and land in Tacoma. WEC is non-profit, statewide advocacy organization that has been driving positive change to solve Washington’s most critical environmental challenges. The Sierra Club is a national nonprofit organization dedicated to enjoying, and protecting wild places; to practicing and promoting the responsible use of the earth’s ecosystems; to educating and enlisting humanity to protect and restore the natural and human environment. WPSR is a healthcare professional-led advocacy organization working to create a healthy, just, peaceful and sustainable world. Lastly, the mission of Stand.earth is to challenge corporations and governments to treat people and the environment with respect, because our lives depend on it.

<sup>2</sup> City of Tacoma Planning Comm’n, *Tideflats and Industrial Land Use Proposed Amendments to Title 13: Land Use Regulatory Code And Title 19 Shoreline Master Program*, Prepared for City Council Public Hearing April 27, 2021, <https://bit.ly/381sG5m> (“*Planning Commission Report*”)

fossil fuel facility can have a major impact on global climate change and public safety. Attached with this letter is the direct testimony of experts retained by Earthjustice in connection with the appeal of the permit issued by the Puget Sound Clean Air Agency.<sup>3</sup> These experts evaluated the climate impacts and health and safety hazards of the Tacoma LNG Project.

I. THE CITY HAS BROAD POLICE POWER TO ENACT THE AMENDMENTS PROPOSED BY THE PLANNING COMMISSION.

The Planning Commission's proposed amendments are a reasonable exercise of the City's police power to regulate activities within its jurisdiction for the public health and benefit of its residents. The Supreme Court has found that "zoning is, in general, a proper exercise of police power which can permissibly limit an individual's property rights," so long as it is a reasonable exercise of such power. *Norco Const., Inc. v. King Cty.*, 97 Wn.2d 680, 684–85 (1982). Exercise of a local governments authority "must be reasonable and rationally related to a legitimate purpose of government such as avoiding harm or protecting health, safety and general[.]" *Id.*

In its report, the Planning Commission extensively describes the reasons supporting its proposal to limit new fossil fuel development, and prohibit expansion of fossil fuel development in the Port of Tacoma.<sup>4</sup> These reasons range from stopping climate harms, to protecting the health and safety of nearby residents. These are exactly the type of regulations the Supreme Court had in mind when it found that cities have the authority to protect public health and safety. The Planning Commission's report also extensively describes how the proposed amendments advanced the policies and goals identified in the Growth Management Act, Shoreline Management Act, Multicounty Planning Policies (VISION 2040), and the One Tacoma Comprehensive Plan.<sup>5</sup>

Nor would the amendments proposed in the *Planning Commission Report* constitute a taking, or otherwise infringe upon with any constitutionally protected property rights. The Washington Supreme Court has held that "[a] land use regulation is not a taking if it substantially advances a legitimate state interest and does not deprive the owner of economically viable use of the owner's land." *Sparks v. Douglas Cty.*, 127 Wash. 2d 901, 908, 904 P.2d 738, 742 (1995). As noted above, the Planning Commission's proposed amendments constitute a legitimate state interest. Further, the proposed amendments do not deprive existing owners and operators in the Port of their economically viable use of the land, because owners can still develop their lands into other conforming uses and existing non-conforming uses are allowed to continue.

---

<sup>3</sup> See **Ex. A**, Direct Testimony of P. Erickson, *ACT v. Puget Sound Clean Air Agency*, PCHB No. P19-087c (Mar. 22, 2021); **Ex. B**, Direct Testimony of T. Spicer, *ACT v. Puget Sound Clean Air Agency*, PCHB No. P19-087c (Mar. 22, 2021).

<sup>4</sup> *Supra* note 2, *Planning Commission Report*.

<sup>5</sup> *Supra* note 2, *Planning Commission Report*, at 23-51.

The Planning Commission's proposed amendments would make fossil fuel facilities a non-conforming use in the City of Tacoma, and the City has police power to enact such regulations. The Supreme Court has held that a zoning ordinance can prohibit a nonconforming use because it is detrimental to the public interest. *Rhod-A-Zalea & 35th, Inc. v. Snohomish Cty.*, 136 Wash. 2d 1, 7, 959 P.2d 1024, 1027–28 (1998). Although detrimental the public interest, if a non-conforming use is already existing onsite they are allowed to continue on the belief that it would be unfair and perhaps unconstitutional to require immediate cessation of a nonconforming use. *Id.* Protected nonconforming status generally grants the right to continue the existing use but will not to significantly change, alter, extend, or enlarge the existing use. *Id.* Further, such uses may be terminated either by abandonment or reasonable amortization provisions. *Id.* “In Washington, local governments are free to preserve, limit or terminate nonconforming uses subject only to the broad limits of applicable enabling acts and the constitution.” *Id.*

Here, Tacoma's City Planning Commission has effectively proposed to make fossil fuel use a non-conforming use city-wide, because it proposes to ban new facilities, and prohibit expansion of existing facilities. As explained above, the City of Tacoma has authority to enact such regulations pursuant to its police power. Further, the Planning Commission's proposals would protect constitutionally protected property interests because it would not require existing fossil fuel facilities to cease operating. It would allow those facilities to continue, but would impose a limit on expansion. Industry has implied that the City of Tacoma does not have the authority to enact these zone restrictions, but as described above, that is simply false.

## II. THE PLANNING COMMISSIONS PROPOSED AMENDMENTS WOULD NOT IMPINGE UPON VESTED PERMIT RIGHTS

Nor should the City be concerned about affecting any vested rights to permits, because the Planning Commission's proposed zoning amendments would not impinge upon those rights either. The vested rights doctrine allows developers to lock-in “the regulations in effect at the time a complete building permit application is filed, regardless of subsequent changes in zoning or other land use regulations.” *Town of Woodway v. Snohomish County*, 180 Wn.2d 165, 172-173 (Wash. 2014). This doctrine, developed through common law, was codified in 1987 in RCW § 19.27.095. It is only triggered with submission of a (1) building permit application, or (2) application for preliminary plat or short plat approval.

Washington adheres to the minority rule that “a landowner obtains a vested right to develop land when he or she makes a timely and complete building permit application that complies with the applicable zoning and building ordinances in effect on the date of the application.” *Norco Const., Inc. v. King Cty.*, 97 Wn.2d 680, 684 (1982). This means that a land owners' interest to develop only vests once they submit an application for a building permit. A landowner does not have any vested interest in future building permits. Further, before any developer submits a permit, the City can enact a law prohibiting issuance of a building permit.

Here, the interim ordinances have prohibited issuance of new permits for fossil fuel facilities, so developers' rights have not yet vested. Once the propose zoning amendment

becomes law, the City has the authority to prohibit developers from submitting applications for a building or development permit to construct or expand fossil fuel facilities. Doing so would not impinge upon any vested property rights to develop.

Further, the vested rights doctrine does not apply to Shoreline Substantial Development Permits. In *Potala Village Kirkland, LLC v. City of Kirkland*, 183 Wn. App. 191, (2014), the Court of Appeals held that the vested rights doctrine does not apply to shoreline substantial development permits. The appellate court looked to the Washington Supreme Court's analysis of the state vesting statute, which applies vesting rights only to a "complete building permit application" or applications for preliminary plat or short plat approval." RCW § 19.27.095, 58.17.033. It found the Washington Supreme Court unwilling to extend the vested rights doctrine beyond these permits. See *Erickson & Assocs., Inc. v. McLerran*, 123 Wn.2d 864, 867, 872 P.2d 1090 (1994) (refusing to extend vested rights doctrine to completed master use permit (MUP) application); *Abbey Rd. Group, LLC v. City of Bonney Lake*, 167 Wn.2d 242 (2009) (refusing to extend vested rights doctrine to submitted site development plan); *Town of Woodway v. Snohomish County*, 180 Wn.2d 165 (2014) (declaring the vested rights doctrine statutory and declining to rewrite legislation to extend vesting rights beyond building permits).<sup>6</sup> In short, the court held "that the filing of the application for a shoreline substantial development permit, without filing an application for a building permit, did not vest zoning or other land use control ordinances." *Id.* at 203.

### III. SEPA REVIEW DOES NOT CREATE ANY VESTED RIGHTS TO DEVELOP.

Washington courts have soundly rejected the notion that SEPA review creates any vested rights. The State Environmental Policy Act ("SEPA") is an information disclosure law that was enacted with the purpose of informing decisionmakers and the public about the environmental consequences of any proposed government action, including whether the City should issue a permit. See *Norway Hill Preserv. & Prot. Ass'n v. King Cnty. Council*, 87 Wn.2d 267, 272 (1976); WAC 197-11-400. "The primary function of an EIS is to identify adverse impacts to enable the decision-maker to ascertain whether they require either mitigation or denial of the proposal." *Victoria Tower P'ship v. City of Seattle*, 59 Wn. App. 592, 601 (1990); WAC 197-11-400(2).

However, preparation of an environmental review document that evaluates a project expansion scenario does not create any vested rights that would allow a developer to use its property in accordance with the project evaluated in a SEPA review document. The Court of Appeals resoundingly rejected this argument, finding that SEPA review does not create any

---

<sup>6</sup> Laws that promote health and safety, or reflect a city's legitimate use of police power, are also not subject to the vested rights doctrine. See, e.g., *Hass v. City of Kirkland*, 78 Wn.2d 929, 481 P.2d 9, 10-11 (Wash. 1971) (refusing to vest a fire code because "[t]here is no such thing as an inherent or vested right to imperil the health or impair the safety of the community"); *Edmonds Shopping Ctr. v. Edmonds*, 117 Wn. App. 344, 359-360 (Wash. Ct. App. 2003) (the vested rights doctrine did not lock-in the right to operate a cardroom).



vested rights to develop. *Deer Creek Devs., LLC v. Spokane Cty.*, 157 Wn. App. 1, 12 (2010) (“Deer Creek’s arguments that the vested rights doctrine should be expanded to include site plan applications or a SEPA report for a multipermit project are unpersuasive.”).

#### IV. ZONING AMENDMENTS CAN LIMIT EXPANSION OF THE TACOMA LNG FACILITY, AND WOULD NOT INFRINGE ON VESTED RIGHTS.

The Tacoma LNG facility is a fossil fuel facility, and would fall within the scope of the proposed zoning code amendments to limit the expansion of such facilities. In its comment letter to the City, Puget Sound Energy itself admitted that expansion of its facility would require further permitting. PSE stated that “[a]s written, the proposed development regulations would prevent expansion of the current Tacoma LNG to include a second natural gas liquefaction train and increase service capacity from its current 250,000 gallons per day. Such expansion would require additional permitting[.]”<sup>7</sup> In its letter to the City of Tacoma, Puget Sound Energy (“PSE”) never asserted that it had vested rights that would allow it to expand the Tacoma LNG Facility. PSE only offered unsound legal arguments that the City lacked the authority to amend its zoning code. Thus, PSE itself does not assert that it retains any vested rights that would be infringed by the City’s propose zoning amendment to limit expansion of fossil fuel facilities.

Permits currently issued to the Tacoma LNG facility allowed for construction and operation of an LNG storage tank, and production of 250,000 gallons of LNG per day. As PSE admits, expansion of the facility would require new developments to expand operations. The Shoreline Substantial Development permit allows construction along the Blair pier for loading LNG on ships. However, PSE partially withdrew its application to construct bunkering infrastructure on the Hylebos Pier.<sup>8</sup> Building permits to the facility allow for construction of the LNG tank, and permit grading activity to install existing equipment used at the facility. Expanding operations would require construction of new buildings, further developing the site by grading or installing new utility line connections, and these activities all require a new permit from the City. In its letter, PSE mentioned construction of a new rail yard, which would most certainly require new permits from the City. PSE does not have any vested interest these permits because it has not applied for them. Thus, it lacks a vested right to expand on that basis.

The completion of SEPA review for the project that evaluated a project expansion scenario also does not create any vested rights to develop. In the Final Environmental Impact Statement prepared by the City of Tacoma (“FEIS”), the FEIS evaluated two scenarios (1) the currently permitted scenario of producing 250,000 gallons of LNG per day, and (2) the future expansion scenario of producing 500,000 gallons per day. PSE does not have any vested right to develop its property based on this SEPA review prepared by the City of Tacoma. *Deer Creek Devs., LLC*, 157 Wn. App. at 12.

---

<sup>7</sup> Puget Sound Energy, *Letter to Tacoma City Planning Commission re Non-Interim Tacoma Tideflats Development Regulations*, Mar. 8, 2021.

<sup>8</sup> *Ex. C*, Puget Sound Energy, Pre-hearing Brief, SHB No. 16-002, at 2 (May 2, 2016).

Lastly, the mitigation agreement entered into between the City of Tacoma and Puget Sound Energy also does not create any obligation by the City to allow expansion.<sup>9</sup> On November 10, 2015, the City of Tacoma entered into a mitigation agreement with Puget Sound Energy that allowed the company to get a tax exemption in exchange for funding improvements to the city that would mitigate harms identified in the Final EIS.<sup>10</sup> The mitigation agreement provides that PSE will pay the City of Tacoma \$5,500,000 to complete a series of public works projects identified in Section 4 of the contract. The contract provides a tolling period during which the payment of funds is tolled while PSE obtains all necessary permits to develop its Tacoma LNG facility.<sup>11</sup> The contractual obligations of the City are already satisfied because PSE has received all permits that would allow for the construction and development of the Tacoma LNG facility.

Further, the contractual agreement does not mention facility expansion, and by its terms does not apply to facility expansion. PSE has completed construction of the Tacoma LNG facility, and according to statements it made to regulators, the facility is already operating. Funding measures are contingent upon construction and operation of the Tacoma LNG facility.<sup>12</sup> The public works projects must be built before operation of the Tacoma LNG facility, and once the public works projects are completed the contract term ends.<sup>13</sup>

Lastly, the mitigation contract should not be read to legally bind the City to issue future permits, because doing so may violate Washington's anti-bribery law. Bribery constitutes offering a pecuniary benefit with the intention to obtain "particular result in a particular matter involving the exercise of the public servant's vote, opinion, judgment, exercise of discretion, or other action in his or her official capacity[.]" RCW 9A.68.010. Entering into a contractual agreement that would prohibit the city from exercising its discretion to deny or withhold future permits would likely violate this law. "[C]ourts are generally willing to enforce, contracts that do not contravene public policy." *Keystone Land & Dev. Co. v. Xerox Corp.*, 152 Wn. 2d 171, 176 (2004). "The underlying inquiry when determining whether a contract violates public policy is whether the contract has a tendency to be against the public good, or to be injurious to the public." *LK Operating, LLC v. Collection Grp., LLC*, 181 Wn. 2d 48, 86 (2014). It is contrary to the public good, and the public interest for a City to bind itself to future project approvals that would allow the Tacoma LNG facility to expand in exchange for monetary benefits. Interpreting the contract in this way would render the contract void.

---

<sup>9</sup> Attachment No. 4: Puget Sound Energy Agreement, City of Tacoma, Resolution - ILA with the Port of Tacoma for the PSE LNG, Nov. 10, 2015, <https://cityoftacoma.legistar.com/LegislationDetail.aspx?ID=2511703&GUID=F2B2BD0E-E1DA-4ED1-A03D-CEFAF95218E6&Options=&Search=>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at § 3.1.1.

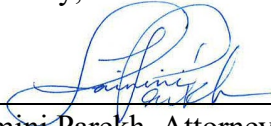
<sup>12</sup> *Id.* at § 3.1.

<sup>13</sup> *Id.* at § 2.

Infrastructure, Planning and Sustainability Committee  
Tacoma City Council  
August 21, 2021  
Page 7

For all the reasons described in this letter, we strongly encourage you to enact the zoning amendments described in the Planning Commission's report. Enacting these regulations would make the City of Tacoma safer, and would be a tremendous step toward reducing the City's contribution to catastrophic global climate change.

Sincerely,



---

Jaimini Parekh, Attorney  
*Counsel for*  
Earthjustice

*Counsel for Washington Environmental Council, Stand.Earth, Advocates for a Cleaner Tacoma,  
Sierra Club, Washington Physicians for Social Responsibility*

# **Exhibit A**

POLLUTION CONTROL HEARINGS BOARD

FOR THE STATE OF WASHINGTON

ADVOCATES FOR A CLEANER TACOMA; )  
SIERRA CLUB; WASHINGTON )  
ENVIRONMENTAL COUNCIL; WASHINGTON ) PCHB No. P19-087c  
PHYSICIANS FOR SOCIAL RESPONSIBILITY; )  
STAND.EARTH, and THE PUYALLUP TRIBE OF )  
INDIANS, )  
 ) DIRECT TESTIMONY OF PETER  
 ) ERICKSON  
Appellants, )  
 )  
v. )  
 )  
PUGET SOUND CLEAN AIR AGENCY, PUGET )  
SOUND ENERGY )  
 )  
Respondents. )  
 )

I. INTRODUCTION

1. My name is Peter Erickson. I am a Senior Scientist with the Stockholm Environment Institute (“SEI”). I have worked in environmental research and consulting for 20 years. I have been employed by the Stockholm Environment Institute (“SEI”) since 2008. SEI is an international research institute with offices in five continents. According to the University of Pennsylvania Global Go-to Think Tank Index, SEI has been ranked as the world’s top one or two environmental policy think tanks for the last several years.

2. I am a researcher with SEI’s U.S. Center, which is registered in the U.S. as a 501(c)(3) non-profit corporation. SEI’s U.S. Center has extensive experience analyzing how policies, actions, or infrastructure projects increase or decrease greenhouse gas emissions. In particular, in my work at SEI, I have authored or co-authored numerous studies on the GHG emissions effects of projects that use or displace fossil fuels. These include a study of industrial GHG emissions intensity for the State of Washington’s Department of Ecology, published in

2010.<sup>1</sup> This and other studies on the GHG emissions effects of projects and facilities that use or displace fossil fuels are listed in my C.V. During the last thirteen years, my professional focus has been on greenhouse gas emissions accounting and the role of policy mechanisms in reducing greenhouse gas emissions. Specifically, I have conducted and led research projects on these topics on behalf of numerous partners and funders, including international institutions (e.g., the United Nations Framework Convention on Climate Change, the World Bank), the U.S. government (U.S. Environmental Protection Agency), state governments (e.g., State of Washington, State of Oregon), and local governments (e.g., City of Seattle, King County, Pierce County).

3. I have also served on national and international committees devoted to greenhouse gas emissions accounting: one convened by the International Council of Local Environmental Initiatives (ICLEI) to create a U.S. Community-scale Greenhouse Gas Emissions Accounting and Reporting Standard, and one convened by the Greenhouse Gas Protocol to create the Greenhouse Gas Mitigation Goals Standard. I am currently an invited reviewer for several chapters of the Intergovernmental Panel on Climate Change's upcoming *Sixth Assessment Report* focused on mitigating global climate change. I have published widely in the peer-reviewed literature on these topics, including in the journals *Carbon Management*, *Climate Policy*, *Energy Policy*, *Environmental Research Letters*, *Environmental Science and Technology*, *Greenhouse Gas Measurement and Management*, *Nature*, *Nature Climate Change*, and *Nature Energy*. I have also written on the very issues presented in this case, for example, in a paper cited by the Washington Department of Ecology when it rejected a SEPA lifecycle

---

<sup>1</sup> Peter Erickson, et al., *Issues and Options for Benchmarking Industrial GHG Emissions*, October 8, 2010, STOCKHOLM ENVIRONMENT INSTITUTE, <https://www.sei.org/publications/issues-options-benchmarking-industrial-ghg-emissions/>.

1 GHG analysis for the Kalama methanol project.<sup>2</sup> These and other efforts are documented in my  
2 curriculum vitae, which is attached as ACT-18.

3 4. I have carefully reviewed the draft and final supplemental environmental impact  
4 statements (“SEIS”) concerning greenhouse gas (“GHG”) emissions from the Tacoma LNG  
5 project that is the subject of this litigation, as well as its supporting documents, including the  
6 PSE Tacoma LNG Project GHG Analysis Final Report (“GHG Report”) appended to the SEIS  
7 as Appendix B. I also am familiar with the draft version of these documents and submitted  
8 comments on the draft. I have also reviewed oral and written testimony from others who have  
9 offered opinions in this case, including Stephan Unnasch and Patrick Couch. This testimony  
10 explains my expert opinion that the methodologies and conclusions contained in the SEIS and  
11 GHG Report are fundamentally flawed and misleading. In my opinion, contrary to what is  
12 stated in the SEIS, GHG emissions associated with this project are significant, and are  
13 inconsistent with global, national, and state commitments to dramatically reduce GHG  
14 emissions. There are multiple reasons for this.

## 15 II. THE CLIMATE CRISIS AND NEED FOR EMISSIONS CUTS

16 5. First, it is helpful to review the state of the science with respect to the climate  
17 crisis and consensus agreements around the need for rapid and steep cuts in emissions of GHGs  
18 over the coming decades. Around the world, with just ~1 degree C of warming experienced to  
19 date, we are already seeing serious harms that include increasing flooding, wildfires, droughts,  
20 heat waves, expanded impacts of pests and pathogens, and other effects. All of these are  
21  
22

---

23 <sup>2</sup> ACT-19, Peter Erickson, et al., *Towards a climate test for industry: Assessing a gas-based*  
24 *methanol plant*, STOCKHOLM ENVIRONMENT INSTITUTE, (February 26, 2018).

1 plausibly linked to climate change.<sup>3</sup> For example, three “five-hundred year” floods occurred in  
2 Houston, Texas in just three years, with one storm – Hurricane Harvey – producing rainfall that  
3 “likely exceeded that of any known historical storm in the continental United States.”<sup>4</sup> In many  
4 areas of the world and the country, increasing summer temperatures are already making working  
5 outdoors dangerous.<sup>5</sup> In the Pacific Northwest, warming has contributed to “vast mountain areas  
6 [having] already been transformed by mountain pine beetle infestations, wildfires, or both” and  
7 reduced snowpack.<sup>6</sup>

8         6.       The impacts of climate change globally and in the Northwest are expected to get  
9 worse, especially if GHG emissions continue at recent levels. A scientific review of the effects of  
10 climate change on health has concluded, “The life of every child born today will be profoundly  
11 affected by climate change. Without accelerated intervention, this new era will come to define  
12 the health of people at every stage of their lives.”<sup>7</sup> In the Pacific Northwest, climate change  
13

---

14 <sup>3</sup> For a summary of these effects, see: Holdren, J. P. (2018, September). *The Science & Policy of*  
15 *Climate Change: An Update on the Challenge and the Opportunity*. Presented at the Low-  
16 emissions Solutions Conference, San Francisco, CA.  
[https://lowemissions.solutions/uploads/files/decks/2018\\_gcas\\_lesc/John%20Holdren\\_2018-09-11\\_Perspective\\_USF\\_JPH.pdf](https://lowemissions.solutions/uploads/files/decks/2018_gcas_lesc/John%20Holdren_2018-09-11_Perspective_USF_JPH.pdf).

17 <sup>4</sup> Hayhoe, K., Wuebbles, D. J., Easterling, D. R., Fahey, D. W., Doherty, S., Kossin, J. P., ...  
18 Wehner, M. F. (2018). *Chapter 2: Our Changing Climate. Impacts, Risks, and Adaptation in the*  
*United States: The Fourth National Climate Assessment, Volume II*.  
<https://doi.org/10.7930/NCA4.2018.CH2>.

19 <sup>5</sup> Field, C. B., Barros, V. R., Dokken, D. J., Mach, K. J., & Mastrandrea, M. D. (Eds.). (2014).  
20 Human Health: Impacts, Adaptation, and Co-Benefits. *In Climate Change 2014 Impacts,*  
*Adaptation, and Vulnerability* (pp. 709–754). <https://doi.org/10.1017/CBO9781107415379.016>.

21 <sup>6</sup> May, C., Luce, C. H., Casola, J. H., Chang, M., Cuhaciyani, J., Dalton, M., Lowe, S. E.,  
22 Morishima, G. S., Mote, P. W., Petersen, A. S., Roesch-McNally, G., & York, E. A. (2018).  
*Chapter 24: Northwest. Impacts, Risks, and Adaptation in the United States: The Fourth*  
*National Climate Assessment, Volume II*. U.S. Global Change Research Program.  
23 <https://doi.org/10.7930/NCA4.2018.CH24>.

24 <sup>7</sup> Watts, N., Amann, M., Arnell, N., Ayeb-Karlsson, S., Belesova, K., Boykoff, M., Montgomery,  
H. (2019). The 2019 report of The Lancet Countdown on health and climate change: Ensuring



1 impacts associated with emissions at recent levels will lead to increased damages to people,  
2 property, and economic activity from fire, water shortages, risks to fisheries and aquatic  
3 ecosystems, and food security. For example, as reported in the US Government's *Fourth*  
4 *National Climate Assessment*, "Airborne particulate levels from wildfires are projected to  
5 increase 160% by mid-century... ..creating a greater risk of smoke exposure through increasing  
6 frequency, length, and intensity of smoke events", and resulting increased respiratory illness.

7 7. Consistent with the findings of the international scientific community, the US  
8 Government's *Fourth National Climate Assessment* describes that climate risks can only be  
9 adequately addressed with "substantial and sustained reductions in global greenhouse gas  
10 emissions."<sup>8</sup> As the report notes, "Future risks from climate change depend primarily on  
11 decisions made today."<sup>9</sup>

12 8. To address the risks of climate change throughout the world, nations have been  
13 working collectively under the United Nations Framework Convention on Climate Change  
14 (UNFCCC). The landmark agreement of countries that are party to the UNFCCC, including the  
15 United States, is the Paris Agreement of 2015. The Paris Agreement commits countries to  
16 "holding the increase in the global average temperature to well below 2 °C above pre-industrial  
17 levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial  
18 levels." In adopting the Paris Agreement, countries also asked the Intergovernmental Panel on  
19

20 \_\_\_\_\_  
21 that the health of a child born today is not defined by a changing climate. *The Lancet*.  
22 [https://doi.org/10.1016/S0140-6736\(19\)32596-6](https://doi.org/10.1016/S0140-6736(19)32596-6).

23 <sup>8</sup> Reidmiller, D. R., Avery, C. W., Easterling, D. R., Kunkel, K. E., Lewis, K. L. M., Maycock,  
24 T. K., & Stewart, B. C. (2018). *Impacts, Risks, and Adaptation in the United States: The Fourth*  
25 *National Climate Assessment, Volume II*. U.S. Global Change Research Program.  
26 <https://doi.org/10.7930/NCA4.2018> page 25.

<sup>9</sup> *Ibid*, page 26.

Climate Change (IPCC) to produce a report on what emissions levels would be needed to achieve the 1.5 °C limit.<sup>10</sup>

9. The IPCC, in its special report, *Global Warming of 1.5 °C*, describes that net global carbon dioxide (CO<sub>2</sub>) emissions must reach zero by about the year 2050 in order to meet the 1.5 °C with no or “limited” overshoot (exceedance) of the temperature limit.<sup>11</sup>

10. Use and production of all three major fossil fuels – coal, gas, and oil – must decline dramatically to meet the 1.5 °C limit. Over the next three decades (through 2050), the IPCC finds that, to attain the 1.5 °C limit with no or limited overshoot, coal use must decline by an average of 6% annually (for a total of 82% between 2020 and 2050), gas use by an average of 2% annually (for a total of 43%), and oil use by an average of 3% annually (for a total of 65%).<sup>12</sup> Further, one of the longstanding principles of the international negotiations, termed “common but differentiated responsibilities”, is that reductions in the U.S. and other highly developed countries must proceed faster than these global averages, on account of our historic responsibility for climate change and our relatively high capacity to financially support solutions.

11. The role of “natural” gas in a global energy transition consistent with the goals of the Paris Agreement is a topic of considerable research and debate. As a fossil fuel, natural gas emits dramatically more greenhouse gas emissions than non-fossil sources of energy, such as solar or wind power. But in some limited circumstances and depending on what timescale is

---

<sup>10</sup> UNFCCC. (2015). Decision 1/CP.21: Adoption of the Paris Agreement. Retrieved from United Nations Framework Convention on Climate Change website: <http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>.

<sup>11</sup> Rogelj, J., Shindell, D., Jiang, K., Fifita, S., Forster, P., Ginzburg, V., ... Vilariño, M. V. (2018). Mitigation pathways compatible with 1.5°C in the context of sustainable development. In Special Report on the impacts of global warming of 1.5 °C. Retrieved from <http://www.ipcc.ch/report/sr15/> Figure 2.5, page 113 and Table 2.4, page 119.

<sup>12</sup> *Ibid*, Table 2.6, page 132.

1 considered, natural gas can emit fewer greenhouse gas emissions than would other fossil fuels,  
2 such as coal or oil. When researchers have weighed both possibilities against each other, they  
3 consistently find that expanding gas supply, especially from North America, offers little help in  
4 reducing greenhouse gas emissions or avoiding climate change. As summarized in the most  
5 complete study to look at this question, “increases in global supplies of unconventional natural  
6 gas do not discernibly reduce the trajectory of greenhouse gas emissions or climate forcing.”<sup>13</sup>  
7 In other words, efforts to expand the supply of gas do little, if anything, to reduce greenhouse gas  
8 emissions. The reason is that expanding gas supply delays decarbonization of the energy system;  
9 a greater supply of low-cost gas both increases overall energy consumption as well as postpones  
10 the adoption of low-carbon energy.

11 III. THE SEIS ERRONEOUSLY ASSUMES MARINE AND TRUCK  
12 TRANSPORTATION WILL BE HIGH-CARBON FOR DECADES IF NOT FOR THIS  
PROJECT.

13 12. The SEIS provides a “life-cycle” analysis of GHG emissions, looking not just at  
14 direct GHG emissions but also at indirect emissions associated with the production,  
15 transportation, and end use of the LNG that would be processed and stored at the Tacoma  
16 project. Lifecycle analysis is an important tool to assess the GHG implications of government  
17 decisions. As documented here, however, there are a number of serious problems with the  
18 analysis in the final SEIS.

19 13. The SEIS documents significant life-cycle emissions from the project, the bulk of  
20 which are associated with the production and end-use of LNG. Specifically, the SEIS finds that  
21 the project would generate 683,514 metric tons (hereafter, “tonnes”) of CO<sub>2</sub>e/year at production  
22

---

23 <sup>13</sup> McJeon, H., Edmonds, J., Bauer, N., Clarke, L., Fisher, B., et al. (2014). Limited impact on  
24 decadal-scale climate change from increased use of natural gas. *Nature*, 514(7523). 482–85.  
DOI: 10.1038/nature13837.

level of 250,000 gallons/day (“Scenario A”) and 1.37 million tonnes/year at a production level of 500,000 gallons/day (“Scenario B”). These are very significant volumes of GHG emissions associated with a single project, particularly one with an anticipated lifespan of decades.

14. The SEIS then compares emissions from the project with a hypothetical “no action” alternative, i.e., the emissions that would occur if the project is not approved and built. In the SEIS, the substantial bulk of these “no action” emissions arise from the combustion of conventional marine fuels, namely marine gas oil, which is similar to diesel. (SEIS, at 4-10). The second largest source of these “no action” emissions, after marine gas oil, is diesel for on-road trucking. Because, in total, these “no-action” GHG emissions are slightly higher than the anticipated GHG emissions if the project is operating, the SEIS concludes that the project’s net GHG emissions are slightly negative and hence not a matter of concern.

15. But the SEIS makes a substantial error in assuming that, without the Tacoma LNG project, that tomorrow’s marine and truck fuel markets would be just like today’s. Specifically, the SEIS defines a no-action scenario that locks in fossil fuels as the only marine and truck fuels for the next 40 years.<sup>14</sup> This incorrect assumption results in the SEIS over-estimating the GHG emission reductions it attributes to the Tacoma LNG project. Below I address how the error affects the findings for each of the three largest markets for the facility’s LNG: the Totem Ocean Trailer Express (TOTE) Marine vessel fueling system, “other marine” LNG, and on-road trucking.

16. The first end market for LNG mentioned in the SEIS is for TOTE vessels, which are “roll-on / roll-off” style container ships. For these vessels, the SEIS assumes that, if not for

---

<sup>14</sup> Per Table 2-1 of the SEIS, about 97% of the LNG produced is assumed to be used in the marine fuel market under Scenario A, and none for trucking. Under Scenario B, about 2% would go to on-road trucking.

1 the project, that TOTE vessels would be using marine gas oil for the 40-year lifespan of the  
2 facility, e.g. to 2060 or beyond. But TOTE will likely have other options for engine systems on  
3 equivalent vessels well before 2060. For example, the International Energy Agency (IEA)  
4 reports that both hydrogen fuel cell and pure electric battery vessels for medium-distance marine  
5 shipping have, as of mid-2020, already been proven and are undergoing commercial  
6 demonstration. The IEA further envisions that these types of ships, plus other low-carbon  
7 propulsion or fuel systems (including synthetic fuels, such as ammonia), have a much greater  
8 role long-term than LNG in aligning marine shipping with a low-carbon energy system.<sup>15</sup> The  
9 Tacoma LNG project would work against these trends, however, since it is encouraging a retrofit  
10 to LNG for existing TOTE vessels now. Retrofitting long-lived vessels to LNG may well be  
11 pushing off, by many years (e.g., for however long the retrofits extend the life of the ships), the  
12 eventual conversion of TOTE's fleet to much lower-GHG emissions marine vessels that are  
13 under development. In other words, committing to LNG now could actually *increase* GHG  
14 emissions for TOTE vessels relative to the no-action scenario in the long-term, counteracting any  
15 slight reduction in GHG emissions in the short term.

16 17. The risk that the Tacoma LNG project gets in the way of even lower-carbon  
17 marine shipping could be greater for the "other marine" uses (estimated in the SEIS as 55% of  
18 the project's LNG under Scenario A) than for the TOTE vessels (estimated at 42.7% of the  
19 project's LNG). This is because these unnamed other marine vessels may not be built yet. The  
20 SEIS assumes, without justification, that these other ships use the exact same engines, powered  
21 by marine fossil fuels, as the TOTE vessels, but does not otherwise describe the vessels, even  
22

---

23 <sup>15</sup> ACT-20, IEA (2020). *Energy Technology Perspectives 2020*. International Energy Agency,  
24 Paris, at Table 5.4 and Figure 5.11.

1 though they comprise the majority of the project's LNG use. It is therefore inappropriate to  
2 assume that they would all be powered by marine fossil fuel for forty years.

3 18. On the contrary, options for marine propulsion technologies and fuels are  
4 expanding rapidly, and include not only LNG engines, but also engines, such as battery-electric  
5 or hydrogen fuel cell-based, that can be much lower-carbon than LNG. For example, the  
6 Washington State Department of Commerce reports that "efforts are already underway to  
7 electrify marine vessels."<sup>16</sup>

8 19. In addition, marine technologies may also be subject to regulation, including by  
9 the International Maritime Organization (IMO), the United Nations organization that coordinates  
10 regulation for shipping, and which has a target of reducing emissions to levels consistent with the  
11 Paris Agreement temperature goals, which the IMO interprets as meaning at least a 50%  
12 reduction in CO<sub>2</sub> emissions from international shipping by 2050 as compared to 2008 levels.<sup>17</sup> If  
13 the existence of the Tacoma LNG project spurs other marine shipping companies or boat builders  
14 to build (or speed up the construction of) LNG ships to take advantage of this new fuel supply,  
15 those companies might as a result be forestalling the option to choose even lower-carbon ships  
16 now or in the future. In that circumstance, the Tacoma LNG project would *increase* emissions  
17 relative to the no-action scenario and make it more difficult to meet the IMO's goals. In other  
18 words, and in contrast to statements made by the Respondent's witness Stephan Unnasch, LNG  
19 from the Tacoma LNG project will be competing (and displacing) not only with marine fossil  
20

21  
22 <sup>16</sup> Washington State Department of Commerce (2020). *Washington 2021 State Energy Strategy:  
23 Transitioning to an Equitable Clean Energy Future*. [https://www.commerce.wa.gov/growing-](https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/)  
the-economy/energy/2021-state-energy-strategy/.

24 <sup>17</sup> ACT-20, *supra*, at Table 5-3.

1 fuels, but also other fuel options. The SEIS does not mention, let alone examine, these  
2 possibilities.

3         20.     The third-largest end use of the project's LNG is for on-road, heavy-duty trucking  
4 (an estimated 2% of the project's LNG under Scenario B, though the project's capacity for  
5 loading LNG for trucks is considerably higher). Again, the SEIS assumes that the project's  
6 LNG will be displacing diesel, here in tractor trucks carrying freight in semi-trailers. However,  
7 the SEIS provides no evidence that, absent the Tacoma LNG project, that diesel-based tractor  
8 trucks would be the default fuel choice for the next 40 years. To the contrary, Washington  
9 State's recently released 2021 State Energy Strategy calls for Washington to "to match  
10 California's ZEV sales targets for medium- and heavy-duty trucks,"<sup>18</sup> which requires 30% of  
11 tractor trucks sold by 2030 to be zero emissions. This is also consistent with Washington State  
12 signing the *Multi-State Medium- and Heavy-Duty Zero Emission Vehicle: Memorandum of*  
13 *Understanding*, and which further aims to have 100% of sales of medium- and heavy-duty trucks  
14 zero emissions by 2050. These goals are attainable. Both hydrogen fuel cell and battery electric  
15 heavy-duty trucks are already in use (especially in China), the Tesla semi-truck will soon  
16 introduced, and Seattle-based Amazon has committed that 50% of its logistics will be zero-  
17 carbon by 2030.<sup>19</sup> A recent analysis by the Lawrence Berkeley National Lab found that long-  
18 haul, heavy-duty trucks are already lower cost than their diesel counterparts over the lifetime of  
19 the vehicles<sup>20</sup>. These policy commitments and examples all refute the SEIS's implausible  
20

---

21 <sup>18</sup> ACT-21, Washington State Department of Commerce (2020). *Washington 2021 State Energy*  
22 *Strategy: Transitioning to an Equitable Clean Energy Future*, at 60.

23 <sup>19</sup> ACT-20, *supra*, at Table 5-1 and Table 5-2.

24 <sup>20</sup> Phadke, A., Khandekar, A., Abhyankar, N., Wooley, D., & Rajagopal, D. (2021). *Why*  
*Regional and Long-Haul Trucks are Primed for Electrification Now*. [https://eta-](https://eta-publications.lbl.gov/publications/why-regional-and-long-haul-trucks-are)  
publications.lbl.gov/publications/why-regional-and-long-haul-trucks-are.

1 assumption that, in the absence of the Tacoma LNG project, heavy-duty trucking will be diesel-  
2 based tractor trailers for the next 40 years. As with marine shipping, the SEIS does not mention,  
3 or analyze, the possibility that LNG competes with a wide variety of fuels and may therefore,  
4 instead of displacing fossil fuels, actually postpone the necessary conversion of truck fleets to  
5 battery electric or fuel cell vehicles that are lower-carbon than LNG.

6 21. In all three end uses described above – TOTE marine, other marine, and on-road  
7 trucking – the SEIS makes the same error: it assumes that the default, or “baseline” technology  
8 forty years from now will be static, or the same as in the recent past. But there is broad  
9 consensus in the GHG emissions mitigation accounting community that static baselines such as  
10 employed in the SEIS are less appropriate (and generally less accurate) than “dynamic” baselines  
11 that take into account foreseen changes in technology and behavior conditions over time. As the  
12 GHG Protocol effort (an exhaustive, stakeholder-driven process) has indicated, dynamic, not  
13 static, baselines “should be used where relevant and feasible” in assessing the GHG emissions  
14 impact of a policy or action.<sup>21</sup> In the case of the Tacoma LNG facility, dynamic baselines would  
15 assess plausible future changes in marine and on-road shipping technologies and the market  
16 share of battery electric, hydrogen fuel cell, and other low-carbon technologies, rather than  
17 assuming that the current fossil fuels would be the default fuels for the next 40 years.

18 22. Dynamic baselines like this have been used in other regulatory contexts. For  
19 example, the US EPA, in evaluating new greenhouse gas emission and efficiency standards for  
20 medium and heavy trucks, found that greenhouse emissions under a dynamic baseline that got  
21 more efficient due to ongoing market trends alone would be less than under a static, current-

---

23 <sup>21</sup> GHG Protocol. (2014). Policy and Action Standard: An accounting and reporting standard for  
24 estimating the greenhouse gas effects of policies and actions. Retrieved from  
<http://ghgprotocol.org/policy-and-action-standard>.



1 technology baseline and, therefore, that the emission reductions attributable to the new proposed  
2 truck efficiency standards would also be less under a dynamic baseline.<sup>22</sup> Similarly, a dynamic  
3 baseline was similarly used in an analysis by DNV-GL seeking to forecast trends in marine  
4 shipping.<sup>23</sup> That analysis compares various options to a “current policies pathway” under which  
5 carbon intensity of marine shipping significantly drops even without any additional, new  
6 policies. This comparison reveals that such techniques are commonplace and readily available,  
7 but were not used in this SEIS.

8         23. More support can be found in the recently released “conceptual framework” for  
9 the Washington Department of Ecology’s proposed Greenhouse Gas Assessment rule.<sup>24</sup> While  
10 the rule is not yet complete, it is grappling with many of the issues raised above. Ecology’s  
11 proposed framework makes clear that the “no action alternative” to be used in assessing a  
12 project’s lifecycle GHG emissions is not a static snapshot where the future is just like today.  
13 Instead, the proposal calls for defining the no action scenario as assessing future conditions  
14 under “state and federal GHG reduction limits and international goals approved by the U.S.  
15 Government.” *Id.* at 18. This analysis is designed to show the “impact of the project relative to  
16 potential future conditions without the project.” *Id.* If such a rule applied here, the no action  
17

---

18 <sup>22</sup> U.S. EPA (2016). Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and  
19 Heavy-Duty Engines and Vehicles – Phase 2. EPA-420-R-16-900. Assessment and Standards  
20 Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, and  
21 Office of International Policy, Fuel Economy, and Consumer Programs, National Highway  
22 Traffic Safety Administration, U.S. Department of Transportation, Washington, DC.  
23 <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P7NS.PDF?Dockey=P100P7NS.PDF>. Table 5-1, 5-2,  
24 and 5-3.

<sup>23</sup> ACT-2, Remi Eriksen, et al. *Maritime Forecast to 2050, Energy Transition Outlook 2019*,  
DNV GL, 11 (2019), at 90-91.

<sup>24</sup> ACT-22, WSDOE *Draft GAP Rule Conceptual Framework for Informal Review*, Wash. State  
Dep’t of Ecology (March 2021).

1 alternative would likely show dramatic reductions in marine GHG emissions over the lifetime of  
2 the project, consistent with international goals (e.g., the Paris Agreement) and state emissions  
3 targets. If the Tacoma LNG project was compared to *this* no action alternative, net GHG  
4 emissions would be significant.

5         24.     Some of the best thinking about how to guard against the risks of using an  
6 incorrect baseline has been done under the Kyoto Protocol, in a system called the Clean  
7 Development Mechanism (CDM). I was hired by the United Nations to evaluate the GHG  
8 emission reductions achieved by the CDM, and so I have considerable experience with it.<sup>25</sup> The  
9 designers of the CDM were concerned that developers of energy projects might try to claim more  
10 emission reductions than actually occurred, and so put in place measures to guard against this  
11 outcome. I will describe two such practices below.

12         25.     In one such practice, in the CDM, emission reductions are only quantified for a  
13 fixed duration, called a “crediting period”, that is either seven years (and generally twice-  
14 renewable, for a total of 21 years), or ten years (and not renewable). The designers of the CDM  
15 believe that these time limits are needed because of the great uncertainty in defining a correct no-  
16 action scenario more than a decade into the future. While the LNG project here would not be in  
17 the CDM system, and so need not necessarily meet that standard, it is still instructive to  
18 understand how the most careful thinking about GHG emissions baselines puts firm time limits  
19 on how far out emission reductions can be quantified with some certainty. Of course, the point is  
20 not to ignore the potential impacts of decisions past seven years or some other horizon, as

---

21  
22 <sup>25</sup> I was commissioned by the United Nations Framework Convention on Climate Change to  
23 conduct an assessment of this issue, which was published in peer-reviewed form as follows.  
24 Erickson, P., Lazarus, M., & Spalding-Fecher, R. (2014). Net climate change mitigation of the  
Clean Development Mechanism. *Energy Policy*, 72, 146–154  
<https://doi.org/10.1016/j.enpol.2014.04.038>.

1 respondents have argued. Rather, the point is that when comparing an action to a counterfactual  
2 “no action” scenario, great care must be exercised in making assumptions about what will  
3 happen in the future, and an effort made to define a baseline that is consistent with what is  
4 known about the future. This example from the CDM underscores how careful quantification of  
5 GHG emission reductions demands an assessment of about how a baseline may change decades  
6 into the future; by contrast, it is not acceptable to assume that a single technology or practice is  
7 the baseline alternative for such a long time period.

8         26. Furthermore, the CDM designers also developed dynamic baselines that take into  
9 account ongoing changes in energy technology. These baselines seek to represent, as accurately  
10 as possible, the “no action” scenario in which the proposed project is not developed, and which  
11 could therefore be a useful analog for how to construct a no-action scenario for the Tacoma LNG  
12 project. For example, for new renewable energy projects, the standard CDM baseline calculation  
13 takes into account the new, *prospective* power plants that would be affected by the proposed  
14 project, not just the current, already-operating power plants. This means that the baseline  
15 emissions intensity would decline over time, at least for regions that are building out low-carbon  
16 renewable electricity at faster than historic rates, as most are. This in contrast to Patrick Couch’s  
17 January 19th, 2021 declaration, in which he misleadingly claims that “renewable electricity  
18 generation projects are assumed to displace the existing grid resources or existing generator  
19 emissions”. In the CDM, evaluating emission reductions relative to the *existing* power plants is  
20 only an option for a specific type of small scale power project that are afforded special rules and  
21 which represent a very small share of all emission reductions from renewable power in the  
22 program. Mr. Couch’s example is misleading and not representative of the bulk of the CDM  
23 program.

1           27.     In his January 19<sup>th</sup>, 2021 declaration, Patrick Couch further brings up the example  
2 of how the Low Carbon Fuel Standard (“LCFS”) (as applied in California) calculates GHG  
3 emissions reductions relative to fossil fuels. However, he fails to mention that the Low Carbon  
4 Fuel Standard awards its credits for GHG emission reductions relative not to the current  
5 emissions intensity of only fossil fuels, but actually to a dynamic baseline emissions intensity  
6 that declines each year.<sup>26</sup> In the LCFS system, fossil LNG offers little if any GHG emission  
7 benefit relative to fossil fuels, and was not awarded any GHG emission reduction credits in the  
8 California program in 2019 or 2020.<sup>27</sup> Given the declining, dynamic baseline of the LCFS  
9 program, fossil LNG may never again be eligible for emission-reduction credits, for the very  
10 sensible reason that it does not reduce GHG emissions relative to the policy goals of the State of  
11 California.

12           28.     Regardless of what technology or technology mix comprises the baseline for  
13 marine fuels and on-road trucking, it is important to recognize the uncertainty in evaluating the  
14 counterfactual, no-action scenario. But the SEIS provides no hints that its baseline scenario for  
15 completely fossil-fuel based marine shipping and trucking is highly likely to be inaccurate, nor  
16 does it mention the possibility that, since the market is already evolving towards more low-  
17 carbon transportation, that the Tacoma LNG project could actually increase emissions over time  
18 relative to the no-action scenario. The possibility is neither discussed nor quantified in the very  
19 limited sensitivity analysis (e.g., Figure 5.5 in App. B to the SEIS), which instead focuses mainly  
20 on how different assumptions related to the project itself (not the no-action scenario) would  
21 change net emissions. As a result, the SEIS presents an extraordinarily misleading view of how

---

22  
23 <sup>26</sup> ACT-23, California Air Resources Board. (2020). Low Carbon Fuel Standard Basics.  
<https://ww2.arb.ca.gov/sites/default/files/2020-09/basics-notes.pdf>.

24 <sup>27</sup> <https://ww3.arb.ca.gov/fuels/lcfs/dashboard/dashboard.htm>.

1 the project may contribute to greenhouse gas emissions. At the very least, the SEIS should have  
2 considered a more plausible baseline that includes already-foreseen changes in marine and on-  
3 road fuels and technologies, using credible analysis by international institutions, such as the  
4 International Energy Agency, or from local institutions, such as the Washington State  
5 Department of Commerce, which sees, in its new 2021 State Energy Strategy, 100% of new  
6 long-haul freight trucks being either electric or hydrogen-based by 2045.<sup>28</sup> Even better would be  
7 for the SEIS to consider as its no-action scenario a deeply low-carbon baseline, such as one  
8 consistent with Washington State's own goal of reducing its emissions in line with the 1.5  
9 degrees C target of the Paris Agreement, as proposed in the draft GHG analysis conceptual  
10 framework noted above. A baseline consistent with 1.5 degrees C of warming would probably  
11 mean zero new investment in fossil fuel infrastructure, since that fossil fuel infrastructure already  
12 in existence globally has committed enough CO<sub>2</sub> emissions to exhaust or nearly exhaust the 1.5  
13 C carbon budget.<sup>29</sup>

14 29. Respondents have consistently argued that it would be "speculative" to forecast  
15 the future of marine (or truck) transport. But the argument ignores that the SEIS *already*  
16 speculates on the future, by defining a no action alternative that locks today's technology in  
17 place for 40 years, which is entirely implausible. The SEIS could have used existing, commonly  
18 used approaches to define a no action alternative that was more plausible and reasonable than the  
19 one they chose. And it could have acknowledged that the many uncertainties associated with  
20 assumptions about the no action alternative. It did neither of these things, instead reaching what  
21

---

22 <sup>28</sup> ACT-24, Washington State Energy Strategy Decarbonization Modeling Final Report, at 22.

23 <sup>29</sup> Tong, D., Zhang, Q., Zheng, Y., Caldeira, K., Shearer, C., Hong, C., Qin, Y. and Davis, S. J.  
24 (2019). Committed emissions from existing energy infrastructure jeopardize 1.5 °C climate  
target. *Nature*. 1. DOI: [10.1038/s41586-019-1364-3](https://doi.org/10.1038/s41586-019-1364-3).

1 appears to be a firm (if erroneous) conclusion that GHG emissions would be less than they  
2 otherwise would be in the absence of the project. Such conclusion is unsupported, unreasonable,  
3 and misleading.

4 30. In my opinion, it is simply not reasonable for the SEIS' life cycle analysis to  
5 assume that, in the absence of this project, marine vessels and trucks will continue to emit GHG  
6 emissions at current levels, that is, burning fossil-based diesel fuel for the 40-year lifetime of this  
7 project. The result of this error is that the SEIS almost certainly over-estimates the GHG  
8 emission reductions attributable to the project, and, even more critically, misses the possibility  
9 that the project may *increase* emissions substantially, since it would be locking in a fossil fuel  
10 source that is not consistent with the energy and climate policy aspirations and commitments of  
11 Washington State.

#### 12 IV. THE SEIS FAILS TO ESTIMATE THE INCREASE IN ENERGY USE FROM 13 EXPANDING NATURAL GAS SUPPLY

14 31. One of the main findings of prior research on expanding natural gas supply is that,  
15 in addition to substituting for both higher-carbon and lower-carbon sources of energy, greater  
16 supply of gas also increases overall energy consumption and, in turn, greenhouse gas emissions.  
17 This has been called the "scale effect,"<sup>30</sup> and is an extension of the basic economic principle that  
18 expanding the supply of a fuel pushes down its price and increases its consumption. The  
19 implication here is that construction of the project would, regardless of how much marine or  
20 truck fuel is being displaced, also expand overall energy use, via lower energy prices. Lower  
21 prices could, for example, reduce the incentive to implement energy efficiency measures on  
22

---

23 <sup>30</sup> ACT-25, McJeon, H., Edmonds, J., Bauer, N., Clarke, L., Fisher, B., et al. (2014). Limited  
24 impact on decadal-scale climate change from increased use of natural gas. *Nature*, 514(7523).  
482–85. DOI: 10.1038/nature13837.

1 ships or trucks (regardless of whether LNG-fueled or diesel-fueled, since, for those ships or  
2 trucks that do switch from diesel to LNG, they will be freeing up more diesel for other uses as  
3 well), therefore increasing emissions relative to if the project had not been built. It is therefore  
4 my opinion that, regardless of whether a fully fossil fuel baseline or some other baseline is used,  
5 it is unlikely that LNG from the project would substitute, one for one, for these other fuels; by  
6 contrast, total LNG consumption, and overall energy consumption, would also increase.

7 V. THE SEIS ERRONEOUSLY ASSUMES A LOW RATE OF METHANE LOSS  
8 "UPSTREAM" FROM NATURAL GAS PRODUCTION

9 32. The sections that follow address specific errors in the GHG estimates for the  
10 project itself, rather than the no action alternative. In multiple respects, the SEIS uses incorrect  
11 or misleading data to underestimate the project's GHG emissions. Collectively, these errors  
12 present an unreasonably optimistic and fundamentally misleading picture of the project's GHG  
13 emissions.

14 33. Besides CO<sub>2</sub>, other gases also contribute to global warming. Many of these gases  
15 lead to more warming in the short term than CO<sub>2</sub>, even as they decay in the atmosphere more  
16 quickly than CO<sub>2</sub>. One of these gases is methane, CH<sub>4</sub>, which absorbs much more energy (heat)  
17 than CO<sub>2</sub>, but instead of remaining in the atmosphere for hundreds of years like CO<sub>2</sub>, it remains  
18 for about a decade. Methane is released in large quantities from agricultural operations (e.g.  
19 cattle digesting their food, rice production), during decomposition of waste at landfills and  
20 wastewater treatment plants, and during the extraction of fossil fuels. CH<sub>4</sub> is also the principal  
21 component of natural gas.

22 34. Comparing the global warming potential of different gases with different lifetimes  
23 and potencies in a standard metric is important for policymaking. To this end, the IPCC uses the  
24 concept of "global warming potential" (GWP) to estimate how much *more* warming each gas

1 will cause relative to the same mass of CO<sub>2</sub>. In its most recent assessment report, the IPCC  
2 estimated that, over one hundred years, methane from fossil fuel sources has a GWP of 36.<sup>31</sup> In  
3 other words, every gram of methane has the same climate-altering impact of 36 grams of carbon  
4 dioxide. This figure represents a change from the IPCC's previous assessment, in which the  
5 GWP of methane was estimated at 25. In all cases, because methane contributes even more to  
6 warming in the short term than in the long term, the IPCC also provides a GWP value for CH<sub>4</sub>  
7 over a 20-year timescale that is substantially higher than the 100-year value: over 20 years, the  
8 GWP of methane from fossil sources is 87.<sup>32</sup>

9       35. The greenhouse gas emissions of any project involving natural gas are  
10 substantially influenced by the fact that natural gas is itself mostly methane. As described in the  
11 SEIS, the natural gas that would be supplied to the Project is expected to be over 90% methane,  
12 by volume. As a result, any of that methane that escapes along the way (e.g. due to leaks) is,  
13 itself, a highly potent greenhouse gas, one that is (per the IPCC as described above) about 36  
14 times *more* potent (or 87 times as potent on a 20 year time horizon) than if the methane had not  
15 leaked and had instead been combusted to yield CO<sub>2</sub>. (When CH<sub>4</sub> is combusted, the carbon and  
16 hydrogen each join with oxygen to yield CO<sub>2</sub> and water vapor, H<sub>2</sub>O, respectively.) Due to this

---

17  
18 <sup>31</sup> This is the value including climate-carbon feedbacks, such as the reduced ability of oceans to  
19 absorb CO<sub>2</sub> at higher levels of warming. Not counting climate-carbon feedbacks or oxidization to  
20 CO<sub>2</sub>, the value is 28. Climate-carbon feedbacks for non-CO<sub>2</sub> gases are important to include to  
21 give the most accurate picture of the warming potential of a gas. Climate-carbon feedbacks for  
22 non-CO<sub>2</sub> gases was an emerging issue, for which the Fifth Assessment Report made a first  
23 estimate, they will be considered as standard practice in the Sixth Assessment Report due later  
24 this year. Myhre, G., Shindell, D., Bréon, F.-M., Collins, W., Fuglestad, J., Huang, J., ...  
Mendoza, B. (2013); *see also* Anthropogenic and natural radiative forcing. In Climate Change  
2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment  
Report of the Intergovernmental Panel on Climate Change (pp. 658–740). Cambridge; New  
York: Cambridge University Press.

<sup>32</sup> As for the 100-year value, this includes climate-carbon feedbacks and CO<sub>2</sub> oxidization. The  
value without either factor is 84.



1 known likelihood of methane loss, the total GHG emissions for a project involving natural gas  
2 can be dramatically higher than if only CO<sub>2</sub> is considered, and which makes the consideration of  
3 methane especially important for projects, like the Tacoma LNG project, that involve natural gas.  
4 Methane loss from natural gas production, processing, transportation, distribution, storage, and  
5 use is common and a substantial contributor to global greenhouse gas emissions.

6 36. How much methane leaks or is otherwise lost during extraction, processing, and  
7 transportation is therefore critically important in determining the overall GHG emissions  
8 associated with natural gas. These “upstream” sources of methane loss are addressed in the  
9 SEIS.

10 37. The upstream analysis in the SEIS is severely problematic, however. In  
11 particular, the central assumption in the SEIS, used to support its central case and conclusions, is  
12 that 0.32% of the methane is lost in the course of extracting, processing, transmitting, and  
13 distributing the gas to the Project. SEIS Appendix B, Table B.4. This value was taken from the  
14 GHGenius 4.03 spreadsheet, and the GHGenius documentation reports that the primary source of  
15 these methane loss assumptions is a greenhouse gas inventory from the Canadian Association of  
16 Petroleum Producers (CAPP) from the year 2000.<sup>33</sup> This value is inconsistent with current  
17 scientific understanding of methane loss associated with natural gas production.

18 38. The CAPP source – as well as other sources relied on in the SEIS – uses an  
19 incomplete method that does not count all methane losses – especially not those from irregular  
20 operations or accidental releases, which have since been found to be a substantial source of  
21 emissions from natural gas production. The CAPP inventory was an engineering-based,

---

22  
23 <sup>33</sup> The GHGenius documentation was shared with me by the consultants who made it, (S&T)2  
24 Consultants Inc. (2012). GHGenius Natural Gas Pathway Update. Delta, BC: (S&T)2  
Consultants Inc. for Natural Resources Canada.

1 “bottom-up” method that measured methane leakage from individual pieces of equipment and  
2 processes under controlled conditions. Essentially, the researcher doing such a study holds up a  
3 nozzle (similar to a vacuum cleaner attachment) capable of measuring methane over specific  
4 pieces of equipment during regular operations and reports the amount of methane leaking from  
5 it. But the biggest breakthrough in methane research in the last two decades has been the  
6 discovery that most methane losses occur during *irregular* operations or accidental releases, *not*  
7 during the controlled operating conditions that characterize “bottom-up” studies like the CAPP  
8 study.<sup>34</sup>

9 39. Better, more-complete values for methane loss are available and widely reported  
10 in the scientific literature, even as they too will likely be improved over time. It is now widely  
11 understood that methane loss from oil and gas production is higher than what is typically  
12 measured in the types of bottom-up, engineering-based measurements of specific pieces of  
13 equipment that are used in the SEIS.

14 40. For example, the most comprehensive estimate of methane loss from North  
15 America is 2.3% of gross gas production, a value published in the most highly cited general  
16 scientific journal in the United States, *Science*, in 2018. This analysis is a compilation and  
17  
18  
19

---

20 <sup>34</sup> ACT-26, Brandt, A. R., Heath, G. A., Kort, E. A., O’Sullivan, F., Pétron, G., Jordaan, S. M.,  
21 ... Harriss, R. (2014). Methane Leaks from North American Natural Gas Systems. *Science*,  
22 343(6172), 733–735, at 2 (734). <https://doi.org/10.1126/science.1247045>. While the scientific  
23 literature is not as complete or longstanding in Canada as in the U.S., airborne studies in Canada  
24 have found similar trends: See, for example: ACT-27, Johnson, M. R., Tyner, D. R., Conley, S.,  
Schwietzke, S., & Zavala-Araiza, D. (2017). Comparisons of Airborne Measurements and  
Inventory Estimates of Methane Emissions in the Alberta Upstream Oil and Gas Sector.  
*Environmental Science & Technology*, 51(21), 13008–13017.  
<https://doi.org/10.1021/acs.est.7b03525>.

1 synthesis of both bottom-up and top-down studies.<sup>35</sup> The Alvarez study is a synthesis of at least  
2 10 different data sets published since 2012, across six different oil and gas production areas in  
3 the United States, drawn from 433 different sites, all validated against a separate, top-down  
4 method. This is no ordinary study; instead, it looks at a decade worth of data collected all across  
5 the country to reach the best possible estimate from the overall body of research that has been  
6 done to date. Because of the scientific understanding of how and when methane loss occurs —  
7 extensively documented in Alvarez and its supporting references and confirmed in several  
8 subsequent studies — it is not acceptable to rely only on studies that only estimate methane  
9 leakage from specific pieces of equipment during controlled operating conditions, as this SEIS  
10 does.

11 41. In particular, two recent studies in Canada confirm that methane loss from oil and  
12 gas production in Canada also occurs mostly during irregular events that are not typically  
13 reported by bottom-up industry studies, even as further work will help refine these findings. One,  
14 conducted in the province of Alberta, by Zavala *et al.*, estimated a methane loss rate from gas  
15 fields in the Red Deer region of about 3%.<sup>36</sup> While this Zavala *et al.* study notes the need to be  
16 cautious in comparing to other regions, it emphasizes that the finding “is indicative of the GHG-  
17 intensity of natural gas production in the Red Deer region.” This finding is important because,  
18 according to PSE’s expert Patrick Couch, “the Red Deer region is more closely analogous to the  
19 regions from which PSE will source gas for the Tacoma LNG facility as it represents similar

---

20  
21 <sup>35</sup> ACT-28, Alvarez, R. A., Zavala-Araiza, D., Lyon, D. R., Allen, D. T., Barkley, Z. R., Brandt,  
22 A. R., ... Hamburg, S. P. (2018). Assessment of methane emissions from the U.S. oil and gas  
supply chain. *Science*, 361(6398), 186–188. <https://doi.org/10.1126/science.aar7204>.

23 <sup>36</sup> ACT-29, Zavala-Araiza, D., Herndon, S. C., Roscioli, J. R., Yacovitch, T. I., Johnson, M. R.,  
24 Tyner, D. R., Omara, M., & Knighton, B. (2018). Methane emissions from oil and gas  
production sites in Alberta, Canada. *Elem Sci Anth*, 6(1), 27.  
<https://doi.org/10.1525/elementa.284>.

1 tight gas formations as those in the Montney region.” (Couch Declaration January 19, 2021). In  
2 contrast to Couch’s assertion that Red Deer is “associated with lower methane emission rates,” it  
3 appears that Red Deer may actually have *higher* emissions than the Alvarez et al. study. Further,  
4 as detailed in the related Johnson *et al.* study, methane emissions from Red Deer are 17.7 times  
5 higher than the bottom-up values reported by industry.<sup>37</sup> Importantly, this means that the  
6 Johnson *et al.* study does *not* find, and in stark contrast to Patrick Couch’s erroneous assertion in  
7 his January 19, 2021 declaration, that gas production in Western Canada has “lower methane  
8 emissions rates”. The Johnson *et al.* study found only that the Canadian National Inventory  
9 *method*, when correctly applied, agrees with top-down studies “once reported and *unreported*  
10 sources were combined” [emphasis added]. This exactly illustrates the grave error at stake here:  
11 the SEIS does not count the “unreported” sources that do not show up in its main source: the  
12 CAPP inventory, or others like it considered.

13 42. Furthermore, a new study completed by scientists from the Canadian government  
14 begins to paint a similar, but geographically more comprehensive. picture for methane loss from  
15 Canada. This study, called “Eight-Year Estimates of Methane Emissions from Oil and Gas  
16 Operations in Western Canada Are Nearly Twice Those Reported in Inventories,”<sup>38</sup> uses a top-  
17 down method to estimate what methane emissions are missed by bottom-up, inventory methods  
18 across Alberta and Saskatchewan. It finds that the methane emissions released from oil and gas  
19  
20  
21

---

22 <sup>37</sup> ACT-27, *supra* at Figure 5.

23 <sup>38</sup> ACT-31, Chan, E., Worthy, D. E. J., Chan, D., Ishizawa, M., Moran, M. D., Delcloo, A. and  
24 Vogel, F. (2020). Eight-Year Estimates of Methane Emissions from Oil and Gas Operations in  
Western Canada Are Nearly Twice Those Reported in Inventories, H. *Environmental Science &  
Technology*. DOI: 10.1021/acs.est.0c04117.

operations in the study area are “nearly twice those reported in inventories” and which amount to about 4.4% of gross gas production.<sup>39</sup>

43. Lastly, a new analysis of methane loss associated with gas delivered to each of the 50 US States, including Washington State, adds further evidence that methane loss associated with gas for the Tacoma LNG facility is likely much higher than estimated in the SEIS. This new analysis compiles basin-level methane loss data to estimate that the upstream (production-stage) methane lost (mainly in Canada) to deliver gas in Washington to be 2.2%.<sup>40</sup> This finding further underscores how the SEIS estimate of methane loss of 0.32% is implausibly low.

44. New methane policy in British Colombia and Canada is encouraging, but it mainly addresses known events or leaks from specific pieces of equipment that can be detected with frequent surveys, potentially still missing many of the accidental methane releases (e.g. methane venting from storage tanks) that characterize the majority of actual methane emissions.<sup>41</sup> These policies are not yet enough to suggest that Canadian methane loss could be substantially below the value published in *Science*.

---

<sup>39</sup> I calculate the 4.4% estimate as follows. Chan *et al.* report the mean annual methane emissions value from Alberta and Saskatchewan from 2010 to 2017 of 3.0 million tonnes CH<sub>4</sub>. The Government of Canada estimates natural gas production from oil and gas fields in 2010 to 2017 in these two provinces to average 3,550 billion cubic feet per year. Assuming natural gas is 90% methane and that methane weighs 0.714 g per liter at standard temperature and pressure implies that annual methane production is 65 million tonnes per year. Assuming that the 3.0 million tonnes methane lost from Chan *et al.* were not counted in official production statistics brings the total to 68 million tonnes per year. 3 million is 4.4% of 68 million. Note that the study, like Alvarez *et al.* in the United States, does not differentiate methane loss from oil versus gas wells.

<sup>40</sup> ACT-32. Burns, D., & Grubert, E. (2021). Attribution of production-stage methane emissions to assess spatial variability in the climate intensity of US natural gas consumption. *Environmental Research Letters*. <https://doi.org/10.1088/1748-9326/abef33>.

<sup>41</sup> See for example <https://www.pembina.org/reports/2020-09-02-media-primer-on-canadian-methane-regulations.pdf>.

1           45.     The recent Washington State Department of Ecology Final Second Supplemental  
2 EIS (FSSEIS) for the Kalama facility can also be used as a reference point, since it also develops  
3 analysis on upstream methane loss rates from gas.<sup>42</sup> It offers two different “low” emissions  
4 scenarios, a “medium” scenario, and a “high” scenario. The lowest scenario they examine is a  
5 loss rate of 0.71%--over twice the estimate used in the Tacoma LNG SEIS. (see p. 42 Table 3.4-  
6 1). Their “medium” scenario (1.46%) is derived from the national results of Alvarez *et al.*, and  
7 their “high” estimate is 3%. In my view, this is a more credible approach to estimating upstream  
8 emissions than the one used in the Tacoma SEIS.

9           46.     In summary, the SEIS’s central estimate of upstream CH<sub>4</sub> emissions associated  
10 with the project, 0.32%, is substantially at odds with recent studies, including those conducted in  
11 Canada, that take into account how most methane is actually lost – through irregular operations  
12 or accidental releases.. For example, using a 2.3% methane loss rate from the most  
13 comprehensive study to date on this topic, instead of 0.32% as claimed in the SEIS, would  
14 increase the estimate of emissions attributable to the project by about 120,000 tons CO<sub>2</sub>e  
15 annually relative to their central, primary estimate.<sup>43</sup> Even this may be a conservative number, in  
16 light of the analyses above showing the potential for an even higher methane loss rate in western  
17 Canada.

18  
19  
20 <sup>42</sup> ACT-33, Kalama FSSEIS, p. 42 Table 3.4-1.

21 <sup>43</sup> For this calculation, I use the value of 2.7% methane loss reported on page 15 of the  
22 Supplementary Materials of Alvarez et al 2018, and confirmed with co-author David Lyon on  
23 November 6, 2019. This value represents methane loss as a fraction of gas *delivered* to US  
24 destinations, which is more appropriate here since the analysis is conducted from the perspective  
of the LNG Project receiving the gas, not from the perspective of the gas extraction site  
*producing* the gas. The entire calculation is (326,239 tonnes of gas received at the facility per  
year) x (83% of which is methane) x (2.7% of which is lost) x (GWP of 25 as in the SEIS) =  
183,000 tons CO<sub>2</sub>e, compared to 58,000 tons CO<sub>2</sub>e from upstream methane in the SEIS.

47. Appendix B to the SEIS provides a “sensitivity analysis” that claims to show how the analysis would look different under different assumptions, including higher methane loss rates. With respect to the upstream methane loss rate, Appendix B provides a graph that is difficult to read but appears to conclude that GHG emissions would be roughly 55,000 tons/year higher than disclosed in the main SEIS, central estimate, if using the same *Science* analysis I cite above. That number appears too low.

VI. THE SEIS ERRONEOUSLY ASSUMES A LOW RATE OF METHANE LOSS “DOWNSTREAM,” DURING USE

48. Not only does the SEIS underestimate methane loss “upstream” during natural gas production, but it also underestimates methane loss “downstream,” during use of the natural gas on ships.

49. Methane loss from LNG systems on marine vessels is often called methane “slip.” This is methane that enters the combustion chamber on the ship, but escapes without being burned.<sup>44</sup> Methane that escapes without being burned is much worse for the climate than methane that is burned to make CO<sub>2</sub>, because, as described above, the global warming potential (GWP) value of CH<sub>4</sub> is 36 times that of CO<sub>2</sub> over a 100-year timeframe, and 87 times over a 20-year timeframe.

50. The SEIS appears to use an erroneously low value for its methane slip assumption. Appendix B (Table 2.4) shows the central (“baseline”) assumption of 5.3 g CH<sub>4</sub> per kWh of marine engine output, and an “upper” value of 6.9 g CH<sub>4</sub> per kWh. The SEIS does not

---

<sup>44</sup> ACT-34, Corbett, J. J., Thomson, H., & Winebrake, J. J. (2015). Methane Emissions from Natural Gas Bunkering Operations in the Marine Sector: A Total Fuel Cycle Approach. Prepared for U.S. Department of Transportation, Marine Division; ACT-35, Shafarian, A., et al (2019): Natural Gas as Ship Fuel: Assessment of Greenhouse Gas and Air pollutant Reduction Potential (<https://ideas.repec.org/a/eee/enepol/v131y2019icp332-346.html>).

1 cite its source for these values (instead, it just refers to “the most recent literature”), but the  
2 values it uses exactly match those published in the “SINTEF report” mentioned in the SEIS’s  
3 December Response to Comments.<sup>45</sup> That report, however, clearly proposes the value of 6.9 g  
4 CH<sub>4</sub> per kWh as its “recommended emission factor” for dual-fuel engines, like that analyzed in  
5 the SEIS. Further, a related article, Ushakov et al. 2019, in the *Journal of Marine Science and*  
6 *Technology*<sup>46</sup> also proposes the value of 6.9 g CH<sub>4</sub> per kWh, as the *central* value that is “advised  
7 to be used for performing various estimations and simulations of emissions from LNG-fueled”  
8 marine diesel engines, not as a high end, “upper” value as done in Appendix B to the SEIS.<sup>47</sup>  
9 The SEIS therefore appears to mischaracterize the “recent literature.”

10 51. The 5.3 g CH<sub>4</sub> per kWh of engine output is also the value for methane slip  
11 reported by LNG engine manufacturer MAN in its October 26, 2018 letter to TOTE Maritime.  
12 This value is derived from a test, conducted in July 2018, at a ship load of 75%.<sup>48</sup> Ship load is a  
13 measure of the actual power output of an engine as a percent of its maximum power output.

14 52. Methane slip from marine engines is highly sensitive to the ship load. At 75%  
15 load, methane slip is just over 5 g CH<sub>4</sub> per kWh. But at lower loads, as the Ushakov *et al.* study

---

17 <sup>45</sup> ACT-36, Stenersen, D., & Valland, A. (2017). GHG and NOx emissions from gas fuelled  
engines. SINTEF.

18 <sup>46</sup> ACT-37, Ushakov, S., Stenersen, D., & Einang, P. M. (2019). Methane slip from gas fuelled  
19 ships: A comprehensive summary based on measurement data. *Journal of Marine Science and*  
*Technology*. <https://doi.org/10.1007/s00773-018-00622-z>.

20 <sup>47</sup> *Id.* at 15. The concept of methane slip can also be characterized as a percentage of methane  
lost, just like was done for “upstream” methane at natural gas production sites. For example, a  
21 methane slip of 6.9 g CH<sub>4</sub> per kWh is equivalent to a methane loss rate of about 4.6%; similarly,  
a methane slip of 10 g CH<sub>4</sub> per kWh is equivalent to a methane loss rate of about 6.7%. Source:  
22 Table 5 of Ushakov et al 2019 (ibid), which shows methane slip of 6.9 g CH<sub>4</sub> per kWh is  
equivalent to 40.9 g CH<sub>4</sub> per kg fuel. Assuming the LNG is 89% methane by weight (as in SEIS  
23 Appendix B, Table A.11) would yield a methane loss rate of 4.6%.

24 <sup>48</sup> ACT-38, Comments submitted on November 21, 2018 to the Draft Supplemental  
Environmental Impact Statement prepared by Puget Sound Energy (Excerpts 1-75).



shows, methane slip can be much higher. Methane slip at 50% load is about 7 g CH<sub>4</sub> per kWh, at 25% load can be greater than 15 g CH<sub>4</sub> per kWh, and at 10% load can be nearly 30 g CH<sub>4</sub> per kWh. Therefore, how a ship operates and, by extension, what load assumptions the SEIS uses to characterize methane slip, have a large bearing on the resulting estimate of methane emissions. For example, a vessel that is operating in tidally influenced coastal waters, with variable speeds and navigation challenges, is likely operating a different load profile than a vessel in open water.

53. As described in the SEIS calculations, the TOTE vessels are estimated to operate at a load of 33.3 MW during transit from Tacoma to Anchorage and back, compared to the engine capacity of 52.2 MW.<sup>49</sup> This is a load of 64%, and therefore different than the ~75% load assumed by either the MAN test or the Ushakov and SINTEF studies (which used load assumptions consistent with the E2/E3 test cycle). When maneuvering at each port, the SEIS calculations show the TOTE vessels' load at 2%. But the methane slip for a ship operating at these loads would, as described above, be substantially higher than the 5.3 g CH<sub>4</sub> per kWh value assumed.

54. Even a 64% load for the TOTE vessels may be too high and optimistic, however. A recent study of actual container ship loads for vessels similar in size to the TOTE vessels found average load much lower: about 40%.<sup>50</sup> This load would, per the Ushakov *et al.* study, translate to a methane slip of nearly 10 g CH<sub>4</sub> per kWh, nearly double that assumed in the SEIS. Therefore, the SEIS does not appear to make accurate assumptions about load and, by extension, methane slip.

---

<sup>49</sup> ACT-38, *supra*, at 61 (labeled 30 of 45).

<sup>50</sup> ACT-30, Rutherford, D., Mao, X. and Comer, B. (2020). *Potential CO<sub>2</sub> Reductions under the Energy Efficiency Existing Ship Index*. Working Paper 2020-27.  
<https://theicct.org/sites/default/files/publications/Marine-EEXI-nov2020.pdf>.

1           55.     Even less is known about the “other marine” vessels who would be using the  
2 majority of the project’s fuel. What kind of engines they use, and what load profiles they operate  
3 under, are as-yet unknown. The SEIS nonetheless uses the optimistic methane slip data and load  
4 data from TOTE for such unknown vessels. This again is unsupported.

5           56.     Finally, in addition and separate to the above, the SEIS appears to rely on data  
6 that is simply incorrect. Mr. Unnasch, in his oral testimony, stated that he did not rely on  
7 SINTEF or other published literature but rather relied on data provided by TOTE for the slip  
8 values in the SEIS. The TOTE values are appended to a letter it provided to the agency in  
9 2018.<sup>51</sup> However, TOTE’s data contains two significant and obvious errors. First, it assumes  
10 zero slip at 100% load, a number entirely inconsistent with the published data. Second, it makes  
11 a mathematical error in the way that it averages the variable slip amounts that arise under  
12 different loads which leads to a consequential understatement of the average. Even leaving aside  
13 the implausible assumption that TOTE’s vessels would operate under zero slip for a significant  
14 portion of each journey, TOTE should have revealed a 6.8 g/kWh estimate, which is similarly in  
15 line with SINTEF and other recommendations.

16           57.     Regardless of the precise actual value, using a more defensible methane slip rate  
17 would translate to additional GHG emissions not counted in the SEIS. For example, if the SEIS  
18 had used the 6.9 g CH<sub>4</sub> per kWh as recommended by the studies discussed above, the emissions  
19 associated with the project would increase by about 90,000 tons CO<sub>2</sub>e annually.

---

23           <sup>51</sup> ACT-39, Technical comments submitted on November 21, 2018, to the Draft Supplemental  
24 Environmental Impact Statement prepared by TOTE Maritime Alaska, Appendix 1 at 3.

VII. THE SEIS USES AN OUTDATED METHANE GLOBAL WARMING POTENTIAL

58. The SEIS uses the global warming potential (“GWP”) estimates from the IPCC’s 2007 *Fourth Assessment Report* (“AR4”) to calculate methane GHG emissions. In its 2013 *Fifth Assessment Report* (“AR5”), however, the IPCC updated the methane global warming potential estimates to reflect a new scientific consensus, based on considerable new research. As noted above, these updated estimates increase the GWP for methane by more than 40%, from 25 to 36.

59. The SEIS should use AR5 values for GWP, because AR5 represents the accurate, up-to-date scientific understanding of methane’s contribution to global warming. The reasons for using AR4 rather than AR5, according to the SEIS, are that both Washington State and US EPA’s national GHG inventories use AR4 values. AR4 is still used for state and national level GHG inventories, but should not be for much longer. In December 2018, nations that are Parties to the Paris Agreement agreed to use GWP values from AR5.<sup>52</sup> The reason that nations and states may still use AR4 is that it takes time for everyone to shift their GHG inventory systems to the updated GWP estimates, including back-calculating prior GHG inventories to the updated GWP values. The SEIS document need not be constrained in this way, however, and there is no need to harmonize the estimates among multiple government or industry actors, since the intent of an EIS is to present as accurate a picture as possible of the GHG impacts of the project.

60. The sensitivity analysis claims to include disclosure of emissions under AR5 values, but it does so incompletely. The sensitivity analysis uses an incomplete AR5 value of 30 to conclude that the project would increase the emissions attributable to the project by some 50,000 tons CO<sub>2</sub>e annually. (FEIS, Appendix B, Figure 5.5). But this value does not fully

---

<sup>52</sup> See

[https://unfccc.int/sites/default/files/resource/cma2018\\_3\\_add2\\_new\\_advance.pdf#page=25](https://unfccc.int/sites/default/files/resource/cma2018_3_add2_new_advance.pdf#page=25).

1 represent the conclusions of AR5 since it does not include the important “climate-carbon  
2 feedbacks.” In brief, since warming from CH<sub>4</sub> also leads to other mechanisms (such as more  
3 water vapor in the atmosphere, or limited ability of oceans to absorb carbon) that themselves *also*  
4 lead to warming, it is more accurate to use the higher of the two GWP values in AR5: 36, not  
5 30.<sup>53</sup> Further, even if the correct figure was used, an estimate of emissions based on an updated  
6 GWP from AR5 should not be considered part of the sensitivity analysis, where it is portrayed as  
7 an outlier value, but instead be represented as the central, best, “baseline” estimate. These are  
8 the central conclusions of the scientific community, and should be used as the central cases of  
9 the SEIS; by contrast, it is inappropriate for the SEIS to characterize them as sensitivities.

10 61. In total, updating the GWP value from the AR4 value of 25 to the AR5 value of  
11 36 increases the overall emissions attributable to the project by about 200,000 tons CO<sub>2</sub>e  
12 annually.

13 VIII. THE SEIS SHOULD DISCLOSE GHG IMPACTS ON A 20 YEAR TIME HORIZON  
14 AS WELL AS A 100 YEAR TIME HORIZON

15 62. The SEIS uses a 100-year time horizon to assess the impacts of methane leaks  
16 upstream and elsewhere. While there is a broad consensus that the 100-year horizon is a useful  
17 standard metric for comparison of GHG estimates, it does not always present a complete picture  
18 when dealing with projects involving methane. That is because methane, as explained above,  
19 has much greater warming effect in the short term than in the long-term. Accordingly, use of  
20 *solely* a 100-year horizon partially masks the GHG impacts. As a supplement to the 100-year  
21 horizon, use of a 20-year time horizon presents a more accurate picture of the shorter-term

---

22 <sup>53</sup> This is the value from Myhre et al 2013, see footnote 14. For further discussion of climate-  
23 carbon feedbacks, see Dean, J. F., Middelburg, J. J., Röckmann, T., Aerts, R., Blauw, L. G.,  
24 Egger, M., ... Dolman, A. J. (2018). Methane Feedbacks to the Global Climate System in a  
Warmer World. *Reviews of Geophysics*, 56(1), 207–250. <https://doi.org/10.1002/2017RG000559>.

warming effects of the methane-related impacts associated with this project, and is a widely recognized and important complementary metric that was also used by the same consultants in the August 2019 FSEIS for the Kalama Methanol project.<sup>54</sup> A 20-year time horizon is also important in light of the expected near-term impacts of climate change. It is notable that the Kalama FSSEIS discloses both 100 year and 20 year values in its life-cycle analysis. (See Table 3.6-2 and 3.6-3).

63. Increasing the GWP from a 100-year value of 36 to a 20-year value of 87 would increase the emissions attributable to the project by 920,000 tons CO<sub>2</sub>e annually. The SEIS does not conduct any sensitivity analysis or present any value for emissions reflecting GWP over a 20-year timespan.

#### IX. THE SEIS SENSITIVITY ANALYSIS HIDES WHAT SHOULD BE THE CENTRAL FINDING: THE TACOMA LNG PROJECT WILL INCREASE EMISSIONS IN THE LONG TERM

64. The SEIS includes some treatment of how alternate assumptions could affect its results, in a sensitivity analysis presented in its Appendix B. But the SEIS misuses the concept of sensitivity analysis. A sensitivity analysis is intended to explore the possibility (or sensitivity) that input values could be higher or lower than a *best* estimate or expected value, not to portray that best estimate as an outlier, as done in Appendix B. Put another way, a sensitivity analysis is only as good as the assumptions that goes into it. If a sensitivity analysis looks, one by one, at the accurate values as *individual* sensitivities, as in Appendix B, it can dramatically miss what the actual, *combined*, best estimate of emissions would be. My assessment is that, as documented

---

<sup>54</sup> ACT-40, Ocko, I. B., Hamburg, S. P., Jacob, D. J., Keith, D. W., Keohane, N. O., Oppenheimer, M., Roy-Mayhew, J. D., Schrag, D. P. and Pacala, S. W. (2017). Unmask temporal trade-offs in climate policy debates. *Science*, 356(6337). 492–93. DOI: [10.1126/science.aaj2350](https://doi.org/10.1126/science.aaj2350).

1 in the prior sections, the SEIS is incorrect in many of its assumptions; this is important because,  
2 if more accurate assumptions had been made, the SEIS would have concluded that the Tacoma  
3 LNG project will increase emissions in the long term, not just as one of many possibilities in the  
4 sensitivity analysis, but as a robust, core conclusion.

5 65. Moreover, as noted above, the sensitivity analysis is incomplete. It offers nothing  
6 to address the uncertainties around the inaccurate no- action alternative documented above, nor  
7 the possibility that expanding natural gas supply may increase overall energy use and, therefore,  
8 GHG emissions. It does not include any sensitivity for using a 20-year GWP. It uses inaccurate  
9 values to understate the change in emissions when using different upstream methane loss and  
10 GWP assumptions. Even if it was appropriate to use a sensitivity analysis in this way, which it is  
11 not, this one fails to present an accurate picture of the project's potential emissions under  
12 different assumptions.

13 X. SUMMARY: THE SEIS IS CRITICALLY FLAWED

14 66. My assessment, as documented above, is that the SEIS, make two types of critical  
15 errors that fundamentally undermine its conclusions. The first, discussed in Section II through  
16 Section IV, is that the SEIS critically *over-estimates* GHG emissions associated with the “no  
17 action” case by assuming that marine and on-road truck emissions will be solely powered by  
18 fossil fuels for the life of the project, and by neglecting to analyze how expanding LNG supply  
19 could increase overall energy consumption. The result is that the SEIS's estimates of net  
20 emissions relative to this no-action scenario is almost certainly wrong.

21 67. Second, as noted above, the SEIS estimates the GHG emissions of the project at  
22 683,514 metric tonnes of CO<sub>2</sub>e/year at 250,000 gallons/day (Scenario A) and 1.37 million  
23 tonnes/year at 500,000 gallons/day (Scenario B). These are, indisputably, significant GHG  
24 emissions. Still, by using inaccurate and incomplete information on methane, it critically *under-*

1 *estimates* even these significant gross GHG emissions associated with the project. These are  
2 discussed in Sections V-VIII. The result is a distorted and incorrect picture of the gross GHG  
3 emissions associated with the project. The result is that, regardless if one is looking at gross  
4 emissions, or instead net emissions relative to the no-action scenario, that the SEIS presents a  
5 skewed and inaccurate picture of the GHG emissions associated with the Tacoma LNG project,  
6 and one that is not a fitting basis for important policy decisions facing the future energy supplies  
7 of Washington . It is my opinion that, if the SEIS had used up-to-date, accurate science and  
8 analytical practice, it would have found that the facility would be a substantial source of gross  
9 GHG emissions, would *increase* (not decrease) GHG emissions relative to a no-action scenario  
10 in the long term, and would therefore be inconsistent with Washington State's goal to align its  
11 emissions and energy system with the 1.5 C goals of the Paris Agreement.

12  
13 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
14 knowledge.

15 Executed this 19<sup>th</sup> day of March, 2021, at Seattle, Washington.

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26



---

PETER ERICKSON

# **Exhibit B**



POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

ADVOCATES FOR A CLEANER TACOMA; )  
SIERRA CLUB; WASHINGTON )  
ENVIRONMENTAL COUNCIL; WASHINGTON ) PCHB NO. P19-087c  
PHYSICIANS FOR SOCIAL RESPONSIBILITY; )  
STAND.EARTH, and THE PUYALLUP TRIBE OF )  
INDIANS, )  
Appellants, ) DIRECT TESTIMONY OF  
v. ) THOMAS O. SPICER  
PUGET SOUND CLEAN AIR AGENCY, PUGET )  
SOUND ENERGY )  
Respondents. )

INTRODUCTION

1. My name is Thomas O. Spicer. My curriculum vitae is attached as Exhibit A to this testimony. I currently serve as Professor in the Ralph E. Martin Department of Chemical Engineering at the University of Arkansas, and have taught as a faculty member in this department for 35 years. Recently, my course work focus has been in the areas of chemical process control and chemical process safety. During my career at the University of Arkansas, I have acted as a consulting engineer for government and industry clients including the U.S. Environmental Protection Agency, the Department of Homeland Security, Exxon, Mitsubishi Heavy Industries, and the American Petroleum Institute. My areas of expertise include fire and explosion hazard assessment, atmospheric dispersion of toxic and flammable air-borne contaminants, and computational fluid dynamics, among others.

2. I helped develop the methodology for the Degadis vapor dispersion method and have published numerous peer-reviewed articles, book chapters, and publications on fire and

1 explosion risk assessment, and atmospheric vapor dispersion modeling. I direct the Chemical  
2 Hazards Research Center (CHRC) at the University of Arkansas. The CHRC conducts major  
3 research programs to develop and verify mathematical and wind tunnel models of the  
4 atmospheric dispersion of hazardous chemicals. The CHRC houses an ultra-low-speed  
5 environmental wind tunnel — presently the largest in the world. This tunnel was built to  
6 investigate atmospheric dispersion processes at extremely low wind conditions, which frequently  
7 define worst case conditions for atmospheric dispersion. I am also a member of the Safety and  
8 Chemical Engineering Education (SACHE) Committee of the Center for Chemical Process  
9 Safety (CCPS) of the American Institute of Chemical Engineers (AIChE); SACHE develops  
10 course material for safety education in chemical engineering. In 2018, the Safety and Health  
11 Division of AIChE awarded me with the Norton H. Walton – Russell L. Miller Award that  
12 recognizes outstanding achievements in contributions to chemical engineering in the fields of  
13 loss prevention, safety, and health.

14 3. Included below is a non-exhaustive list of the documents specific to this project  
15 that I have reviewed:

- 16 a. *Final Environmental Impact Statement for the Proposed Tacoma LNG Project*,  
17 published on November 9, 2015 (“Final EIS”).
- 18 b. *Tacoma LNG Siting Study Report*, Doc. No. 186512-000-SE-RP-00001, issued on  
19 July 16, 2015 (“2015 Siting Study”), and accompanying appendices.
- 20 c. CB&I Services, Inc., COR-110 Alternate Feed Gas Composition (Option 6A)  
21 Scope Definition, Doc. No. 210140-PE-PC-00171.0030 (Jul. 14, 2017).
- 22 d. Alternate Feed Gas Composition Review, Doc. No. 210140-000-PR-TN-00002,  
23 Rev. A, Mar. 13, 2017.

- 1 e. [REDACTED]
- 2 [REDACTED]
- 3 [REDACTED]
- 4 f. Project Design Basis, Rev. C, CBI Doc. No. 186512-000-PR-DV-00001, Sept. 14,
- 5 2015.
- 6 g. Project Design Basis, Rev. 2, Doc. No. 210140-000-PR-BD-00001, Jun. 28, 2017.
- 7 h. [REDACTED]
- 8 [REDACTED].
- 9 i. The Overall Plot Plan for the Main LNG Plant, including the preliminary design,
- 10 and Revision 1.
- 11 j. *Tacoma LNG Fire Thermal Radiation Calculation Storage Area Truck*
- 12 *Connection Station Local Spill Impoundment Supplement*, Doc. No. 210140-000-
- 13 SE-RP-00002, Issued on November 1, 2018 (“2018 CB&I Supplemental Study”).
- 14 k. *Tacoma LNG – Dispersion Modeling – Supplemental Report*, Ref. No. GexCon-
- 15 18-P515018-R-1, Rev. 01, Issued Nov. 2, 2018 (“2018 Gexcon Supplemental
- 16 Study”).
- 17 l. Puget Sound Clean Air Agency, Final Supplemental Environmental Impact
- 18 Statement: Proposed Tacoma Liquified Natural Gas Project, March 30, 2018
- 19 (“SEIS”).
- 20 m. Deposition of Jim Hogan, Responsive Witness for ACT’s 30(b)(6) deposition
- 21 Notice, December 14, 2020.

22 4. Additionally, below is a non-exhaustive list of references I relied upon to prepare

23 this declaration:

- a. Center for Chemical Process Safety, Guidelines for Vapor Cloud Explosion, Pressure Vessel Burst, BLEVE, and Flash Fire Hazards, American Institute of Chemical Engineers, John Wiley and Sons, 2010 (“CCPS Guidelines”).
- b. NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG), National Fire Protection Association, 2019.
- c. NFPA 68, Standard on Explosion Protection by Deflagration Venting, National Fire Protection Association, 2018 (“NFPA 68”).
- d. U.S. DOT/PHMSA Final Decision on Det Norske Veritas Petition for Approval of Alternative Gas Dispersion Model, Oct. 7, 2011, <http://www.regulations.gov/document?D=PHMSA-2011-0075-0025> last accessed on Jan. 6, 2021.
- e. Coldrick, C., C.J. Lea, and M.J. Ivings, Validation Database for Evaluating Vapor Dispersion Models for Safety Analysis of LNG Facilities, Guide to the LNG Model Validation Database, Fire Protection Research Foundation, May 2010.

## ANALYSIS

### I. BACKGROUND

5. The Tacoma LNG Facility would receive raw natural gas that contains ethane, propane, butane, and other heavy hydrocarbons. Hasselman Decl., Ex. 32 (Project Design Basis Rev. 2 at 3, 7). This raw natural gas would be processed on site into commercial natural gas, and then liquefied and stored onsite in the storage tank. *Id.* Processing the raw natural gas requires removing heavy hydrocarbons from the gas stream. SEIS at 2-3.

6. The Tacoma LNG Project would use and store heavy hydrocarbons. These heavy hydrocarbons include: (1) mixed refrigerant liquids including propane and isopentane, and (2) natural gas liquids removed from the raw gas stream which contain a mixture of different heavy

hydrocarbons (including propane, i-butane, n-butane, i-pentane, n-pentane, n-hexane, n-heptane, n-octane). Hasselman Decl., Ex. 34 (2018 CB&I Supplemental Siting Report at 4); *id.*, at Ex. 33 (2018 Gexcon Study at 11-12) (describing composition of natural gas liquids that could be spilled). The original facility design was based on raw natural gas feedstock, which contained minimal heavy liquid hydrocarbons, but the design basis revised in July 2017 was based on a raw natural gas feedstock reflecting a substantial increase in heavy hydrocarbons. Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 3); *id.* at Ex. 32 (Project Design Basis, Rev. 2 at 7) (describing feed gas composition with a much higher content of ethane, propane, butane, and pentane).

7. Refrigerant liquids and natural gas liquids contain highly flammable chemicals, and a leak of these hazardous chemicals could pose a fire or vapor cloud explosion hazard. Methane, a single carbon hydrocarbon, is a low reactivity fuel, but other alkanes, with two carbons or higher, are classified as medium reactivity fuels.<sup>1</sup> Per NFPA 59A, evaluating the consequences of a fire or vapor cloud explosion requires modeling radiant heat flux, vapor dispersion, and overpressure.<sup>2</sup> Overpressure is the pressure caused by a flame front over and above normal atmospheric pressure caused by a deflagration or detonation.

---

<sup>1</sup> NFPA 68, at Table D.1(a) (listing fundamental burning velocities of various substances including alkanes (all with burning velocities greater than 40 cm/s)); *CCPS Guidelines*, at 197 (stating that fuels are conservatively classified as medium reactivity for burning velocities between 40 and 75 cm/s except methane which is listed as an example of a low reactivity fuel).

<sup>2</sup> PHMSA requires considering explosion risks when evaluating safety hazards:

According to NFPA 59A-2001 Paragraph 2.1.1(d), (incorporated by reference in 49 CFR Part 193), all hazards that can affect the safety of the public or plant personnel are to be considered. In addition to LNG, the applicant should consider hazards associated with flammable gases, flammable refrigerants, flammable or combustible liquids, or acutely toxic materials. If present at the LNG plant, hazards including vapor dispersion

1           8.       Calculating overpressure is required when evaluating the dangers posed by a  
2 vapor cloud explosion. When a flammable vapor is released, its mixture with air will form a  
3 flammable vapor cloud. If ignited, the flame speed can accelerate to high velocities and produce  
4 significant overpressure especially in areas of containment or congestion. A leak of refrigerants  
5 or heavy hydrocarbons from the Tacoma LNG Facility creates the possibility that such an  
6 explosion could occur.

7           9.       The Final Environmental Impact Statement (“EIS”)<sup>3</sup> relied upon the CB&I Siting  
8 and Safety Study prepared in 2015 to evaluate health and safety hazards. Hasselman Decl., Ex. 3  
9 (Final EIS at 3) (“Preliminary siting studies were performed for Tacoma LNG using basic  
10 modeling tools, Degadis for vapor dispersion, and LNG Fire III for thermal radiation.”). The  
11 Final EIS noted that the project would require further review once a more detailed engineering  
12 design is available. *Id.* (“More advanced modeling is required later in detailed engineering when  
13 the design is further defined using Computational Fluid Dynamic (CFD) software.”).

14           10.      After publication of the Final EIS, PSE made the following changes to the design  
15 of the Tacoma LNG Project:

16  
17  
18                   from liquid pools, vapor dispersion from jetting and flashing phenomena,  
19                   thermal radiation from pool fires, thermal radiation from fires involving  
20                   jetting and flashing phenomena (jet fires), overpressure from vapor cloud  
                    ignitions, toxic gas dispersion, and boiling liquid expanding vapor  
                    explosions (BLEVEs) involving pressurized storage vessels should be  
                    included in an LNG plant's hazard evaluation.

21 U.S. Pipeline and Hazardous Materials Safety Administration, “LNG Plant Requirements:  
22 Frequently Asked Questions,” <https://www.phmsa.dot.gov/pipeline/liquified-natural-gas/lng-plant-requirements-frequently-asked-questions#hl>, last accessed on Dec. 18, 2020.

23 <sup>3</sup> City of Tacoma, Puget Sound Energy Proposed Tacoma Liquefied Natural Gas Project Final  
24 Environmental Impact Statement, Nov. 9, 2015,  
[https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20\(11-9-15\).pdf](https://cms.cityoftacoma.org/planning/pse/Reissued%20Final%20Tacoma%20LNG%20EIS%20(11-9-15).pdf).

- 1           a. Relocating equipment in the liquefaction area near Vessel V-204 in a manner that  
2           could affect areas of congestion. A leak from Vessel V-204 was evaluated for the  
3           risk of causing a vapor cloud explosion. Hasselman Decl., Ex. 28 (2015 Siting  
4           Study at 16).
- 5           b. In July 2017, PSE redesigned the Tacoma LNG facility to handle incoming  
6           natural gas with a much higher content of heavy hydrocarbons than previously  
7           anticipated. Hasselman Decl., Ex. 30 (Change Order 110). This redesign added  
8           new equipment that will receive and process flammable and explosive materials.  
9           Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 3-8). Processing feed  
10          gas with a higher content of heavy hydrocarbons would also require more  
11          frequent removal of natural gas liquids by truck. Hasselman Decl., Ex. 32  
12          (Project Design Basis Rev. 2 at 12).

13          11. Below, I describe potentially significant unexamined health and safety adverse  
14          consequences associated with these design changes.

15          II. CATASTROPIC FAILURE OF VESSEL V-204 PRESENTS PREVIOUSLY  
16          UNIDENTIFIED HAZARDS.

- 17          A. The 2015 Siting Study identified the liquefaction area as a location where a vapor  
18          cloud explosion could occur.

19          12. In the time period between preparation of the 2015 Siting Study and the final  
20          drawings issued for construction at the Tacoma LNG Facility, some equipment was moved and  
21          re-sized, particularly in the liquefaction area. The liquefaction area was identified as an area of  
22          concern in the 2015 Siting Study. Hasselman Decl., Ex. 28 (2015 Siting Study at 16).

23          13. The 2015 Siting Study determined there was a credible scenario for a flammable  
24          vapor cloud if there is a release of mixed refrigerants from vessel V-204, which is located in the  
25          plant's liquefaction area. Hasselman Decl., Ex. 28 (2015 Siting Study at 16). Accordingly, the

1 study identified areas of congestion and confinement where a leak of mixed refrigerants from  
2 vessel V-204 could create the risk of an explosion. *Id.* An area of congestion (obstacles or  
3 blockage in a moving gas that can generate turbulence and enhance mixing) and confinement  
4 (solid surfaces that prohibit gas movement in one or more directions) creates the circumstances  
5 found to be important in characterizing the overpressure damage due to an explosion.

6 14. The 2015 Siting Study relied upon a preliminary design of the plot plan for the  
7 Tacoma LNG Project as the basis for its analysis. Hasselman Decl., Ex. 28 (2015 Siting Study at  
8 5) (relying on Revision P of the Overall Plot Plan of the Main LNG Plant). The study relied on  
9 the preliminary plot plan to assess possible areas of congestion and confinement, and identified  
10 two areas that have the potential to retain flammable vapor.

11 B. Although the 2015 Siting Study evaluated the catastrophic rupture of vessel V-  
12 204 for vapor dispersion, it never evaluated this scenario for explosion  
13 consequences.

14 15. The 2015 Siting Study listed lines that carry flammable or hazardous materials,  
15 and evaluated whether these lines exceeded the probability of failure threshold. Hasselman  
16 Decl., Ex. 28 (2015 Siting Study, Appendix A, B). Where a line failure exceeded the probability  
17 of failure threshold, it was modeled for vapor dispersion hazard extent using PHAST, a modeling  
18 software Approved by PHMSA for modeling vapor dispersion. Hasselman Decl., Ex. 28 (2015  
19 Siting Study, Appendices E and L).

20 16. In all of the equipment spill cases except one, the 2015 Siting Study determined  
21 that the line failure scenario release rates were significantly larger than the quantity of liquid held  
22 in the equipment listed. Hasselman Decl., Ex. 28 (2015 Siting Study at 7). The exception was  
23 the MRL Condensate Separator (V-204), and the study considered two scenarios consisting of a  
24 catastrophic rupture of the vessel and a 0.4 inch diameter hole. Hasselman Decl., Ex. 28 (2015  
25 Siting Study at 7).



1           17.     Appendix E includes PHAST calculations with the Effect Zone shown on facility  
2 drawings for the two cases. In Appendix E, the vapor dispersion calculations show that the  
3 scenario made using a 0.4 inch hole has a larger Effect Zone than the catastrophic failure of V-  
4 204. This 0.4 inch hole scenario has a larger Effect Zone because the release from a hole is  
5 simulated as a continuous release while the catastrophic failure of the vessel is simulated as an  
6 instantaneous release of the vessel contents without any additional leak.

7           18.     The 2015 Siting Study evaluated the vapor dispersion hazard extent associated  
8 with a catastrophic failure of the vessel containing mixed refrigerant liquids (V-204) using  
9 PHAST version 7.01.

10          19.     Det Norske Veritas (USA), Inc. (DNV) PHAST-UDM versions 6.6 and 6.7 were  
11 approved by PHMSA for evaluating vapor dispersion hazard extents. The supporting  
12 documentation required by PHMSA is based on comparison between model predictions and  
13 established data sets for continuous releases only. Because the PHMSA approval process does  
14 not consider modeling instantaneous releases, the vapor cloud extent of the catastrophic failure  
15 of V-204 could be larger than predicted by PHAST version 7.01. A larger vapor cloud results in  
16 a larger predicted impact of a vapor cloud explosion.

17          20.     The 2015 Siting Study did not evaluate the overpressure associated with a  
18 catastrophic failure of V-204. It is unclear why overpressure was not evaluated.

19          21.     In consideration of the extent of overpressure due to catastrophic failure of V-204,  
20 it should be recognized that flows into V-204 would continue at the same rate if there was a  
21 catastrophic failure of V-204, and the flow rate from the loss of primary containment would be  
22 much larger than a 0.4 inch diameter hole. A larger vapor cloud results in a larger predicted  
23 impact of a vapor cloud explosion.

1 C. Equipment changed location in the liquefaction area, changing the potential areas  
2 of congestion at the facility.

3 22. In the preliminary plot plan, the liquefaction heat exchanger was located (plant)  
4 south of vessel V-204 (the MRL Condensate Separator), and (plant) south of the MRL  
5 condenser. Hasselman Decl., Ex. 41 (2015 Plot Plan, Revision P) (location of equipment Nos.  
6 17 and 19). However, in the final plot plan issued for construction, PSE flipped the location of  
7 this equipment so that the liquefaction heat exchanger is now located (plant) north of vessel V-  
8 204, and (plant) north of the MRL condenser. Compare Hasselman Decl., Ex. 42 (2018 Plot  
9 Plan, Revision 1) (location of equipment Nos. 17 and 19); *id.* at Ex. 43 (2017 Overall Plot Plan)  
10 (same). The liquefaction heat exchanger is a large piece of equipment – approximately 15 feet  
11 by 25 feet. Hogan Depo., Dec. 14, 2020 at 72.

12 23. The areas of congestion and confinement identified in the 2015 Piping Study and  
13 used in the Final EIS were identified before the changes to equipment location were made. The  
14 Final EIS clearly states that hazard assessment should be re-evaluated when equipment layout  
15 has been finalized. The changes in equipment locations could change the identified areas of  
16 confinement and congestion.

17 D. Catastrophic failure of V-204 identified as appropriate for consideration in the  
18 Tacoma LNG Siting Study Report presents a foreseeable consequence of a boiling  
19 liquid expanding vapor explosion.

20 24. The catastrophic failure of V-204 presents a foreseeable and serious consequence  
21 of fire and explosion hazard due to a boiling liquid expanding vapor explosion or BLEVE. A  
22 BLEVE is the result of a rupture of a pressure vessel containing a liquid above its atmospheric  
23 boiling point. V-204 separates vapor and liquid mixed refrigerant liquids [REDACTED]  
24 [REDACTED] and a catastrophic failure of V-204 would result in a BLEVE.

Redacted

This new adverse consequence

was not evaluated in the 2015 Siting Study.

25. A BLEVE presents several potential hazards including damaging overpressure and a fireball that could have detrimental effect on adjacent equipment that could compromise containment of other flammable fuel (knock on events).

III. DESIGN CHANGES TO ACCOMMODATE A DIFFERENT RAW NATURAL GAS FEEDSTOCK COMPOSITION CREATED UNEXAMINED POTENTIAL ADVERSE CONSEQUENCES.

26. In 2017, PSE changed the design of the Tacoma LNG project to accommodate raw gas feedstock with a different composition. Hasselman Decl., Ex. 31 (Option 6A Scoping Document); *id.* at Ex. 32 (Project Design Basis, Rev. 2 at 7). The new raw gas composition would contain more heavy hydrocarbons, and thus required PSE to change equipment at the facility to enable it to process, store, and transport larger quantities of natural gas liquids removed from the gas stream. *Id.*

27. Changes to the facility include, but are not limited to: modifying a vessel in the amine processing unit to remove heavy hydrocarbons before liquefaction of the raw natural gas stream. Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 3-4). Adding a new pipe that connects to the amine flash drum, which is 2 inches in diameter, 100 feet long, and carries natural gas liquids (NGL) which is flammable. Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 5). Increasing the vessel storage capacity (V-801), adding a new NGL stored liquids heater, and increasing the capacity of associated piping that holds NGL before going to a storage vessel at the truck loading station. Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 6-7). Adding a new pipe 2 inches in diameter that runs the length of the facility (approximately 550 ft) from the amine processing unit to the natural gas liquids storage vessel near the truck loading station. Hasselman Decl., Ex. 31 (Option 6A Scoping Document at 7).

1 This 550 foot pipe would be located above ground on a pipe rack. Hogan Depo., Dec. 14, 2020,  
2 at 157.

3 28. PSE stated that it never prepared a supplement to its original 2015 Siting Study to  
4 evaluate the risks associated with these changes to equipment and design. Hogan Depo., Dec.  
5 14, 2020, at 154.

6 29. This is a problem because when the 2015 Siting Study was prepared, the biggest  
7 safety concern at the facility was from the liquefaction process. *See* Hasselman Decl., Ex. 28  
8 (2015 Siting Study at 1-16). However, design changes to accommodate the new raw gas  
9 feedstock created new and significant potential for a fire or explosion caused by the processing  
10 and storing of natural gas liquids at the facility.

11 30. Vapor dispersion calculations made in the 2015 Siting Study are no longer  
12 applicable in light of design changes that increase the flow rate and capacity of lines carrying  
13 heavy hydrocarbons. When flow rates and line capacities were increased in these design  
14 changes, the amount of hazardous materials to be considered in assessment of the consequences  
15 of a release will be increased which results in an increase of extent of the fire or explosion  
16 hazards.

17 31. In particular, one of the lines identified 2015 Siting Study as exceeding the  
18 probability of failure threshold, would now have an increased flow rate because of the new raw  
19 natural gas feedstock. Hasselman Decl., Ex. 45 [Redacted]  
20 [Redacted]. The  
21 2015 Siting Study evaluated vapor dispersion for [Redacted] because it exceeded the probability  
22 of failure threshold. Hasselman Decl., Ex. 28 (2015 Siting Study at 7). [Redacted] carries natural  
23 gas liquids. Hasselman Decl., Ex. 28 (2015 Siting Study, Appendix A). Because this line will  
24

1 now have an increased flow rate, it would also have a larger vapor dispersion extent. Further, a  
2 spill from this line could pose an explosion hazard due to the flammability of natural gas liquids,  
3 and the overpressure for a spill from this line should be evaluated.

4 32. Further, adding a new pipeline that carries heavy hydrocarbons [Redacted]  
5 [Redacted] (approximately 550 ft) creates a new wholly unexamined hazard which  
6 could create additional risk since it is [Redacted]. The capacity of vessel V-801 which carries  
7 heavy hydrocarbons, was also substantially increased and this change should be evaluated to  
8 determine whether increasing the capacity of this vessel would present new unexamined hazards.

9 33. Accordingly, changes to the design of the Tacoma LNG Project accommodating a  
10 different raw natural gas feedstock pose new and unexamined consequences of a damaging fire  
11 or explosion.

12 IV. THE 2018 SUPPLEMENTAL SAFETY STUDIES FAIL TO EVALUTE ALL FIRE  
13 AND OVERPRESSURE HAZARDS.

14 34. In November 2018, Puget Sound Energy's contractors prepared two new studies  
15 evaluating safety concerns. As described in the 2018 Gexcon Supplemental Study: "This  
16 Supplemental Report is intended to reevaluate certain spill scenarios within the facility that *may*  
17 *have changed as a result of modifications* to the final Plot Plan layout of the facility. It also  
18 evaluates *newly identified* spills of either refrigerants or heavy hydrocarbons into the spill  
19 containment sump located at the storage area truck connection station." Hasselman Decl., Ex. 33  
20 (2018 Gexcon Supplemental Study at 2) (emphasis added). However, these reports do not  
21 evaluate changes to equipment or flow rates in other areas for processing and storing heavy  
22 hydrocarbons onsite. *See id.*

23 35. PSE anticipates that changes to the design of the facility will require increased  
24 removal of accumulated natural gas liquids by truck. Hogan Depo., December 14, 2020, at 96-

98; 121-124; 154; 176-177. Almost three times as many truck trips will be required than previously anticipated. Hogan Depo., December 14, 2020, at 123. Trucks will need to remove accumulated natural gas liquids every five days under the alternate feed gas scenario. Hogan Depo., December 14, 2020, at 124. The original design only required removal of natural gas liquids by truck every fourteen days. Hogan Depo., December 14, 2020 at 123.

36. As discussed above, the Final EIS states that “[t]he design should be reviewed when complete to confirm that all conditions for the installation have been met.” Hasselman, Ex. 3 (Final EIS at 3). The 2018 supplemental studies do begin to address this recommendation with regard to the hazard of a spill at truck connection station, but no address is given to other issues that can be identified in the current design in the supplemental studies.

37. Further, these supplemental studies do not consider the hazards posed when these heavy hydrocarbons are transported offsite. As with consideration of the consequences of a spill onsite, a spill offsite will have consequences that are not mitigated by measures employed onsite such as the use of a sump in the truck loading area. In addition to fire hazards, the degree of confinement and congestion cannot be determined for the unknown location of an accident during transport offsite.

## V. CONCLUSION

38. PSE changed the location of equipment in the liquefaction area, which was evaluated for the risk of a vapor cloud explosion in the event of a spill of refrigerants from vessel V-204. This change in equipment could affect where areas of congestion or confinement occur.

39. PSE considered the hazard associated with catastrophic failure of vessel V-204, but the assessment failed to recognize that a catastrophic failure would cause a boiling liquid expanding vapor explosion, or BLEVE. This is a significant hazard, which could have knock on effects that damage nearby equipment handling flammable materials.

40. PSE changed the design of the Tacoma LNG project to accommodate a raw feed gas composition with a greater heavy hydrocarbon content. Any equipment that handles hazardous materials should be assessed to determine whether it poses a fire or explosion hazard. This change in the design of the Tacoma LNG project, adding equipment and expanding the capacity of existing equipment that handles heavy hydrocarbons, would pose a potential fire and explosion hazards that have not been assessed.

41. Changes to the facility design to accommodate a new feed gas composition, would also require more frequent removal by truck of accumulated natural gas liquids. Natural gas liquids are flammable. More frequent trucking of these materials increases the likelihood of an offsite spill of these materials, which presents a potentially serious fire or explosion hazard.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of March, 2021.

Tom O. Spicer, III Digitally signed by Tom O. Spicer, III  
Date: 2021.03.29 12:06:10 -05'00'

---

THOMAS O. SPICER

# **Exhibit C**



1  
2  
3  
4  
5 BEFORE THE SHORELINE HEARINGS BOARD  
6 STATE OF WASHINGTON

7 PUYALLUP TRIBE OF INDIANS, a Federally  
8 Recognized Indian Tribe,

9 Petitioner,

10 v.

11 CITY OF TACOMA, a Municipal Corporation;  
12 PUGET SOUND ENERGY, INC., a Washington  
13 Corporation; PORT OF TACOMA; and  
14 WASHINGTON STATE DEPARTMENT OF  
15 ECOLOGY,

16 Respondents.

SHB No. 16-002

PUGET SOUND ENERGY, INC.'S  
PRE-HEARING BRIEF

17 I. INTRODUCTION

18 Puget Sound Energy, Inc. ("PSE") proposes the construction of a liquefied natural gas  
19 facility (the "Tacoma LNG Facility") on previously developed industrial land at the Port of  
20 Tacoma. The primary purpose of the project is to allow PSE to fuel two container ships operated  
21 by Totem Ocean Trailer Express ("TOTE") that have been converted to run on LNG. The switch  
22 from bunker fuel to LNG will have immediate environmental benefits for Puget Sound by  
23 reducing greenhouse gas and particulate emissions, health risks associated with the combustion  
24 of diesel fuel and the risk of potentially damaging fuel spills. The Tacoma LNG Facility will  
25 also provide power for PSE customers throughout the region during periods of high power  
26 demand (*i.e.*, be a peak shaving facility).

The City of Tacoma carefully vetted the Tacoma LNG Facility and considered all project  
impacts, including comment from Washington State Department of Ecology ("Ecology") and

PSE'S PRE-HEARING BRIEF  
SHB No. 16-002

- 1 -

1 U.S. Environmental Protection Agency (“EPA”), in a full environmental impact statement  
2 (“EIS”). *See* Exs. P-30 —P-54 (EIS).<sup>1</sup> Ultimately, the City issued a shoreline substantial  
3 development permit (“SSDP”) for the project. Ex. P-2; Ex. P-7. PSE and the City invited the  
4 Puyallup Tribe of Indians (the “Tribe”) to engage throughout the project’s planning process.  
5 *See, e.g.*, Ex. R-5. The Tribe did not respond to these efforts.

6 Yet, for reasons that remain unclear, the Tribe is adamantly opposed to the Tacoma LNG  
7 Facility and continues to raise an ever-shifting scattershot of objections. In comments on the  
8 draft EIS, the Tribe explained that its “gravest concern” was the (completely unsubstantiated)  
9 risk of explosion. *See* Ex. P-54 (EIS, Appendix H, Comment Letter 30). The Tribe challenged  
10 the final EIS in superior court, but voluntarily dismissed that case after PSE pointed out that the  
11 Tribe failed to exhaust administrative remedies with the City.

12 The Tribe made no comments on the SSDP application during the public process. Ex. P-  
13 10. Instead, after the City issued the SSDP, the Tribe sought reconsideration, raising complaints  
14 related to the portions of the project that would occur on the Hylebos waterway. Ex. P-3. The  
15 City fully addressed those concerns in an Order on Reconsideration. Ex. P-2. PSE attempted to  
16 further address the Tribe’s concerns by eliminating in-water activity in the Hylebos. Ex. P-90.

17 The Tribe shifted its attack in the present petition. Now, the Tribe’s experts’ concern  
18 appears to be the threat of contaminated sediments in the Blair waterway. This argument is  
19 completely unsubstantiated. Based on deposition testimony, the Tribe’s own expert (Janet Knox)  
20 conceded that she had no evidence of contamination at the project site. The EPA and Ecology  
21 have expressed no concerns about contaminated sediments at the project site on the Blair  
22 waterway. *See, e.g.*, Ex. R-29—32; Ex. P-49 (containing agency comment letters).

23 The Tribe’s other objections have no merit. The SSDP fully complies with the City’s  
24 Shoreline Master Program (“TSMMP”), the Shoreline Management Act (“SMA”), and Ecology’s

---

25  
26 <sup>1</sup> The Exhibits (“Ex.”) cited in this brief are designated as presented in the final exhibit lists  
submitted by the petitioner and respondents.

1 SMA regulations. As demonstrated below, PSE's shoreline impacts are modest and fully  
2 mitigated—the permit contains all conditions necessary to ensure no net loss of ecological  
3 functions as required by the SMA and TSMP. PSE will remove 24 creosote-treated piles in the  
4 Blair waterway by following applicable pile removal/placement best management practices  
5 (“BMPs”) and replace those piles with 24 stainless steel piles, resulting in a net long-term  
6 environmental benefit and the elimination of a historic source of carcinogenic polycyclic  
7 aromatic hydrocarbons (“cPAHs”) to the aquatic environment. *See* Ex. R-27 (Revised  
8 Mitigation Plan); R-34 (EPA BMPs). PSE will add another 24 inert stainless steel piles in the  
9 Blair waterway and will compensate for that net increase in piles by removing 24 creosote-  
10 treated piles from the Sperry Terminal. Ex. R-27 at 16-17. This again produces a net  
11 environmental benefit and will result in higher quality benthic habitat. *Id.* at 14-17. Last, PSE  
12 will add concrete and steel overwater structures in the Blair waterway, which will be mitigated  
13 through the removal of creosote-treated decking on the Hylebos waterway and at Sperry  
14 Terminal, again preventing the long-term spread of contamination from that treated lumber and  
15 allowing light penetration that was formerly blocked. *Id.* Simply put, PSE's project ensures that  
16 any impacts are avoided, minimized, or fully mitigated. *Id.*

17 The Tribe has the burden of demonstrating that the SSDP is inconsistent with the SMA or  
18 the TSMP. RCW 90.58.140(7). Given the Tribe's shifting theories, it is difficult to predict  
19 which arguments the Tribe will present at hearing. Based on discovery to date, it seems likely  
20 that the Tribe will focus on manufactured concerns regarding alleged contamination in the Blair  
21 waterway associated with pile removal/placement, and will otherwise claim that the project is  
22 inadequately mitigated. The Tribe's arguments lack a legal and/or factual basis, and the Tribe  
23 will therefore fail to carry its burden of proof at hearing and its claims should be dismissed.

## II. BACKGROUND

### A. PSE's Proposed Project.

PSE proposes to build and operate a water-dependent LNG facility at the Port of Tacoma. See Ex. P-11. As originally proposed, the Tacoma LNG Facility would (a) liquefy and store natural gas for use in PSE's natural gas distribution system during periods of high demand, (b) provide LNG to TOTE to fuel vessels (the "TOTE Fueling System"), and (c) provide LNG for a marine vessel bunkering facility that would come into operation if a market for LNG vessel fuel ever developed (the "Barge Loading Facility"). Ex. R-2.

The proposed facility is located on land between the Hylebos and Blair waterways. The land is zoned high intensity and Port Maritime Industrial and has been in industrial use for 75 years.<sup>2</sup> P-42 at 3.3-7—8. The proposed TOTE Fueling System requires the removal of 24 creosote-treated piles and construction of a new trestle, concrete loading platform, and catwalk, inclusive of 48 new stainless steel piles, along the Blair waterway. Ex. P-7 at 2—3. On the Hylebos waterway, the Barge Loading Facility involved the construction of a trestle, pier, and catwalk, inclusive of 86 new stainless steel piles, and required the removal of over 500 existing creosote-treated piles. *Id.* PSE also proposed demolition activities intended to mitigate shoreline impacts. *Id.* at 8.

### B. The City Conducted a Full EIS to Evaluate Project's Impacts.

The City of Tacoma fully evaluated the potential significant adverse environmental impacts of the proposed project in a comprehensive EIS. The EIS carefully considered all impacts to (a) earth resources, including geologic hazards, groundwater, and sediment, and the project's impacts on existing contaminated sites; (b) air quality; (c) water quality, including surface and ground water and impacts from existing contaminated soils and sediments; (d) plants

---

<sup>2</sup> As explained by the City, "[t]he purpose of the 'high-intensity' environment is to provide for high-intensity water dependent and water-oriented mixed-use commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded." Ex. P-7 at 4.

1 and animals; (e) health and safety; (f) noise; (g) land use and recreational resources; (h)  
2 aesthetics; (i) cultural resources; and (j) socioeconomic factors. *See* Exs. P-30 —P-53.

3 With respect to contaminated sediments, the EIS explains that sediment in the Hylebos  
4 waterway was historically contaminated, was subject to prior clean-up actions, and has been  
5 designated for monitored natural recovery. *See* Ex. P-36 at 3.1-9—11, —14. The Blair  
6 waterway was also part of a historic cleanup site associated with the Asarco smelter. Ex. P-36 at  
7 3.1-14. However, the entire Blair waterway was dredged between 1993 and 1995. *Id.* In 1996,  
8 the EPA removed the Blair waterway from the National Priority List of high priority clean-up  
9 sites. *Id.* Since that time, no federal or state agency has identified the Blair waterway as  
10 requiring additional cleanup. *Id.*

11 The EIS expressly discusses the potential that in-water work activities (*e.g.*, removal of  
12 existing creosote-treated piles) may impact water quality or result in “resuspension of  
13 contaminated sediments.” Ex. P-38 at 3.3-16. The EIS explains, however, that “any increase is  
14 expected to be short term,” and is “likely to be greatly diminished within one or two tide cycles  
15 after the completion of the removal and installation activities.” *Id.* at 3.13-6. In addition, the  
16 “long-term consequences of this action would be qualitatively beneficial, improving sediment  
17 and water quality, by removing the creosote source from the environment.” *Id.* In comments on  
18 the draft EIS, the Tribe, Ecology, and EPA raised concerns about contaminated sediments in the  
19 Hylebos waterway. Ex. P-49 at 21-11. Accordingly, the EIS imposes a mitigation measure  
20 requiring further characterization of the sediments in the Hylebos waterway before allowing the  
21 removal of any piles. Ex. P-36 at 3.1-16. No one commented that characterization in the de-  
22 listed Blair waterway was necessary.

23 The EIS also carefully considered the cumulative impacts of the Tacoma LNG project.  
24 Specifically, the EIS considered the SSA/Puyallup Tribal Terminal Project including widening  
25 the Blair waterway, removing 1.75 million cubic yards of soil, and installing 555 new piles. Ex.  
26 P-48 at 3.13-6. The EIS also considered potential cumulative impacts associated with a proposed

1 Northwest Innovation Work Methanol Manufacturing Facility. *Id.* The EIS concluded that  
2 cumulative impacts of these projects on water quality “are not expected to be significant with  
3 implementation of best management practices.” *Id.* Since EIS publication, both the methanol  
4 and SSA/Puyallup Tribal Terminal projects have been cancelled. *See* Ex. P-39; Ex. P-40.

5 The City issued the EIS on November 9, 2015. Ex. P-30. The EIS was subject to a 21-  
6 day appeal period which began on November 19, 2015. RCW 43.21C.080. No appeals to the  
7 City Hearing Examiner were filed. The Tribe filed a LUPA petition in the Superior Court but  
8 dismissed it in response to PSE’s argument that it had failed to exhaust administrative remedies.  
9 Any challenge to the adequacy of the EIS is now “barred” and the SSDP may not be “reviewed  
10 ... on grounds of noncompliance” with the State Environmental Policy Act (“SEPA”). *Id.*

11 **C. The City Issued the SSDP with Conditions to Ensure SMA, TSMP Compliance.**

12 On November 19, 2015, the City issued the SSDP, subject to several conditions. Ex. P-6.  
13 Before doing so, the City reviewed the EIS, the Joint Aquatic Resources Permit Application  
14 (“JARPA”), PSE’s shoreline permit application, and all agency and public comments received  
15 against the Tacoma Municipal Code (“TMC”), the TSMP, the SMA, and Ecology’s regulations.  
16 *See* Ex. P-7 at 2. The City also reviewed PSE’s mitigation plan, which included impact  
17 avoidance, minimization, and compensatory mitigation measures. *Id.* at 7.

18 PSE’s original proposal with respect to the Blair waterway called for the removal of 24  
19 creosote-treated piles, the addition of 48 concrete piles, the removal of 671 square feet of  
20 overwater coverage, and the addition of 5,751 square feet of overwater coverage. *Id.* at  
21 Attachment C, Table 1. In the Hylebos waterway, PSE proposed the removal of 508 creosote-  
22 treated piles, the addition of 86 concrete piles, the removal of 4,973 square feet of overwater  
23 coverage (decking removal), the removal of 9,051 square feet of overwater coverage (existing  
24 pier), and the addition of 6,094 square feet of overwater coverage (new pier). *Id.* The combined  
25 net result was 398 fewer total piles and 3,668 square feet less overwater coverage. *Id.* Based on  
26 these (and other) measures, as set forth in the City’s Technical Memorandum, the City concluded

1 that the “project has minimized impacts and provided appropriate compensatory mitigation that  
2 should result in no net loss of ecological functions.” *Id.*, Ex. C. at 1; Ex. P-122. Accordingly,  
3 the SSDP explains that “if constructed per the provided plans and with the proposed mitigation,  
4 the project requires no further review or mitigation” under the TSMP. Ex. P-7 at 8.

5 The Tribe did not comment during the SSDP review process, yet it sought  
6 reconsideration, raising concerns about the Hylebos portions of the project. Ex. P-3. The City  
7 responded by imposing additional clarifying conditions. Ex. P-2. It explained that the Hylebos  
8 portion of the facility “has not been presented as a core component of the project: the purpose of  
9 the project is to provide fuel directly to the TOTE facility and to provide utility peak-shaving.”  
10 *Id.* at 4; *see also* Ex. P-7 at 8 (“[B]arge loading in the Hylebos” is “secondary.”).

11 Nonetheless, the City addressed the Tribe’s Hylebos-related concerns. First, the City  
12 required that “[w]ork within the Hylebos Waterway may not proceed until the applicant  
13 demonstrates that further sediment testing has been completed and that the project will be  
14 constructed and operated in compliance with all applicable water quality regulations.” Ex. P-2 at  
15 7. Second, the City imposed a condition that the mitigation set forth in the City’s Technical  
16 Memorandum is “required” and that “[a]ny modification of the mitigation as proposed will  
17 require additional review and approval.” *Id.*

18 **D. PSE Voluntarily Agreed to Forgo Construction of Portions of the Project to Address**  
19 **Tribal Concerns Regarding the Hylebos Waterway.**

20 PSE has stipulated to forgo:

21 Any in-water or over-water construction, dredging or fuel  
22 bunkering in the Hylebos Waterway authorized by [the SSDP]  
23 other than (a) work to improve three existing storm water outfalls  
24 to meet new, more stringent stormwater requirements and (b)  
25 removal of 4,973 square feet (approximately 37%) of overwater  
26 decking from the existing pier (piles to remain in place).

Ex. P-90. In deference to the Tribe’s concerns about the Hylebos waterway, PSE will no longer  
construct the Barge Loading Facility in the Hylebos waterway under the SSDP. *Id.* The

1 Stipulation reflects PSE's commitment to proceeding with the core components of the project—  
2 fueling TOTE vessels with cleaner burning LNG and peak shaving.

3 Elimination of the Hylebos in-water work required PSE to revise its mitigation plan. Ex.  
4 R-27. The revised plan provides for the removal of creosote piles, additional overwater coverage  
5 removal and for the restoration of benthic habitat at the Sperry Terminal Site. *See id.* at 11. The  
6 revised Mitigation Plan continues to ensure that the LNG project will result in no net loss. PSE  
7 submitted the revised plan to the City as required by the SSDP. *See* Ex. P-2 at 7.

### 8 III. LEGAL STANDARD

9 The Board reviews the SSDP for compliance with the SMA, the TSMP, and Ecology's  
10 implementing regulations. WAC 461-08-505(c). The Board reviews the decision of the City *de*  
11 *novo*. WAC 461-08-500(1). The Board's review of shoreline permits is limited to ensuring  
12 consistency with the SMA and/or and TSMP, and is at issue. and the Board may not review the  
13 SSDP for compliance with other state or federal laws. WAC 461-08-505(c); *see People for*  
14 *Environmentally Responsible Kenmore v. City of Kenmore*, SHB No. 16-001, Order Granting  
15 City of Kenmore's Motions for Partial Summary Judgment at 4-6 (Mar. 25, 2016). The City's  
16 interpretation of the TSMP is given substantial weight. *See, e.g., Foreman v. City of Bellevue*,  
17 SHB No. 14-023, Findings of Fact, Conclusions of Law, and Order at 22 (May 22, 2015);  
18 *Marnin v. Mason County*, SHB No. 07-021, Modified Findings of Fact, Conclusions of Law and  
19 Order (Feb. 6, 2008). The Tribe has the burden of showing that the SSDP fails to comply with  
20 the SMA, the TSMP, or Ecology's regulations. RCW 90.58.140(7); *Cloud v. Flaskerud*, SHB  
21 No. 15-002, Findings of Fact, Conclusions of Law and Order at 14 (Jan. 6, 2016).

### 22 IV. ARGUMENT

#### 23 A. The SSDP Fully Complies with the TSMP and SMA.

24 The City grants an SSDP "only" when the development is "consistent" with the SMA,  
25 Ecology's regulations, and its SMP. WAC 173-27-150(1). Relevant to this appeal, the  
26 consistency requirement includes ensuring that the project will result in no "net loss of ecological



1 functions.” WAC 173-26-186(8)(b)(i); TSMP Section 6.4.2.A.1.<sup>3</sup> This result is obtained  
2 through mitigation sequencing: avoiding impacts, minimizing impacts, rectifying impacts, reducing  
3 impacts over time, compensating for impacts, monitoring impacts, and taking corrective measures.  
4 TSMP Section 6.4.2.C.2. The SMA expressly provides that the agency can do so by imposing  
5 conditions in the SSDP: “[l]ocal government may attach conditions to the approval of permits as  
6 necessary to assure consistency of the project with the act and the local master program.” WAC  
7 173-27-150(2); *Walker v. Point Ruston LLC*, SHB Nos. 09-013, 09-016, Order on Summary  
8 Judgment at 22 (Jan. 19, 2010) (“[T]he law is clear that shoreline permits can be issued with  
9 conditions.”).

10 The SSDP ensures that these requirements are met. The City carefully reviewed PSE’s  
11 proposed action and original mitigation plan and concluded that it “includes impact avoidance,  
12 minimization and compensatory measures.” Ex. P-7, Attachment C, at 4. PSE’s minimization  
13 measures included, among other things, procedures to manage impacts from turbidity (and  
14 monitoring), full extraction of existing piles (or cut two feet below midline), filling resulting  
15 holes with “clean sand,” using a containment boom and silt curtain for demolition of in-water  
16 structures, and containing creosote-treated wood “during and after removal to prevent  
17 contaminated material and sediment from entering marine waters.” *Id.* at 4-5. In addition, PSE  
18 provided “in kind” compensatory mitigation for adding piles and overwater coverage by  
19 removing piles and overwater coverage, resulting in “equivalent or better biological functions.”  
20 *Id.* at 7 (explaining that the TSMP “gives preference for mitigation that is in-kind”); *see also*, R-  
21 27.

22 The City imposed additional SSDP conditions “to assure consistency of the project with  
23 the act and the local master program.” WAC 173-27-150(2). They include compliance with the  
24 SMP’s water quality provisions through use of BMPs during construction and demolition, use of  
25

---

26 <sup>3</sup> The TSMP is contained in Title 13 of the Tacoma Municipal Code and is available at  
<http://cms.cityoftacoma.org/cityclerk/Files/MunicipalCode/Title13-LandUseRegulatoryCode.PDF>.

1 the BMPs set forth in the JARPA (any changes must be approved by the City), use of stormwater  
2 BMPs, and the acquisition of all required federal, state, and local permits. Ex. P-7 at 11-12;  
3 TSMP Section 6.8.2.1, .6. Furthermore, as discussed above, the SSDP included a condition  
4 (which PSE has complied with) requiring the City to approve and review all changes to the  
5 Mitigation Plan. Ex. P-2 at 7. Collectively, the SSDP review and conditions fully ensure that  
6 the Tacoma LNG Facility is consistent with the SMA and the TSMP, and will have no net loss in  
7 ecological functions.

8 **B. The Tribe's Arguments Have No Merit.**

9 **1. PSE Was Not Required to Investigate Sediment in the Blair Waterway.**

10 PSE anticipates that the Tribe will argue that the possibility (no matter how remote) that  
11 there *could* be contaminated sediments in the Blair waterway requires the City to condition  
12 SSDP approval on a full sediment characterization. PSE anticipates the Tribe to further argue  
13 (based on the testimony of Ms. Knox) that the removal of piles in the Blair waterway may result  
14 in the release of contamination from disturbing the sediment, and that PSE cannot know the  
15 extent of the impact from that contamination without a full sediment characterization. These  
16 arguments lack a legal and factual basis.

17 The Tribe's claims here must be based on the SMA and TSMP. The TSMP requires that  
18 an SSDP applicant in a Port/Industrial Area demonstrate that (1) "contaminated sediments are  
19 managed and/or remediated in accordance with state and federal laws"; (2) development  
20 complies "with all federal, state, regional and local requirements regarding air and water  
21 quality"; and (3) "[b]est management practices shall be strictly adhered to for facilities." TSMP  
22 Sections 7.6.2.A.5.b, .6, .8. The Tribe has not established that there are "contaminated  
23 sediments" at the project site and is, in fact, expected to testify that there is no direct evidence of  
24 contamination at the project site. Nor has the Tribe identified any "state or federal laws"  
25 requiring a sediment characterization in the Blair waterway.  
26

1 Nor could it. The SSDP requires that PSE comply with BMPs to minimize impacts from  
2 pile removal and mandates that all in-water work “will follow the restrictions and criteria  
3 approved by WDFW.” SSDP at 11-12. The EPA Region 10 BMPs for Piling Removal and  
4 Placement in Washington State, February 18, 2016 (“EPA BMPs”), are designed to “protect  
5 water, sediment and habitat quality by minimizing sediment disturbance and debris re-entry to  
6 the water column and benthic zone during pile removal activities.” Ex. R-34. The EPA BMPs  
7 do not require sediment characterization and apply “regardless of the degree of sediment  
8 contamination that may be in place.” *Id.*<sup>4</sup>

9 Every agency with expertise (including the EPA, Ecology, and WDFW) agrees that  
10 removing creosote-treated piles is environmentally better than leaving them in place because  
11 otherwise, the creosote piles will continue to leach cPAHs for years to come. Ex. P-38 at 3.3-17.  
12 Although, as acknowledged in the EIS, pile removal may temporarily re-suspend sediment or  
13 lead to a minor release of contaminants as the pile is removed, removal remains the “preferred  
14 alternative” because it prevents decades of future contamination and harm to ecological function.  
15 In other words, pile removal and replacement causes “no net loss” in ecological functions.

16 The Tribe’s requested sediment characterization cannot change this result. The EPA  
17 BMPs illustrate that regardless of whether the sediments around the 24 piles in the Blair  
18 waterway are clean or contaminated, the removal of the creosote piles will still have a net *benefit*  
19 to the environment. The sediments in the Blair waterway around the replaced steel piles will be  
20 cleaner, in the interim and long term, as a result. Even the Tribe’s own Natural Resource  
21 Director is expected to testify that he *agrees* on this point and that pile removal is the preferred  
22 alternative and is better for fish because a creosote pile could potentially continue to contaminate  
23 as long as it is in place.

---

24  
25 <sup>4</sup> Before PSE can remove or install any piles, it must also get approval from the U.S. Army Corps  
26 of Engineers, which in turn will require the Corps to consult with EPA, and will require Ecology to issue  
a state water quality certification under the Clean Water Act. Ex. P-38 at 3.3-1—2.

1 PSE further anticipates that the Tribe will ask its expert, Ms. Knox, to testify that  
2 sediments in the Blair waterway are (or could be) above “natural background” levels for some  
3 contaminants, and that conditions similar to those imposed on the Hylebos should therefore be  
4 imposed on the Blair waterway. But the Blair and Hylebos waterways are fundamentally  
5 different in history and composition. *See, e.g.*, P-38 at 3-14. The Hylebos waterway was the  
6 focus of a major Superfund cleanup, and is subject to ongoing management under state and  
7 federal cleanup laws. *Id.* The Blair waterway was completely dredged in 1996 and was removed  
8 from the EPA’s list of sites requiring further attention under the federal cleanup program. *Id.* As  
9 the state and federal agencies with jurisdiction over contaminated sediment sites, EPA and  
10 Ecology have expressed no concerns about the scope of PSE’s modest project on sediments in  
11 the Blair waterway. Ex. P-49; R-29. The Tribe’s “concern” about the sediments around the  
12 project is baseless.

13 It is also disingenuous. The Tribe’s own proposed project in the Blair waterway involved  
14 the dredging and open-water disposal of ***1.75 million cubic yards of soil and the installation of***  
15 ***555 piles***. Ex. P-48 at 3.13-2, -6. In stark contrast to its present “concern,” the Tribe did not  
16 undertake an EIS, and obtained an SSDP that did not require any SEPA characterization of the  
17 sediments around its project before permit approval or construction.

18 The Tribe has offered no evidence (and there is none) of contamination in the areas  
19 where piles will be removed and installed in the Blair waterway.<sup>5</sup> Its expert, Ms. Knox, will  
20 likely speculate about ***unknown*** contamination in the Blair waterway based on “gaps” in

---

21 <sup>5</sup> PSE expects Ms. Knox to present aerial photographs of the Blair waterway overlain with red  
22 dots indicating alleged sediment contamination. No red dot is actually in the PSE project area.  
23 Moreover, Ms. Knox’s idea of “contamination” is based on cherry-picked thresholds that are taken out of  
24 context and mis-applied. For example, Ms. Knox applied both the Duwamish Waterway Superfund  
25 natural background values and values taken from the Hylebos Model for natural resource damage  
26 assessments. Although both values may be relevant at MTCA or CERCLA sites for certain purposes,  
they are not used to determine sediment characterization requirements. The question in the SMA context  
is not whether sediment poses a hypothetical human health risk, but whether the *project* will result in a  
net loss of ecological functions. Ms. Knox’s testimony does not meaningfully inform that inquiry as she  
openly acknowledged during her deposition.

1 available data. But speculation is not a basis for reversing an SSDP. If credited, this  
2 speculation would be tantamount to imposing a categorical rule that no in-water project may  
3 proceed until a full sediment characterization is complete. This result is plainly unreasonable  
4 especially where, as here, both Ecology and EPA have required no such testing. It is also flatly  
5 inconsistent with the SMA's policy of "planning for and fostering all reasonable and appropriate  
6 uses" of the shoreline. RCW 90.58.020. The Tribe cannot carry its burden with speculation and  
7 the absence of evidence.

8 **2. The SSDP Ensures No Net Loss to Ecological Function.**

9 PSE anticipates that the Tribe will challenge the adequacy of PSE's proposed mitigation.  
10 There is no factual basis for this claim. The SMA and TSMP require that construction and  
11 operation of the Tacoma LNG Facility result in no net loss to ecological function. *See, e.g.,*  
12 TSMP 6.4.2.A.1. In addition to the protective measures above (*e.g.*, use of BMPs and fish  
13 windows), in Tacoma applicants submit "mitigation plans" documenting compliance with the  
14 "no net loss" standard. *Id.* The level of analysis in a mitigation plan "shall be commensurate  
15 with the value" of the affected shoreline and "relative to the scale and potential impacts of the  
16 proposed activity." TSMP 6.4.2.D.1. As anticipated in the SSDP, mitigation plans evolve during  
17 the project review process and the City must review and approve any changes. *See* P-2 at 7.

18 PSE's revised Mitigation Plan meets and exceeds the "no net loss" requirements. Ex. R-  
19 27. The plan provides for a 1:1 removal of one pile for each pile installed, and a 1:1.4 ratio of  
20 overwater coverage created to overwater coverage removed. The plan also exceeds the "no net  
21 loss" standard by trading impacts in an armored and frequently dredged waterway for  
22 improvements in key salmonid and eel grass habitat at the Sperry Terminal. Ex. R-27 at 14.

23 **3. The Tribe's Cumulative Impact Arguments Are Misplaced.**

24 PSE expects the Tribe to argue that the City failed to consider cumulative impacts from  
25 the Tacoma LNG Facility's impacts to sediment, stormwater, and/or other features. The Tribe's  
26

1 cumulative impact arguments misapprehend the scope of a cumulative impact analysis under the  
2 SMA (as compared with SEPA). A cumulative impact analysis under the SMA is intended to  
3 “ensure no net loss of ecological functions and protections of other shoreline functions and/or  
4 uses.” WAC 173-26-186(8)(d). As the City code explains, the City is required to give  
5 “consideration” to “cumulative environmental impact of additional requests for like actions in  
6 the area,” and permitted actions “should not produce *significant* adverse effects *to the shoreline*  
7 *ecological functions and processes* or other users.” TSMP Section 2.3.1.3 (emphasis added).

8 Here, the City gave full “consideration” to the potential cumulative impacts of other “like  
9 actions in the area” (as required by TSMP Section 2.3.1.3) by discussing, in detail, additive  
10 impacts from other projects in the EIS (including the Tribe’s container project on the Blair  
11 waterway and the now defunct methanol facility) with respect to disturbing contaminated  
12 sediments and stormwater (and all other environmental factors). Ex. P-48 at 3.13-6, 3.13-7.  
13 Those impacts were found to be *minimal and temporary*. *Id.* The Tribe has no credible evidence  
14 to the contrary. Although the Tribe might desire to see more (or even endless) analysis, its  
15 burden with respect to cumulative impacts is to show that the Tacoma LNG project cumulatively  
16 will “produce *significant adverse effects* to the shoreline ecological functions and processes or  
17 other users.” TSMP Section 2.3.1.3 (emphasis added). They cannot meet that burden by  
18 complaining that more analysis should be done or with speculation as to baseline conditions.

19 **4. The Tribe Fails to Show Any Error Associated with PSE’s Stipulation.**

20 PSE further expects that the Tribe will argue a host of errors associated with PSE’s  
21 Stipulation. PSE expects that the Tribe will argue that the scope of the Stipulation is unclear,  
22 that the project may have new effects as a result, and that the project is no longer sufficiently  
23 mitigated. None of these arguments have any merit.

24 The Stipulation is clear on its face. *See* Ex. 90. PSE is forgoing the authorization, under  
25 the SSDP, to build the Barge Loading Facility on the Hylebos waterway and is also forgoing the  
26 authorization to remove the 508 piles in the Hylebos waterway. As a result, PSE will not engage

1 in any in-water construction on the Hylebos waterway under the permit. *Id.* If, in the future,  
2 PSE decides to construct a Barge Loading Facility (on either the Blair or the Hylebos  
3 waterway),<sup>6</sup> it will have to apply for a new permit from the City of Tacoma. If there is any  
4 uncertainty as to this scope in the Stipulation as written, PSE is willing to modify the Stipulation  
5 accordingly. Likewise, there are no new or uncertain effects as a result of the Stipulation. PSE  
6 is simply electing to reduce the project scope by agreeing not to conduct some of the project  
7 construction activities authorized by the SSDP.

8 Last the revised Mitigation Plan fully ensures that the project will achieve no net loss  
9 despite the fact that it will no longer be removing structures from the Hylebos waterway. Ex. R-  
10 27. The SSDP contemplated that mitigation measures could change, and included a condition  
11 that required that all changes to the Mitigation Plan be submitted for additional review and  
12 approval. P-2 at 7. PSE has complied with that condition. No additional review is required.

## 13 V. CONCLUSION

14 For all the reasons stated above, the Board should rule in favor of PSE and the City and  
15 deny the Tribe's petition.

16  
17 Executed this 2nd day of May, 2016, at Seattle, Washington.

18  
19 

20 Erin L. Anderson, WSBA No. 23282  
21 Rita V. Latsinova, WSBA No. 24447  
22 Sara A. Leverette, WSBA No. 44183  
23 Attorneys for Respondent Puget Sound Energy, Inc.

24  
25 <sup>6</sup> To be clear, it is possible that PSE may wish to develop a barge loading operation in the future.  
26 If so, PSE could seek to move that location (in light of the Tribe's concerns regarding the Hylebos  
waterway) to the Blair waterway. Any such effort would require a new SMA permitting and SEPA  
process. PSE has no plans to take any action toward such a new project.

**CERTIFICATE OF SERVICE**

I, Sharman D. Loomis, certify and declare:

I am over the age of 18 years, make this Declaration based upon personal knowledge, and am competent to testify regarding the facts contained herein.

On May 2, 2016, I served true and correct copies of the foregoing document upon the following persons in the manner listed below:

Lisa A. Anderson  
Law Office  
Puyallup Indian Tribe  
3009 E. Portland Ave.  
Tacoma, WA 98404

Email: [Lisa.Brautigam@puyalluptribe.com](mailto:Lisa.Brautigam@puyalluptribe.com)

- ☒ Email
- ☒ U. S. Mail
- ☐ Legal Messenger
- ☐ Overnight Mail

Attorneys for Petitioner Puyallup Tribe of Indians

Carolyn A. Lake  
Seth S. Goodstein  
Goodstein Law Group PLLC  
501 S. G Street  
Tacoma, WA 98405

Email: [clake@goodsteinlaw.com](mailto:clake@goodsteinlaw.com)

Email: [sgoodstein@goodsteinlaw.com](mailto:sgoodstein@goodsteinlaw.com)

- ☒ Email
- ☒ U. S. Mail
- ☐ Legal Messenger
- ☐ Overnight Mail

Attorneys for Respondent Port of Tacoma

Jeff H. Capell, WSBA #25207  
Deputy City Attorney  
Office of the City Attorney  
747 Market St., Rm. 1120  
Tacoma, WA 98402-3767  
Tel: 253-591-5885

Email: [jcapell@ci.tacoma.wa.us](mailto:jcapell@ci.tacoma.wa.us)

- ☒ Email
- ☒ U. S. Mail
- ☐ Legal Messenger
- ☐ Overnight Mail

Attorneys for City of Tacoma Planning & Development Services



1 Scott M. Missall, WSBA #14465  
2 Athan E. Tramountanas, WSBA #29248  
3 Nicholas G. Thomas, WSBA #42154  
4 Short Cressman & Burgess PLLC  
5 999 Third Ave., Ste. 3000  
6 Seattle, WA 98104-4088  
7 Tel: 206-682-3333  
8 Email: [smissall@scblaw.com](mailto:smissall@scblaw.com)  
9 Email: [athant@scblaw.com](mailto:athant@scblaw.com)  
10 Email: [nthomas@scblaw.com](mailto:nthomas@scblaw.com)


☒ Email  
☒ U. S. Mail  
☐ Legal Messenger  
☐ Overnight Mail

11 Attorneys for Petitioner, The Puyallup Tribe  
12 of Indians

13 I certify under penalty of perjury pursuant to the laws of the State of Washington that the  
14 foregoing is true and correct.

15 DATED: May 2, 2016 at Seattle, Washington.

16 STOEL RIVES, LLP

17   
18 Sharman Loomis, Practice Assistant



City of Tacoma  
Office of Sustainability

September 16, 2021

TO: Infrastructure, Planning, and Sustainability committee

RE: Tideflats and Industrial Land Use Non-Interim Regulations

Dear Chair McCarthy and Members of the Infrastructure, Planning, and Sustainability Committee,

The Sustainable Tacoma Commission (STC) is writing a third letter in regards to the Non-Interim Tideflats Regulations proposed by the Tacoma Planning Commission. This letter is in response to the motions proposed by the Infrastructure, Planning, and Sustainability Committee (IPS) on August 30, 2021. In our advisory role, STC has provided necessary input about how the City can address the climate crisis while utilizing a climate justice and environmental justice lens. We work to hold the City accountable for its own goals as stated in the 2015 Environmental Action Plan<sup>1</sup>, the 2019 Climate Emergency Resolution<sup>2</sup>, the 2021 Decarbonization Resolution<sup>3</sup>, and the upcoming Climate Action Plan<sup>4</sup> to be adopted this year. In particular, the Climate Action Plan has the stated goal of net zero emissions by 2050.

The Non-interim Tideflats Regulations<sup>5</sup> adds to this body of policy proposals. Notably, the regulations would end the possibility of fossil fuel expansions and create the opportunity for zero carbon fuels to develop on the Tideflats. However, the proposed motions from IPS create some space for the expansion of fossil fuels at existing facilities and “low carbon” fuels, which may still have high fossil fuel content. The August 2021 United Nations International Panel on Climate Change (IPCC) AR6 report<sup>6</sup> states that every ton of CO2 adds to global warming, and every small amount of global warming increases the intensity and the frequency of heatwaves like the June 2021 Heat Dome, droughts such as the unprecedented drought in eastern Washington, and torrential downpours that bring subsequent flooding as we have seen in the United States and Europe this summer<sup>7</sup>. Contemplating an increase in fossil fuels at the Port of

---

<sup>1</sup> [https://cms.cityoftacoma.org/enviro/Sustain/Environmental\\_Action\\_Plan\\_2020\\_Progress\\_Report\\_FINAL.pdf](https://cms.cityoftacoma.org/enviro/Sustain/Environmental_Action_Plan_2020_Progress_Report_FINAL.pdf)

<sup>2</sup> [https://www.cityoftacoma.org/in\\_the\\_news/city\\_council\\_approves\\_climate\\_emergency\\_resolution](https://www.cityoftacoma.org/in_the_news/city_council_approves_climate_emergency_resolution)

<sup>3</sup> RESOLUTION NO. 40776

<sup>4</sup> [https://www.cityoftacoma.org/government/city\\_departments/environmentalservices/office\\_of\\_environmental\\_policy\\_and\\_sustainability/climate/2020-21\\_climate\\_action\\_planning](https://www.cityoftacoma.org/government/city_departments/environmentalservices/office_of_environmental_policy_and_sustainability/climate/2020-21_climate_action_planning)

<sup>5</sup> Tideflats and Industrial Land Use

<sup>6</sup> [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_SPM.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf)

<sup>7</sup> [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_SPM.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf), SPM 21

Tacoma is in opposition to the City's own goals and agreed upon Findings of Fact<sup>8</sup> that the Planning Commission established to guide the development of the Non-interim Tideflats Regulations.

We appreciate the efforts of Chair McCarthy of the IPS for having created the space for dialogue between the fossil fuel stakeholders and other community stakeholders, including STC representation. It led to a greater understanding of the concerns on both sides about what needs to happen during the transition away from high dependence on fossil fuels towards a future of zero reliance on fossil fuels.

However, STC does not support the idea that there should be an upward bump in the use of fossil fuels during this transition before we hit the down slope. The down slope needs to begin now. From our March 3, 2021 letter to the IPS Committee:

We believe there is a vibrant short- and long-term economic future in Tacoma's port that is not dependent on fossil fuels, and shifting focus at this time to adding green industries and green jobs will position Tacoma to benefit as an early adopter of the global transition away from fossil fuels.

The Non-Interim Tideflats Regulations are intended to be a temporary pause on any development at the Tideflats until the Subarea Planning process is completed. The Puyallup Tribe participates in the Subarea Planning process as a government, which it cannot do with the Non-Interim Tideflats Regulations. To respect their land, their treaty rights, and their interests, it is necessary that the Regulations serve their purpose as a true pause with no new expansions of fossil fuels. By adding the Puyallup Tribe flag to Tacoma City Council chambers, the City has clearly indicated it is invested in protecting tribal rights and maintaining a strong partnership with the tribe.

### **Recommendations on the IPS Committee Motions**

The Sustainable Tacoma Commission suggests these recommendations to ensure the final Non-Interim Tideflats Regulations are maintained in purpose and goal as reflected in the version submitted to the City Council for public hearing on April 27, 2021.

#### **MOTION: 1. New and Expanded Cleaner Fuel Facilities Permitted**

The focus here should be reducing GHG emissions over the life cycle of the fuel, which is in-line with the Washington State Clean Fuel Standard legislation that seeks to reduce the carbon intensity of transportation fuels over the next 15 years.

---

<sup>8</sup>[Tideflats and Industrial Land Use](#), p.9

We ask that:

1. Within (6) months following the full implementation of the Washington State Clean Fuel Standard regulations, the City Council will review the definition of Cleaner Fuel Infrastructure in this amendment.
2. Once the Washington State Clean Fuel Standard regulations are in place, the only fuels included should be those that are EPA approved and listed under the RFS and those meeting the new WA state standards. The other independently listed fuels should be removed. Hydrogen and electricity produced carbon-free would fall under zero carbon fuels.
3. In the interim, fully define renewable diesel.
4. Remove natural gas and propane from the interim listing. Until the industry is able to deal with leakage along the supply chain, natural gas as a transportation fuel is no better than gasoline in terms of GHG emissions.<sup>9</sup> It is not low-carbon.
5. Remove E85 and ethanol blends. These are high content fossil fuel products and are currently being produced in adequate amounts. There should be no expansion carve outs for E85 and ethanol blends.
6. Include in the amendment no added container storage for fossil fuels for any purpose.

#### MOTION 2. Petroleum Fuel Facility Projects for Maintenance, Safety, Security, or Required to Meet Regulatory Changes

We agree with this amendment, though it is our understanding this is already part of the Non-Interim Tideflats Regulations<sup>10</sup>. Permitting should be conscientious that safety, security, and other maintenance projects are not used to expand fossil fuel capacities.

#### MOTION 3. National Security Petroleum Fuel Facilities

This motion is redundant and is covered by the Federal Defense Production Act. If the City Council chooses to include this motion, then we strongly support the addition of the letter requirement coming directly from the Department of Defense asking for an expansion for local military installations; also, the following should be added:

Any expansion in fossil fuel facilities at the request of the Department of Defense may not be repurposed at a later time for fossil fuels for civilian commercial use.

---

<sup>9</sup> <https://pubs.acs.org/doi/10.1021/acs.energyfuels.5b01063>

<sup>10</sup> [Tideflats and Industrial Land Use](#), p. 47

#### MOTION 4. Projects which Have Undergone Environmental Review and Mitigated Impacts

STC interprets this motion as supporting an expansion of the PSE LNG plant under a loose accord reached in 2015. Until permitting for such an expansion is done, the City is under no legal obligation to support the expansion. In light of the “code red” urgency expressed by the United Nations in the IPCC report mentioned above, as well as the City’s own stated goals of moving towards a zero carbon pathway as described above, the 2015 thinking needs to be revised. Any fossil fuel projects that are not already in the permitting stage should be revisited under the new Non-Interim Tideflats Regulations. This will provide consistency for all businesses.

#### MOTIONS 5, 6, and 7

STC supports the content of Motions 5 through 7.

#### MOTION 8: High-Impact Uses

Our understanding of the purpose of this category is for facilities that present a high hazard to mitigate for that hazard in advance in order to mitigate risks to the public and so that the City can take effective action in the case of an accident or natural catastrophe; the LNG plant is such a facility. If the proposed Enhanced SEPA accomplishes this during the permitting process, then removing the category would not increase the risk to the City, the Tribe, and those who live and work in the Tideflats. If that does not appear to be the case, then this category should be maintained.

The Sustainable Tacoma Commission appreciates the hard work you do to keep Tacoma on track to become the clean, vibrant, inclusive, and safe-for-all city it can be. Adopting the Non-Interim Tideflats Regulations as envisioned above will be another step towards reducing our emissions and setting the stage for our green economy.

Thank you.

Sincerely,

*Matthew Benedict*

Matthew Benedict  
Vice-Chair, Sustainable Tacoma Commission

CC: City of Tacoma Office of Environmental Policy and Sustainability  
Elizabeth Pauli, City Manager  
Tadd Wille, Deputy City Manager  
Michael P. Slevin III, Environmental Services Department Director  
Peter Huffman, Planning and Development Services Department Director  
Anita Gallagher, City Manager's Office  
Tacoma City Council

**From:** [Mike Bridges](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Tacoma Tideflats  
**Date:** Tuesday, October 5, 2021 4:37:03 PM

---

Hi my name is Mike Bridges and I represent thousands of building trades men and woman in SWWA.

I would like to express my concerns on the significant reregulation of land use in the Tacoma Tideflats and surrounding area. The Non-Interim Regulations are an attempt to short cut the Subarea Plan process by making some of the most economically destructive proposed elements of the Subarea Plan permanent now.

The industrial businesses currently operating at the Tideflats are critical to the City of Tacoma and there is a lot at stake when it comes to the implementation of these new regulations. Right now, the businesses at the Port of Tacoma/ Tideflats support more than 42,100 jobs and generate nearly \$3 billion in economic activity. On top of that, these businesses produce more than \$100 million annually in state and local taxes to support the local community through education, police, fire services and road improvements.

The proposed regulations would threaten these family-wage jobs and important tax revenues while creating an unfriendly business climate that will hinder the operation and growth of existing businesses and create uncertainty for future businesses to invest.

Not only would the Non- Interim regulations negatively affect the business community that supports the region's economy, but they would do little to address environmental impacts and could actually have unintended harmful consequences.

I encourage the Council to consider the effects of moving too quickly on these regulations and oppose the Non-Interim Regulations for the Tacoma Tideflats.

Mike Bridges  
President LKBCTC

**From:** [Alexa Fay](#)  
**To:** [City Clerk's Office](#)  
**Subject:** Public Comment for October 5th Public Hearing  
**Date:** Monday, September 27, 2021 3:50:57 PM

---

Greetings,

I am writing in to submit public comment for the October 5th meeting that will be discussing regulation recommendations from the IPS committee. I am a registered nurse working in public health in Seattle, and want to strongly urge the Tacoma City Council to pass a version of the tideflats fossil fuel regulations that prohibits fossil fuel expansion as much as possible as well as prohibiting new facilities. While not a resident of Tacoma, this vote affects both the health and wellness of people in the Pacific Northwest as well as the future of people around the world. The current Interim Regulations allow existing high-risk facilities like fossil fuel terminals to expand, which does not align with the goals outlined in the City's Climate Emergency Declaration aiming for net zero emissions by mid century or the goals of the Paris Agreement.

This issue is not just a business issue, but also a health equity and safety issue. Areas adjacent to the Port of Tacoma, including the Puyallup Tribe reservation, are exposed to air pollution, contaminated water and contaminated soils. The Puyallup Tribe has been vocal that we need to stop toxic facilities on the Tideflats. I stand with the Puyallup Tribe and advocate for their tribal sovereignty to be respected. Furthermore, air pollution from fossil fuels can cause underlying respiratory issues such as asthma, which can make Tacoma residents even more vulnerable to COVID-19. In order to best support the health and wellness of both Tacoma residents as well as the residents of Seattle, who are connected to these fossil fuel plans by transport of these fossil fuels, there should be no new fossil fuel expansion. Tacoma has the opportunity to be a leader in the mission for a sustainable, just, and healthy future, and they should do so by passing the strongest regulations on fossil fuels for the health and safety of the city and our state.



**From:** Mark Wells  
**To:** [City Clerk's Office](#)  
**Subject:** Make the Right Decision and Protect Tideflats Jobs  
**Date:** Tuesday, October 5, 2021 1:20:09 PM

---

Dear Comment Email Email,

To Whom It May Concern,

Regulations limiting in any way or reducing the amount of industry on the Tacoma Tideflats will be detrimental to many families in and around Tacoma. The loss of or worse, the non existence of future family wage jobs generated by manufacturing etc on the tideflats will hurt local working men and women and force them to commute to Seattle simply to make a living and feed their families.

Make the right decision, please.

The right decision is for industry, the working man/woman and families and in the long run - Tacoma.

Mark Wells

Dear Councilmembers:

As you know, the businesses at the Port of Tacoma and the Tideflats are economic drivers in this region. Therefore, we urge you to either make the hard decisions we've elected you to make or take a strategic pause. Either way, you need to seriously consider the unintended consequences that these regulations will likely produce for this region.

As proposed, the Non-Interim Regulations create too many unknowns for this region's business community. These are complex issues that will potentially affect thousands of people's livelihoods and millions in local tax dollars. Now more than ever, we need regulations that balance the necessity to facilitate job growth and future Tideflats investment while also protecting the environment.

What is clear is that implementing these regulations will likely foster an unfriendly business climate in the area that will hurt current operators from modernizing and kill any new business interest in our area. They could also ironically result in unintended negative impacts for our environment.

There are simply too many unknowns to proceed forward with these regulations. Thank you for your consideration.

Sincerely,

Mark Wells  
3212 17th St SW  
Puyallup, WA 98373  
[deadeyemark@comcast.net](mailto:deadeyemark@comcast.net)